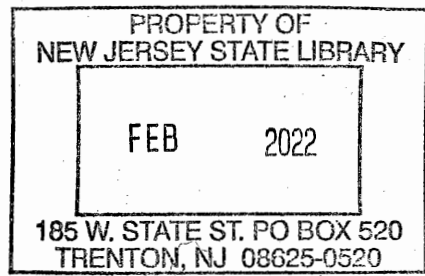




Standards and Goals for the New Jersey Criminal  
Justice System: First Report  
March, 1976



Governor's Adult and Juvenile Justice  
Advisory Committee

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## Foreword

To promote system improvement, the New Jersey Governor's Adult and Juvenile Justice Advisory Committee has undertaken a comprehensive investigation of the criminal justice system and has recommended appropriate standards and guidelines where it felt necessary. The Advisory Committee has initiated its study in the areas of victim assistance, community involvement, pre-adjudication alternatives, community crime prevention and pretrial processing. The first phase of this two year study has been compiled in this working document and was presented at the second Advisory Committee Conference on March 5, 1976.

The Committee recommends these standards with the assumption that local, State and federal governments will take active steps to ensure adoption. In some cases, new legislation will be required in order to implement these proposals, while in other cases new administrative rules will be needed and in others, only encouragement. Although it is hoped that these standards will influence future legislation, their usefulness can be lost if they are not promulgated, discussed and campaigned for throughout the State by those individuals who are involved with the day to day workings of the system.

This working document was developed in conjunction with the preferences of the four respective subcommittees and therefore reflects differences in the format. The standards contained within this document have been sent to the State Law Enforcement Planning Agency (SLEPA) Governing Board and the Governor of New Jersey.



## Victim Assistance

### Introduction

Governments have an obligation to protect the rights, property and physical welfare of its citizens. Privately seeking vengeance or reparation by a victim or a victim's loved ones is neither legally nor socially acceptable.

A "contract" has been established between government and the citizen. The citizen agrees to obey the law in exchange for protection and enforcement of the law by government. When a citizen violates the contract by breaking the law or seeking private vengeance, the government is obligated to enforce the law against that person. Consequently, when government fails to protect a citizen, it could be argued that society has a "contractual" obligation to punish the wrong-doer and indemnify the loss and repair the damage to the victim.

This governmental obligation of providing compensation and assistance to victims of crime is not a new concept. The Babylonian Code of Hammurabi written approximately 4,000 years ago read:

"If the brigand be not captured the man who has been robbed shall in the presence of God make an itemized statement of his loss and the city and the Governor in whose province and jurisdiction the robbery was committed shall compensate him for whatever was lost."

The law of Moses allowed the victim four-fold reparation for stolen sheep and five-fold for oxen. Early English Common Law also provided compensation to the victim or his family. The major focus of American governmental bodies has been apprehending, adjudicating, punishing or rehabilitating the offender.

The standards are drafted to provide victims with a broad range of emergency services through existing public and private organizations; to foster and coordinate social service organization activities to meet victim needs and responsibilities to the victim; to provide information to the public and victim concerning services avail-

able to the victim; and to expand the staff and financial benefits of the Violent Crimes Compensation Board.

There are several problems to be addressed:

A. There does not appear to be any public or private agency in New Jersey specifically aimed at coordinating and obtaining emergency services such as food, clothing, housing and transportation for victims of violent crimes other than forcible rape.

B. The Criminal Justice System is almost totally offender oriented. Police officers, prosecutors, judges, correctional workers and people in general are frequently aware of the problems and needs of victims but are not oriented toward solving them.

C. Victims are often unwilling to report crimes and become involved in the justice system as a victim witness.

D. The Violent Crimes Compensation Board (VCCB) does not have enough claims money and manpower to process and indemnify more than half of the violent crime victims who have applied and who qualify for compensation. Presently, the average payment is \$3,200 and time for processing claims is nine months.<sup>1</sup>

During 1973, there were 28,746 violent crimes and in 1974, 29,561 were reported to New Jersey law enforcement agencies. They include:

	<u>1973</u>	<u>1974</u>
Murder	544	481
Forcible Rape	1384	1438
Robbery	15113	15879
Atrocious Assault	11705	11763 <sup>2</sup>

<sup>1</sup>Mr. Carl Jahnke, Chairman of the VCCB, interviewed by Standards and Goals Staff, SLEPA, September 3, 1975. See also Mike Ascolese, "Crime-Victim Payments Curbed," The Star Ledger, Newark, New Jersey, October 6, 1975, pp. 1, 12.

<sup>2</sup>State of New Jersey, Division of State Police Uniform Crime Reporting Unit, Crime in New Jersey-1974: Uniform Crime Reports, Table 24, "Violent and Nonviolent Crime Region and County 1973-1974," n.p., 1974, p. 80.

There are very few programs that provide emergency services to victims of violent crime in New Jersey. Those that do are almost entirely rape victim oriented. SLEPA has funded three rape analysis units which are located in Atlantic and Mercer Counties and in the city of Newark. These units are geared to facilitating not only the acquisition of medical, psychological and other services, but also preparation of the victim for the adjudicatory process.

There are seven Women Against Rape programs that have been developed by various women's groups throughout New Jersey, some of which receive support from the National Organization of Women and other private funds. Most of these programs provide 24 hour hot-line, counseling and referral services through volunteers. Volunteers will go with victims to hospitals, police agencies, prosecutor's offices and courts to ensure emotionally supportive treatment.

Victims or the families of the victims of violent crimes other than rape do not have the services of similar public or private agencies to coordinate or obtain emergency or long term services. Many of the needed services exist but in order for the victim to obtain such services, delays must be eliminated and prompt, immediate action instigated. These needed but often unattainable services include the following:

- emergency clothing, food, rent, housing, trauma counseling, medical or mental health care;
- child, homemaker or convalescent services;
- assistance in obtaining and filling out forms for medicaid, medicare, workman's compensation, VCCB and other types of insurance;
- assistance in reducing delay in the replacement of food stamps or welfare checks.

There is also a need to facilitate appropriate service delivery by public and private agencies. For example:

- transportation where needed for victims of a crime since many jurisdictions

forbid law enforcement officers to transport victims;<sup>3</sup>

-safeguarding of unattended property;

-some hospitals and private doctors do not provide emotionally supportive services such as follow-up examination for V.D. or pregnancy or collect internal evidence in rape cases unless requested by police.<sup>4</sup>

The justice system is almost totally offender oriented. Most law enforcement agencies have seen their role as apprehending criminals and investigating crimes, although much of their time is spent in providing non-law enforcement functions.<sup>5</sup> Suspects must be informed of their rights at every step of the justice process. There are, however, few legislative or court mandates that provide for the rights of the victim.

The State of New Jersey expended \$986,568,000 in fiscal year 1973-74 for the operation of the criminal justice system.<sup>6</sup> The most recently available Law Enforcement Assistance Administration (LEAA) data indicate that New Jersey spent over \$90,000,000 to operate its prisons and correctional programs.<sup>7</sup> In contrast, only \$1,051,780 was spent to provide direct assistance to the victim in fiscal year 1974-75. If victims want to receive compensation other than that provided through the

<sup>3</sup>Ten of the largest New Jersey Police Departments were surveyed. Half (5) have strong policies against transporting civilians other than arrested suspects and only those victims needing emergency medical help. Departmental policies forbid transporting victims who do not have medical emergencies or who have been taken to a police station for questioning. A few respondents said that insurance regulations forbade transporting and only in extreme cases is it allowed. Reasons given include: no insurance coverage for civilians, department regulations and to guard against charges of misconduct.

<sup>4</sup>Personnel involved with Women Against Rape interviewed by telephone by Standards and Goals Staff, SLEPA, September 8, 1975.

<sup>5</sup>Peter Freivalds, Curtis Woods, Gloria Richards, Police Community Relations, 1975, Final Report, LEAA Grant Number 73TA-99-0013, 1975.

<sup>6</sup>Information sent to the New Jersey State Law Enforcement Planning Agency from the U.S. Law Enforcement Assistance Agency, September 12, 1975.

<sup>7</sup>U.S. Law Enforcement Assistance Administration and U.S. Bureau of the Census, Expenditure and Employment Data for the Criminal Justice System: 1972-73, U.S. Government Printing Office, Washington, D.C., 1975, p. 263.

VCCB, for example - insurance or civil reparation - they may have to pay for their own attorney.<sup>8</sup>

The LEAA citizen initiative program guide entitled "Justice for Witnesses, Victims and Jurors," stresses the importance of active assistance by victims and witnesses in prosecuting offenders. Nevertheless, it states that victims are:

"...continually treated in a shoddy manner...Too often the system's only concern with the victim is that he or she be present during certain stages of the criminal proceeding...Seldom does the police department, the district attorney's office or the court make any serious effort to explain to the victim of a crime why his appearance will be required at various times. Nor is he informed of the progress of the proceedings. Usually he doesn't even know if the accused is being held in jail pending the trial or if he is out on bond. He may be summoned to appear numerous times only to find that the case has been postponed. As a result, the victim often gives up and refuses to cooperate in the prosecution."<sup>9</sup>

The Garden State School District developed a county-by-county community service directory for released offenders and parole officers. Unfortunately, few public or private agencies have developed a similar useful tool for the victims of crime. Many groups stress that society should be more sensitive to the needs of offenders. This is as it should be but similar sensitivity must be expressed for the victims.

The treatment of some victims by the criminal justice system and people in general has led some individuals to conclude that victims are victimized twice - once by the criminal and once by the system's lack of responsiveness to their needs and problems.<sup>10</sup>

<sup>8</sup>Alan Drake, Public Information Officer, Department of the Public Advocate, interviewed by telephone by Curtis Woods, Standards and Goals Staff, SLEPA, September 2, 1975, and Chris Callahan, Field Representative, Department of the Public Advocate interviewed by Curtis Woods, Standards and Goals Staff, SLEPA, September 9, 1975.

<sup>9</sup>Guide for LEAA Citizen Initiative Program, "Justice for Witnesses, Victims and Jurors."

<sup>10</sup>"Victims of Violent Crime," Eye On, WCBS T.V., New York, Monday, August 25, 1975.

An Associate Professor of Psychiatry at New York University School of Medicine and a former police officer of seven years studied hundreds of victims of violent crime. It was found that they are plagued by long-term reactions of guilt and anxiety, produced by people's negative attitude toward victims. In essence: "There appears to be a marked reluctance to accept the innocent or accidental nature of victim behavior."<sup>11</sup>

When a person has been mugged or raped an all too often response of friends, family and the police is to interrogate the victim as follows: "Why were you walking in the neighborhood alone? Why didn't you scream? Why were you carrying so much money? Couldn't you tell somebody was following you?"<sup>12</sup> Thus, instead of giving the victim comfort and support people are more likely to make the victim feel ashamed, isolated and somehow contaminated.<sup>13</sup>

The National Victimization Survey of eight impact cities, which included Newark, revealed that the incidence of unreported crimes may be twice as high as reported crime.<sup>14</sup> This survey indicated that the following percentage of people did not report person-to-person crimes because: nothing could be done; lack of proof - 36%; did not think it was important enough - 29%; police would not want to be bothered - six percent.<sup>15</sup>

<sup>11</sup>"The Guilty Victim," Newsweek, June 17, 1974, p. 66

<sup>12</sup>Ibid.

<sup>13</sup>Ibid.

<sup>14</sup>The exact level is not known due to differences in Uniform Crime Reports reporting and survey methodology.

<sup>15</sup>Charles Kinderman, National Criminal Justice Information and Statistics Service, interviewed by Standards and Goals Staff, SLEPA, September 8, 1975. (A nationwide sample reflected the same data.)

Previous victimization surveys reflect the same type of results. The results of a national victimization survey conducted on a sample of 10,000 households from July 1965 through June 1966 revealed that: "One of the main reasons for failure to report offenses...is that many people believe the authorities are unwilling or unable to do much about crimes that have occurred. Such attitudes are especially prevalent in disadvantaged areas where crime rates are highest."<sup>16</sup> One purpose of the victim assistance standards is to encourage the reporting of crime.

It should be noted that New Jersey is one of 17 states providing compensation to victims of violent crime through a Violent Crimes Compensation Board (VCCB). This is a very positive step toward recognizing the responsibility to the victims of crimes.

VCCB data shows that 549 victims applied for compensation in 1973, 756 in 1974 and 1,377 in 1975, which represents about five percent of the reported violent crimes. During the earlier years only 33% and 40% of the claims were awarded. A paucity of advertising to inform the public of the regulations of the VCCB was the reason given for the small number of claims. An attempt was made to remedy this problem in the fall of 1974 when VCCB sought and received extensive coverage by television, radio and the newspapers of New Jersey.

The claim rate for 1975 has more than doubled. As a result, the average claim processing time has increased from between 60 and 90 days to nine months with some claims taking up to two years for disposition. The claim award rate has increased to 60% but the number awarded each month has steadily decreased due to the excessive workload for the VCCB caused by the increased monthly claim rates

<sup>16</sup>Philip H. Emmis, Criminal Victimization in the United States, U.S. Gov't. Printing Office, Washington, D.C., 1967.

and not enough money to pay all the claims.<sup>17</sup> Claims are expected to increase to a much higher rate as a result of a resolution adopted by the New Jersey State Association of Chiefs of Police. This resolution encourages every police department in the State to set up a program for notifying victims of violent crimes of their rights under New Jersey law. All chiefs are requested to print notification cards listing the address and telephone numbers of VCCB.<sup>18</sup> According to a VCCB official, this will cause a substantial increase in claims filed.

It was further stated that the board presently does not have enough money to pay all the pending claims or the personnel to process them. Two reasons, other than the shortage of manpower, were given for the slowness in processing claims:

- (a) all other public and private insurance and compensation claims, in or out of court, must be settled before VCCB can pay the difference in financial loss;
- (b) there is often a difficulty in verifying losses and doctor and hospital costs.

Some financial losses far exceed the statutory maximum of \$10,000; some victims have up to \$30,000 in hospital costs alone. In many cases convalescent care and lost wages add to this cost. The death of a family head can result not only in a significant loss of income but psychological and emotional trauma.

For the reasons stated above, it is recommended that staff and benefits of the VCCB be increased to meet present responsibilities of the VCCB. Additional manpower will be necessary so that the VCCB can provide the educational, informational and technical assistance for victim assistance centers as outlined in Standard 1.4 (1).

In conclusion, by encouraging the establishment of victim assistance centers, the government is attempting to meet its obligations to the victim of crime. These centers will have the ancillary benefits of increasing the reporting of crime and aiding the victim in feeling that the system is more responsive to his/her needs.

<sup>17</sup>Carl Jahnke, Interview, and Mike Ascolese.

<sup>18</sup>Letter from Joseph G. Michnisky, President, New Jersey State Association of Chiefs of Police, to Curtis Woods, Standards and Goals Staff, SLEPA, March 11, 1975.

New Jersey's Status in Comparison with the National Standards

There are no NAC or ABA Standards relating to providing victim assistance other than coordinating victim-witness appearances in courts.

## Standards for Victim Assistance Services

### Standard 1.1 Establishment of Victim Assistance Centers

Victim assistance centers should be established throughout the State.

The primary function of the center should be to aid victims of violent crime and, if necessary, their families.

The centers should conduct education programs for the general public and for personnel from criminal justice and social service delivery agencies with which the centers will be relying on for providing assistance to victims. Center staff, paid and volunteer, should be available to provide immediate aid to the victim on a 24 hour, seven days a week basis.

### Standard 1.2 Purpose and Functions of Victim Assistance Centers

The functions of the victim assistance centers should be to:

1. Assess the needs of the victim and provide those services available (as described in Standard 1.3) at the centers and refer victims to social agencies for other services.
2. Provide educational services
  - a. To orient police, prosecution, judicial, medical and social service personnel to the needs of the victim and their responsibility to the victim;
  - b. To provide bilingual information to the public concerning services for the victim;
3. Establish interrelationships with other agencies to meet the needs of the victim.
4. Effectuate change within criminal justice and social service delivery systems, where necessary, to provide needed services for the victim.

Standard 1.3 Types of Needs to be Addressed and Services to be Provided by Victim Assistance Centers

Centers should aid victims of violent crimes by addressing the emergent needs of a victim, or his family, that have arisen because of their victimization by securing from other agencies emergency services such as, but not limited to:

1. Clothing;
2. Food;
3. Rent money or housing;
4. Trauma counseling;
5. Medical health care;
6. Child, homemaker or convalescent services; and
7. Any other emergent needs of the victim or the immediate family.

Centers should provide assistance:

1. In obtaining and filling out forms for medicaid, medicare, workman's compensation, violent crimes compensation and other types of insurance.
2. In reducing bureaucratic requirements and delay in receiving aid from social service agencies.
3. To increase the victim's understanding of basic police, prosecution, defense attorney and court procedures. Such information should be developed in cooperation with police, court, prosecution and defense personnel. Under no circumstances should legal advice be given by center staff.

There is also a need to facilitate appropriate service delivery by public and private agencies for:

1. Protection of unattended property.
2. Transportation where needed for victims from the scene of a crime, hospital and police department.

3. Providing emotionally supportive services for victims by hospitals and medical personnel including follow-up examinations for venereal disease, pregnancy and collecting internal evidence in rape cases.
4. Increasing understanding of criminal justice and social service personnel as to the needs of victims.

Standard 1.4 Violent Crimes Compensation

1. Legislation should be passed to expand the (services) jurisdiction of the Violent Crimes Compensation Board to provide educational and technical assistance aid to victim assistance centers. Two types of educational aid should be provided:
  - a. Establishment of a victim assistance information clearing house to gather available information from victim assistance programs throughout the country and make it available to local victim assistance centers.
  - b. Sponsoring regular conferences to bring together personnel working in the field of victim assistance and compensation to exchange methods and procedures for improving and expanding services to victims.  
Technical assistance should include assistance in developing administrative procedures and rules and developing resources.
2. Statute or law enforcement agency policies should require that notification concerning violent crimes compensation be provided by law enforcement personnel upon initial contact with the victim.
3. The statutory maximum for victim compensation should be increased to \$30,000 per victim and include a provision that in extraordinary cases, if good cause is shown, the board can recommend an increase of the

maximum to the legislature.\* The board should periodically report to the legislature on economic changes affecting the maximum limits.

4. The Violent Crimes Compensation Board should have a sufficient staff to thoroughly investigate each claim within a reasonable time period.
5. The Violent Crimes Compensation Board should have responsibility to
  - a. Seek resolution of conflicts within the laws affecting its operation;
  - b. Develop priorities in handling claims; and
  - c. Act as an advocate before other State agencies where benefits for victims may be reduced because of the receipt of compensation by a victim from the VCCB.

\*Good cause can include catastrophies such as victims left paraplegic or children orphaned as a result of a violent crime.

Supporting Methodology for Standards

Victim assistance centers should provide services to victims of violent crime who are in need of emergency services and have reported the crime to a law enforcement agency. A victim should be defined as someone who has suffered an emotional, physical or property loss as a result of a violent crime. Victims of non-violent crime should not be precluded from receiving emergency assistance, but any assistance beyond that should be discouraged for the purpose of narrowing the scope of clientele and conserving resources for violent crime victims.

Violent crime, as referred to in the aforementioned standards, should include for purposes of defining and establishing a jurisdiction of the centers, the commission or attempt to commit any of the following offenses:

1. Atrocious assault;
2. Mayhem;
3. Threats to do bodily harm;
4. Lewd, indecent or obscene acts;
5. Indecent act with children;
6. Kidnapping;
7. Murder;
8. Manslaughter;
9. Rape;
10. Robbery;
11. Arson;
12. Any other offense involving violence.

The geographic area to be serviced by the victim assistance centers should not overlap (to avoid duplication of services and competition for funding) and should be large enough to have within each one all the resources necessary to provide the range of functions identified in standards 1.1, 1.2 and 1.3.

For example, municipalities with a population over 100,000 and all counties should consider the development of victim assistance centers since they are likely to be large enough to contain the necessary resources and located where services can be readily available to victims.

Each jurisdiction that is able to maintain a victim assistance center should have a central office with the following functions:

1. Utilize and foster victim services to the fullest extent possible in existing volunteer community organizations including but not limited to:
  - a. Churches;
  - b. American Red Cross;
  - c. Salvation Army;
  - d. United Way;
  - e. Business, civic and professional groups; and
  - f. Labor unions.

The centers should not develop in-house resource capabilities that can be found and fostered in the community.

2. Establish an effective and ongoing liaison with law enforcement agencies, hospitals, prosecutions, courts and social service agencies to:
  - a. Educate their personnel to the needs of the victim and their responsibility to the victim;
  - b. Receive names of violent crime victims; and
  - c. Work with agency administrators in the development of guidelines for the physical and personal\* treatment of the victim and elimination of bureaucratic delay. Guidelines for medical treatment should include:

\*The Dayton (Ohio) Area Hospital Council has developed a set of guidelines for treatment of Sexual Assault Victims.

support for patient, news release policy, examination and treatment, follow-up care, evidentiary material. Guidelines for criminal justice agencies should include: time and place for interview, procedures for questioning victims, support for victims, news release policy and scheduling court appearances with consideration for the convenience of victim/witnesses.

3. Obtain or develop and regularly update a community service directory of public and private agencies and organizations that can fulfill various victim needs including food, clothing, housing, foster homes, convalescent care, trauma counseling, medical health care, child care, transportation, physical rehabilitation, family or marital counseling, financial assistance, health services, burial and legal aid.
4. Utilize or maintain a 24 hour, seven day a week hot-line telephone service.
5. Provide emergency services utilizing two manpower alternatives:
  - a. Staff who have the mobility to meet the victim at the scene of the crime, victim's home, police station or hospital.
  - b. Trained police or hospital personnel.

The functions of the victim assistance emergency staff should include:

1. Assessing the needs of the victim.
2. Contacting the appropriate service organization to notify it that services are needed by a victim and arranging for an immediate meeting at the victim's convenience.
3. Actively intervening on behalf of a victim in all instances where delivery of services appears to be impeded by bureaucratic procedure.
4. Performing follow-up surveys with service delivery organizations and victims to determine which ones are effective so that appropriate action can be taken.

All criminal justice and social service personnel who frequently come into contact with victims of crime should receive special training:

1. In methods for calming victims.
2. In what services exist for victims.
3. In needs of victims and their responsibility toward victims.

Bilingual information should be developed for victims and distributed to the public including:

1. A card to be available for the public which introduces the victim assistance centers and lists the services provided by the centers.
2. A pamphlet developed in cooperation with police, prosecution, defense and court personnel which addresses the following questions:
  - a. What are the rights of a victim?
  - b. How do I, as a victim, find out what has happened to the offender?
  - c. What rights does the offender have?
  - d. What services can a victim receive?
  - e. Where is the Prosecutor's office and what is the telephone number?
  - f. Where is the courthouse?
  - g. What should a witness/victim wear to court?
  - h. What should the witness/victim do when arriving at court?
  - i. What happens when the witness/victim is called to testify?
  - j. What is plea bargaining, a grand jury, a preliminary hearing, a subpoena, and a continuance?
  - k. What should witnesses/victims do if they cannot appear in court?

- l. What information should a witness/victim bring to court?
- m. How can the victim replace a driver's license, social security card and food stamps?
- n. What can a victim do about missing or stolen checks or credit cards?
- o. What does a victim do in case of threats?
- p. If a victim has difficulty speaking and understanding English what should be done?
- q. Should a victim/witness obtain counsel?\*

References

Baluss, Mary E., "Integrated Services for Victims of Crime: A County-Based Approach," The National Association of Counties Research Foundation, 1975.

"Guidelines for the Treatment of Sexual Assault Victims," approved by the Dayton, Ohio Area Hospital Council, June, 1975.

N.J.S.A. 52:4B, "Criminal Injuries Compensation Act of 1971," used as a guideline in defining "violent crime."

"Victim Advocate Program," Office of the Sheriff, Jacksonville, Florida, 1974-1975.

"Victim Advocate Program," brochures distributed by the Sacramento Police Department, California, 1975.

Pending New Jersey Legislation

Senate, No. 645, introduced by Senators Greenberg and Menza. Provides for compensation for the innocent victims of certain offenses in certain cases; increases membership of Compensation Board; revises various sections of the existing law; provides for increased publication of the provisions of the law; appropriates \$1,700,000. Jan. 13, 1976 - Judiciary Committee.

Senate, No. 927, introduced by Senator Dugan. Reduces the minimum out-of-pocket loss from \$100 to \$50 in order for an award to be made to a victim under the "Criminal Injuries Compensation Act." Jan. 19, 1976 - Law, Public Safety and Defense Committee.

Senate, No. 1023, introduced by Senator Dugan. Prescribes distribution of applicant forms for claims by victims of violent crimes under the "Criminal Injuries Compensation Act." Jan. 26, 1976 - Judiciary Committee.

Assembly, No. 676, introduced by Assemblyman Deverin. Prescribes the required availability of application forms for victims of violent crimes under the "Criminal Injuries Compensation Act." Jan. 19, 1976 - State Government and Federal and Interstate Relations Committee.

### Commentary

The Victim Assistance Standards and Methodology are aimed at developing a comprehensive program to meet the needs of victims of violent crime. When government fails to protect a citizen from crime it has an obligation to ensure that justice be done and the victim receive assistance in overcoming hardships resulting from the crime.

The problem assessment section included most of the rationale for the standards. This section therefore, will relate the reasons for selecting one approach to solving those problems over other approaches. One of the primary aims of the victim assistance standards is to avoid some of the problems that have developed in other social service programs. Standards 1.2 and 1.3 recommend that victim assistance centers emphasize need assessment and referrals of victims to existing community organizations for services as opposed to developing in-house service delivery capabilities. Where services do not exist, center staff should instigate their development in other community organizations. This approach is necessary to deter centers from duplicating existing community services and wasting resources.

Certain criteria and alternatives for implementing the standards are considered important for the development of victim assistance centers, but not appropriate for inclusion in the standards. A methodology section was therefore developed.

The methodology section recommends a regional approach to administering victim assistance centers as opposed to central responsibility by one State agency. The creation of a single State structure would cause delay in a program aimed at providing emergency services. Local programs also provide greater accessibility to victims needing service. The cost of hiring State level personnel could drain valuable resources needed at the local level to provide benefits

to victims and would be too far removed from the thousands of organizations with the potential to provide services to the victims.

There is a need however, for technical assistance in the development and coordination of victim assistance centers. To this end, Standard 1.4 recommends that the Violent Crimes Compensation Board provide educational and technical assistance services to the centers.

The methodology also recommends that the geographic jurisdictions of victim assistance centers not overlap. Programs with overlapping geographic jurisdictions often work at cross-purposes with each other and the duplication of functions wastes resources. Such duplication results in competition for the same limited financial resources and clientele.

The elimination of overlapping jurisdictions is not intended to preclude a victim from using the services of more than one center. For example, victims would be able to use a center in the jurisdiction where the crime was committed and then upon returning to their residence, use the services of a center covering that jurisdiction if the areas are different.

The third aim of the methodology is to ensure that each victim assistance center has within its geographic jurisdiction all the resources necessary to provide the range of services identified in Standards 1.1, 1.2 and 1.3. Ensuring that victim assistance centers have adequate resources should create greater uniformity of service delivery between centers and ensure a full range of needed services for the victim.

## Community Involvement

### Introduction

It is recognized that many of the causes of delinquency are deeply rooted in our society. The educational, social and economic dimensions of delinquency demand intensive research impossible under the framework of this study. What can be discussed at this point, however, are selected methods to keep pre-delinquent behavior from graduating into delinquent or criminal actions necessitating justice system involvement.

Juvenile crime is rising at a rate faster than adult crime.<sup>1</sup> Concurrently, the age of juveniles committing offenses is decreasing. In 1974, the number of juveniles age ten and under who were taken into custody and charged with offenses increased 17.3% over 1973 figures.<sup>2</sup> In addition, 14% of all persons arrested in 1974 were under the age of 15.

The potential for modifying pre-delinquent tendencies is greatest when addressed as early as possible and prior to any justice system involvement. Many juvenile problems are community problems as well and if left unassisted or unrecognized, may develop into even more serious community difficulties. As a result, communities must become involved in the problems of their youth.

<sup>1</sup>See chapter on Pre-Adjudication Alternatives, Introduction, p. 51 for statistics.

<sup>2</sup>Data derived from comparison between Crime in New Jersey - 1973 and 1974: Uniform Crime Reports, Tables 16, "Total Arrests by Age, 1973 and 1974," p. 60, 61 in both texts.

<sup>3</sup>State of New Jersey, Division of State Police Uniform Crime Reporting Unit, Crime in New Jersey - 1974: Uniform Crime Reports, n.p., 1974, p. 52.

## Problem Assessment

### A. Youth Service Bureaus

Since deviant behavior is often the result of a learned socioeconomic process, community social environments can play an important part in motivating law-abiding behavior. Community level services frequently are non-existent or inaccessible to youth who need such services. Some communities have available youth-serving resources but the capacity to coordinate these resources with a comprehensive referral network exists in only a few cities.

Since 1970, communities within the State have been developing local projects which provide a variety of services to juveniles referred to them from the schools, courts and police. Twenty-three agencies are designated as official youth service bureaus or mini youth-serving agencies around the State. These agencies attempt to coordinate activities for youth provided through other community agencies and to develop services which are needed but do not exist. Despite the enthusiasm for these projects, recent financial limitations have made it impossible for communities to either absorb the costs of or develop these projects. As a result, the vast majority of troubled youth are denied such services. In recognition of this problem and in an effort to promote the utility and effectiveness of youth service bureaus, referral and operational guidelines structuring bureaus as well as the provision of funds for their development are needed.

### B. Education

School is a major part of a child's life. Unfortunately, many school systems cannot deal effectively with students evidencing delinquent or pre-delinquent behavior.<sup>4</sup> Because of financial limitations, school systems tend to be geared

<sup>4</sup>National Advisory Commission on Criminal Justice Standards and Goals, Report on Community Crime Prevention, Washington, D.C., 1973, p. 140.

toward students with average learning abilities and socially accepted behavior norms. Students who do not fit the pattern may not be provided with effective learning experiences and often withdraw from the school environment.

For the 1974-1975 school year, 131,733 individual sessions of truancy or unexcused absences and 137,724 suspensions and expulsions were reported to the State Department of Education.<sup>5</sup> The city of Trenton, one of the larger urban centers of the State, averages a school absentee rate of 17% and it is interesting to note that as students continue in school, absenteeism increases. Trenton reported overall attendance in elementary school at 92%, junior high at 79% and senior high at 81%. Statistics from juvenile detention centers and shelters also indicate that many of the juveniles detained in such facilities were absent from school for at least two weeks prior to their detention.<sup>6</sup>

It has become apparent that most school systems have no alternatives to deal with disruptive or truant students except the traditional complaint to police departments, suspension or expulsion and, as a result, have not been able to provide such students with effective learning experiences. Mechanisms within the school structure are needed to handle the growing problems of vandalism, disruptive behavior and truancy, and to provide all students with effective learning experiences.

#### C. Recreation and Employment

The benefits of constructive recreation and youth employment in terms of reducing delinquency need no explanation. However, many communities do not provide youth with recreational outlets. In addition, the present job market

<sup>5</sup>Statistics compiled from State Department of Education files.

<sup>6</sup>Statistics reported in the Juvenile Justice and Delinquency Prevention Supplement to the 1976 Criminal Justice Plan for New Jersey, State Law Enforcement Planning Agency, p. 86.

indicates a critical shortage of employment opportunities for all age groups. As unemployment rises, the availability of jobs for youth rapidly declines. In view of this situation, the necessity to provide recreational activity and employment opportunities for youth must be strongly encouraged.

New Jersey's Status in Comparison With the National Standards

The National Advisory Commission's Report on Community Crime Prevention recommends many programs that stress community involvement in the prevention of delinquency. A similar study was not undertaken by the American Bar Association; hence, only references to the recommendations and standards proposed by the National Advisory Commission follow.

A. Youth Service Bureaus

In Community Crime Prevention Chapter 3, the National Advisory Commission recommends several standards for the establishment and operation of central coordinating units for community services in the form of youth service bureaus. Community Crime Prevention Standard 3.1 suggests the goals and objectives of such bureaus include diversion, provision of services through advocacy and brokerage, system modification and youth development.

Presently, 22 officially designated youth service bureaus and mini youth service agencies are in existence in New Jersey. Fourteen serve individual municipalities, two are countywide and six bureaus serve multiple jurisdictions.\*

\* Existing youth service bureaus are as follows: Asbury Park; Atlantic County; North Camden; Camden; East Orange; Irvington; Lakewood Township; Jersey City; Livingston, Montclair, Verona, Glen Ridge; Long Branch; Maplewood, South Orange; Middletown, Port Monmouth, New Monmouth, Belford, East Keansburg, Leonardo; New Brunswick; Newark; North Hudson - Union City, North Bergen, West New York, Weehawken, Hoboken, Kearny, Secaucus, Guttenberg; Orange; Passaic, Perth Amboy; Plainfield; Scotch Plains, Fanwood; Union County; West Caldwell; and West Orange.

Goals for all such programs as expressed in funding applications include diversion, provision of services, youth development and, to a lesser degree, system modification. Many bureaus designate the prevention or reduction of delinquency as top priority and others include the reduction of recidivism, truancy and negative youth experiences as prime objectives. Crisis intervention, improving police skills and confidence and increasing community response are also important objectives. Priorities are determined by the needs of the cities and areas which are provided services by the bureaus.

The National Advisory Commission also recommends in Community Crime Prevention Standard 3.2 that youth service bureaus be organized as independent, locally operated agencies involving community representation. Youth service bureaus in New Jersey are local, independent agencies. Most have advisory boards, councils or committees which assess needs, recommend changes and provide input into policy and program considerations. These councils are composed primarily of community representatives although many include juvenile justice system representatives as well. Youth representatives are included on the boards of the Union County, Long Branch, Atlantic County, Camden and Livingston bureaus.

It is also recommended that youth service bureaus direct primary attention toward serving justice system referrals under the premise that all referrals be voluntarily accepted (Community Crime Prevention 3.2). New Jersey youth service bureaus make particular effort to attract referrals from justice system agencies and have been successful in doing so since, for most bureaus, the majority of referrals are received from police and court agencies. All referrals to youth service bureaus are voluntary, although the Camden and New Brunswick bureaus receive clients referred from court as a condition of probation. The Perth Amboy program strongly encourages referrals who are from the Puerto Rican community

and three bureaus identify target age brackets. Most youth service bureaus provide referring agencies with monthly or quarterly progress reports on clients, which is in accord with Community Crime Prevention Standard 3.3. To elicit community youth contact and cooperation, many of the bureaus utilize outreach or street workers and hotlines. Most, if not all, can be contacted on a 24-hour basis.

In regard to functions, the National Advisory Commission suggests youth service bureaus utilize existing community services and provide direct services only if otherwise unavailable (Community Crime Prevention Standard 3.4). In New Jersey, existing services are relied upon where available although all youth service bureaus provide some kind of counseling component as well as referral services. Most also provide tutoring, crisis intervention, recreation, cultural activities and vocational assistance and placement. Passaic and Irvington bureaus offer a big brother/big sister component and parent effectiveness training is conducted by the Asbury Park, Scotch Plains and West Orange bureaus. New Brunswick and Asbury Park bureaus also provide police training in handling youth problems. Alternate school components are offered by the bureaus in Passaic, Maplewood, South Orange, Jersey City and Orange.

Services and referrals are provided with a minimum of intake requirements as recommended in Standard 3.4. The intake process for the bureaus usually involves an initial staff-client interview to gather basic background information. An assessment period follows during which any additional needed data is gathered and home visits are made. A treatment plan is developed and discussed by a disposition or intake team. After a treatment plan is approved, a youth advocate/counselor is assigned to the client for the duration of the treatment schedule. The youth counselor assists the client in obtaining needed services, checks progress and conducts follow-up.

New Jersey youth service bureaus also comply with the recommendation in Standard 3.4 that services should be appealing and easily accessible. Most bureaus are in needed locations such as high crime/high population areas. Many remain open in the evenings for counseling, recreation, tutoring and drop-in activities. Many bureaus such as Passaic, Maplewood-South Orange and New Brunswick are open on weekends. Also as recommended in Standard 3.4, case records are treated as confidential and usually only include the referral package, completed intake form and related data, school and social agency contacts, progress reports and a case summary upon client termination.

The National Advisory Commission in Community Crime Prevention Standard 3.5 also recommends that youth service bureaus employ experienced staff and indigenous community workers who can relate to youth. Volunteers and youth should also be encouraged to work with the bureaus. Full-time, experienced staff are employed in all youth service bureaus in New Jersey. An overwhelming majority of bureaus require directors to possess a master's degree in a related area and from one to five years' experience. Assistant directors or coordinators as well as counselors are also required to have master's degrees and varying levels of experience. Various other professional staff such as learning specialists, social workers, community resource directors and administrative assistants are employed in many youth service bureaus. All staff, whether professional, paraprofessional or volunteer, are required to possess the ability to relate to and work with youth. The Perth Amboy and Long Branch bureaus also require certain staff to be bilingual in Spanish.

In addition to professional staff, numerous volunteer and paraprofessional workers are also utilized as community aides, parent aides, tutors and counselors. The Irvington, Perth Amboy, Scotch Plains and West Orange bureaus utilize graduate students who satisfy internship requirements by working in the bureaus. Asbury

Park and Long Branch bureaus employ off-duty police officers as recreation workers. The Asbury Park and Perth Amboy bureaus also utilize high school students who work with younger referrals.

In addition to many recommendations for youth service bureau organizations and operations as outlined herein, the National Advisory Commission in Standard 3.6 calls for initial and continued youth service bureau evaluation to assess effectiveness. The Evaluation Unit of the State Law Enforcement Planning Agency is currently researching the effectiveness of youth service bureaus in New Jersey, and half of the bureaus are participating in the study. An evaluation design has been completed and is in initial stages of implementation. Bureaus will be clustered by key variables such as population, staffing, geographic, demographic, administrative and structural characteristics and the extent of in-house versus existing services. The outcome measures of the evaluation will examine project efficiency to include cost benefit. The evaluation will assess the impact of identification, evaluation, service and referral components of youth service bureaus as well as the efforts of bureau staff to coordinate existing community resources into a total service network. Data collection is currently underway and computer processing has been initiated. It is anticipated that preliminary results will be available in Summer, 1976. Conclusions will be integrated into the standards and goals process as they are substantiated, thus ensuring continuous refinement of operational standards.

The National Advisory Commission also suggests the appropriation of funds for continued support of youth service bureaus as well as the enactment of legislation to fund partially and to encourage local establishment of such bureaus (Community Crime Prevention 3.7 and 3.8). All youth service bureaus have received or are receiving State Law Enforcement Planning Agency funds although the percentage of local public funds appropriated for the bureaus continues to rise.

B. Education

In its study of community crime prevention, the National Advisory Commission made many suggestions for the education system, electing to entitle them "recommendations" rather than standards. As such, these suggestions or recommendations were intended to chart areas for improvement in the education system. Among the many suggestions is the improvement of the pre-school environment through the use of the home as a learning center, the training of parents as teachers in the home and active community involvement in school systems (Community Crime Prevention Recommendation 6.1). New Jersey education systems presently do not make provisions for teachers in the home except for parents of handicapped children. However, the newly-enacted Public School Education Act, also known as the "thorough and efficient education" act (N.J.S.A. 18A:7A-1) encourages citizen involvement in both educational matters and in the setting of standards and goals for public school systems.

The National Advisory Commission also suggests school systems allow for increased student participation in democratic processes and in administrative decisions (Community Crime Prevention Recommendation 6.2). Perhaps the best example of justice in New Jersey's schools is the recently approved regulation that school districts cannot refer, test, relocate or change a student's program of instruction without guaranteeing due process rights. This change in the State Board of Education rules and regulations is in direct response to the recent U.S. Supreme Court decision requiring due process procedures for suspensions, expulsions or program changes. In addition, many school districts utilize student courts in the upper-grade levels for minor disciplinary action which include mock trial proceedings and peer judgments.

One of the more structured proposals offered by the NAC for educational reform is the recommendation that schools guarantee students achieve functional literacy before leaving the sixth grade level (Community Crime Prevention Recommendation 6.3). No such literacy requirement is in existence in New Jersey although the area has commanded much research. A serious impediment to the establishment of such a requirement is the absence of any universal or agreed upon definition of functional literacy. Another problem with such a requirement is what to do with those students who fail to attain functional literacy. Opposition to such a requirement has been raised by educators who may fear that student attainment of literacy may become a measurement of teacher success or failure. In the absence of a literacy requirement, numerous programs are in existence throughout the State which are designed to help students with low literacy levels.

In Community Crime Prevention Recommendation 6.4, the NAC suggests that schools provide special services to students who come from environments in which English is not the dominant language and recommends several programs to accomplish this end. New Jersey Statute 18A:35-15, which requires the provision of bilingual education programs in public schools, is in compliance with this recommendation. Under the statute, each school district must ascertain the number of students and children who are of limited English-speaking ability in each district. Whenever there are 20 or more pupils of limited English speaking ability in any one language classification, the board of education must establish a program in bilingual education for all pupils therein. School districts may, however, combine to provide required programs. Every pupil participating in such a program is entitled to continue for a period of three years. In addition to required subjects and language, programs in bilingual education must also include instruction in the history and culture of the country, territory or geographic area which is the native land of the parents of children enrolled in the program.

The establishment of reality-based curricula to include career education is also recommended by the National Advisory Commission in Community Crime Prevention Recommendation 6.5. New Jersey has been and continues to be a front runner in career or vocational education. Vocational high schools exist in most counties although many students who desire vocational education may not meet entrance requirements. In addition, many high schools operate programs where students receive classroom training for certain careers and then spend part of the school day or week in an on-the-job training or internship program. Many schools participate in career development programs such as Community Involvement in Personal Educational Development (CIPED).

New Jersey also has an Adult and Continuing Education Program which provides a graduate equivalency diploma program as well as other adult education and enrichment courses. Public school facilities are utilized for the approximately 300 such programs in existence. These programs are consistent with Community Crime Prevention Standard 6.5.

The National Advisory Commission also recommends the provision of alternative educational experiences, particularly for students who do not learn in ways or through experiences that are suitable for the majority (Community Crime Prevention Recommendation 6.7). It is in this area that New Jersey school systems are weakest. Several alternate high schools, which are recommended by NAC, are in existence in the State; however, it appears that most, if not all, alternate schools are considered as programs to provide short term assistance to enable students who have difficulty achieving in school to return to the traditional school environment.

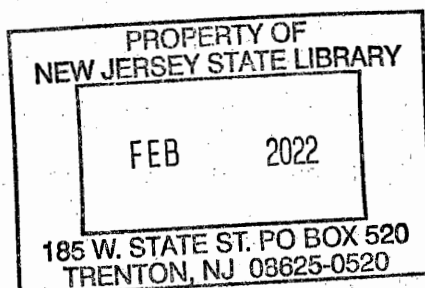
Additionally, the NAC recommends in Community Crime Prevention Recommendation 6.6 that schools provide more effective supportive services to facilitate the positive growth and development of students. New Jersey Statute 18A:7A-1 requires

that schools provide programs and supportive services for all pupils, with special emphasis on those who are educationally disadvantaged or who have special education needs. Although many support services are provided, there is a serious question whether services are reaching those youth who desperately need them or who are exhibiting delinquent tendencies.

Community Crime Prevention Recommendation 6.8 suggests school facilities be made available to the entire community as centers for human resource and adult education programs. As previously stated, the Adult and Continuing Education Program utilizes public school facilities in approximately 300 school districts. Aside from this function, schools in New Jersey are not generally considered as community resource centers.

C. Recreation and Employment

In addition to education system recommendations, the National Advisory Commission offers several suggestions for reducing delinquency through the use of recreation, after-school and summer employment and expansion of job opportunities for youth (Community Crime Prevention Recommendations 7.1, 5.2 and 5.1 respectively.) It is generally accepted that efforts to help prevent delinquency comparable to the NAC recommendations have been undertaken in communities throughout the State, however, the extent of such efforts has not been determined.



Standards for Community Involvement

## A. Youth Service Bureaus

Standard 1.1 Purpose, Goals, and Objectives

Youth service bureaus should be established to focus on the special problems of youth in the community. The goals should include prevention of delinquency, diversion of juveniles from the justice system; provision of a wide range of services to youth through advocacy and brokerage, offering crisis intervention as needed; modification of the system through program coordination development and advocacy; youth development; and community involvement to include training of community residents in the recognition and handling of youth problems.

1. Priorities among goals should be locally set.
2. Priorities among goals (as well as selection of functions) should be based on a careful analysis of the community, including an inventory of existing services and a systematic study of youth problems in the individual community.
3. Objectives should be measurable, and progress toward them should be scrutinized by evaluative research.

Standard 1.2 Decision Structure

Youth service bureaus should be organized as independent, locally operated agencies that involve the widest number of people of the community, particularly youth, in the solution of youth problems. An advisory board, including young people, indigenous adults and representatives of agencies and organizations operating in the community, should comprise the decisionmaking structure. Agency representatives should include juvenile justice policymakers, but in no instance should the bureau be under the administrative control of the juvenile justice system or any of its components.

A bureau should be operated with the advice and consent of the community it serves, particularly the recipients of its services. This should include the development of youth responsibility for community delinquency prevention.

### Standard 1.3 Target Groups

Youth service bureaus should make needed services available to all youth in the community, however, particular effort should be made to attract diversionary referrals from the juvenile justice system. Referrals from schools and community social service agencies should also be strongly encouraged to prevent delinquent behavior.

1. Law enforcement and court intake personnel should be strongly encouraged, through policy changes and ultimately through legal proscription, to make full use of the youth service bureau in lieu of court processing for every juvenile who is not an immediate threat to public safety and who voluntarily accepts the referral to the youth service bureau.
2. Specific criteria for diversionary referrals should be jointly developed and specified in writing by law enforcement, court and youth service bureau personnel. Referral policies and procedures should be mutually acceptable.
3. Diversionary and preventive referrals should be encouraged by continual communication among law enforcement, court, school, social service and youth service bureau personnel.
4. Referrals to the youth service bureau should be completed only if voluntarily accepted by the youth. The youth should not be forced to choose between bureau referral and further justice system processing.
5. Referring agencies should be entitled to and should expect systematic follow-up on initial services provided to a referred youth by the bureau. The youth service bureau should not provide justice system agencies with confidential information.
6. Because of the voluntary nature of bureau services and the initial reluctance of young people to seek intervention, the youth service bureau should elicit youth participation in existing programs and in the identification and development of necessary community services. To achieve maximum

effectiveness, a youth service bureau should be responsive to and part of the community it serves.

#### Standard 1.4 Functions

The functions of youth service bureaus are to serve as a referral resource for justice system, school and social service agencies; coordinate and integrate a comprehensive system of service delivery; provide individual advocacy, crisis intervention and other needed services; and act as a catalyst for system and social change. Youth service bureaus should provide technical assistance to community groups and agencies, program development in the areas of prevention and diversion programs, and coordination of existing programs in order to create effective service delivery. Youth service bureaus should also strive to bring about more extensive involvement of and understanding by existing youth-serving and law enforcement agencies, the general citizenry and youth in prevention and diversion programming and in cooperative planning for an overall community youth services system.

Youth service bureaus should, whenever possible, utilize existing services for youth through referral, systematic follow-up and individual advocacy. Bureaus should develop and provide services on an on-going basis only where these services are unavailable to the youth in the community or are inappropriately delivered. Services should be confidential and should be available immediately to respond skillfully to each youth in crisis.

1. Services to be provided by a particular bureau should be tailored to the needs of the community and clients it serves. The spectrum of services should be limited only by the imagination of bureau personnel and the willingness of other public and private community youth-serving projects to commit themselves to a coordinated, cooperative effort. Basic service capabilities for all youth service bureaus should include the following:

- a. Adequate professional staff with the capability to determine the problems and needs of each youth referred to the bureau in order to develop with the youth and his parents a treatment plan for meeting the needs identified;
- b. A system for referring youth who cannot be served by the bureau to other community youth treatment programs in addition to the development of a resource directory as a prerequisite to coordination and integration of services;
- c. Possess adequate professional staff capability to be able to provide basic counseling services to both youth and parents;
- d. An emergency crisis intervention capability;
- e. Vocational counseling and job placement assistance, either through in-house staff efforts or referral arrangements with other agencies;
- f. The ability to work with other community youth-serving programs for the purpose of identifying service gaps and coordinating activities;
- g. Provide alcohol and substance abuse prevention or treatment referrals to other agencies capable of providing such services;
- h. An information or tracking system to enable bureau staff to follow the treatment progress of each client.

Other services which may be considered basic in many communities include remedial education and tutoring, recreation and leisure time programs, health services and legal services.

2. Services should be appealing and accessible by location, hours of service availability and style of delivery. The youth service bureau should provide services to young people at their request, without the requirements of parental permission. Intake requirements and form filling should be kept at a minimum.

3. Case records should be minimal and maintained on a confidential basis. Records should be revealed to agencies of the justice system and other community agencies only with the youth's and parent's or guardian's permission.
4. Referrals to other community services should be made only if voluntarily accepted by the youth.
5. In referring to other community agencies for service, the youth service bureau should expedite access to service through such techniques as arranging appointments, orienting the youth to the service, and providing transportation if needed.
6. The youth service bureau should rapidly and systematically follow up each referral to ensure that the needed service was provided.
7. The youth service bureau should have funds to use for purchase of services that are not otherwise available.
8. The youth service bureau should be active in the research, planning and development of innovative services to prevent and reduce delinquency.
9. The youth service bureau should be actively involved with existing social agencies, law enforcement, the general citizenry and youth in developing cooperative planning and programming for youth services.
10. The youth service bureau should seek to coordinate existing service delivery sub-systems and to reduce inter-agency problems as needed and appropriate.

#### Standard 1.5 Staffing

Adequate full-time experienced professional staff should be employed by the youth service bureau to ensure the capacity to respond to the complex personal crises of youth, to interact with agencies and organizations of the community and to provide leadership to ensure the smooth operation of the project. Sufficient additional experienced staff should be employed to ensure the capability to provide basic services as outlined in Standard 1.4.

1. All staff, both professional and paraprofessional should be sensitive to the needs of young people and the feelings and pressures in the community. They should be as sophisticated as possible about the workings of agencies, community groups and government. Staff should be capable of maintaining numerous and varied personal relationships.
2. In-service training, special institutes and opportunities for formal education should be available to bureau staff and volunteers to increase their skills in working with youth.
3. Indigenous workers, both paid and volunteer, adult and youth, should be an integral part of the youth service bureau's staff and should be utilized to the fullest extent.
4. Young people, particularly program participants, should be used as staff (paid or volunteer) whenever possible.
5. Volunteers should be actively encouraged to become involved in the bureau. Those working in one-to-one relationships should be screened and required to complete formalized training before working directly with youth. The extent of training should be determined by the anticipated depth of the volunteer-youth relationship.
6. Whenever possible, the youth service bureau should have available (perhaps on a volunteer basis) the specialized professional skills of doctors, psychiatrists, attorneys and others to meet the needs of its clients.

#### Standard 1.6 Evaluation of Effectiveness

Each youth service bureau should be objectively evaluated in terms of its effectiveness. Personnel, clients, program content and program results should be documented from the inception of the bureau.

1. Evaluation objectives and methods should be developed concurrently with the development of the proposed youth service bureau and should be directly related to the bureau's highest priority objectives.
2. Wherever possible, an evaluation to compare the effectiveness of several youth service bureaus should be implemented in order to increase knowledge on the impact of the bureaus.
3. Ongoing evaluation should be required for each youth service bureau to measure the effectiveness of service in reaching its goals and objectives.
4. Each youth service bureau should establish an information or tracking system containing basic information on the youth served and the service provided, as well as changes in the manner in which the justice system responds to his behavior.

#### Standard 1.7 Funding

The need for youth service bureaus statewide should be recognized by the adoption of legislation to encourage local establishment of youth service bureaus and to fund their establishment through a matching grant program. Adequate funding should be provided for staffing, training, evaluation, purchase of services and to ensure the capacity to provide basic services as identified in Standard 1.4.

## B. Education

### Standard 1.8 The Responsibility to Provide Every Student With Appropriate Educational Experiences

Schools should recognize that they have a responsibility to provide for all children, regardless of socioeconomic status, cultural background or geographic location, the educational opportunity which will prepare them to function politically, economically and socially in society. Local school districts should accept the responsibility for ensuring that all pupils are provided with effective educational experiences. In particular, schools have a responsibility to develop educational experiences and supportive services for the pre-delinquent, disruptive and/or truant student.

1. School systems should acknowledge that a considerable number of students do not learn in ways or through experiences that are suitable for the majority of individuals. Alternative educational experiences should be provided within the school system and should be available for those students who desire or need learning alternatives.
2. At all grade levels, alternative learning methods and programs should be designed to be compatible with the individual learning objectives of each student identified as a potential client for these services.
3. Students for whom all or parts of the traditional school program are inappropriate should be identified as early as possible.
4. As an education system responsibility, students considered errant, disruptive, difficult to control or unresponsive to teaching efforts should be retained within the existing school system rather than referred to the juvenile justice system for processing.
5. Special services should be provided for students who come from environments in which English is not the dominant language. Services to be provided should include but not be limited to:

- a. Bilingual instruction, with gradual increases in the percentage of instruction in English;
  - b. Active recognition of and instruction in the customs, traditions and history of students' native cultures;
  - c. School staffs representative of varying racial, ethnic and cultural backgrounds; and
  - d. Special programs involving parents of students with bilingual backgrounds.
6. Schools should institute programs guaranteeing that every student who does not have a severe mental handicap will have acquired functional literacy before leaving elementary school.
7. Schools should provide more effective supportive services to facilitate the positive growth and development of each individual student.

#### Standard 1.9 The Retention of Students in School

Schools have the responsibility to develop mechanisms to provide education for all types of students and should actively encourage the retention of all pupils, especially those who desire to withdraw from the school system.

1. Alternatives other than juvenile justice system referral, suspension or expulsion should be developed to deal with disruptive or truant students.
2. Particular effort should be devoted to those students who desire to drop out of school. Students should not be allowed to terminate school attendance prior to undergoing vocational or career aptitude testing and counseling. Dropout prevention programs should be initiated or expanded in all high schools to discourage students who desire to withdraw from school.

3. The State Department of Education should require that all school districts provide special programs for students who are suspended from school. No student should be excluded from attending classes without his or her attendance being required elsewhere. Alternatives or special programs may include but should not be limited to in-school prevention programs or required attendance at various community programs, agencies or centers.

#### Standard 1.10 Vocational Education and Preparation

Vocational education as an alternative to college preparatory education should be available at appropriate grade levels for all students desiring such an alternative. Career development programs involving a combination of regular classroom instruction and on-the-job training or a work internship should be encouraged in every school district. Vocational counseling and placement services should be available for all students whose formal education will culminate in a high school diploma.

#### Standard 1.11 Use of School Facilities

School facilities should be made available to the community as resources for delinquency prevention programs. Facilities such as libraries, auditoriums, art and industrial shops and recreation equipment should be available during after-school hours and on weekends so that youth may participate in constructive activities such as recreation, tutoring and additional education experiences.

#### Standard 1.12 Justice and Democracy in the School

School authorities should adopt policies and practices to ensure that schools and classrooms reflect the best examples of justice and democracy in their organization and operation and in the rules and regulations governing student conduct.

1. Students should have exposure in democratic processes by participating in such practices. Programs may include but not be limited to:
  - a. Regularly scheduled student run assemblies;
  - b. The establishment of representative student advisory committees;
  - c. Student participation in setting behavior standards and other student regulations; and
  - d. The establishment of a student grievance committee.
2. Special programs and courses in law-focused education should be developed and instituted in local school districts for the benefit of all students.

Standard 1.13 School and Juvenile Justice System Cooperation

Positive cooperation and coordination should be developed between school systems and juvenile justice system agencies, particularly local law enforcement agencies and the court. Mutually agreed upon policies should be maintained to deal with individuals who commit offenses on school property and referrals for needed services. Schools and justice system agencies should cooperate in the development of varied community youth programs.

## C. Recreation

### Standard 1.14 Use of Recreation to Prevent Delinquency

Recreation should be recognized as an integral part of an intervention strategy aimed at preventing delinquency. These programs should be created or expanded in communities to serve all youth.

1. Community youth should be involved in the decision-making, planning and organizing for recreation services. Recreational programs should allow participants to decide what type of recreation they desire.
2. Counseling services should be made available, either as part of the recreation program or on a referral basis to allied agencies in the community, for youth who require additional attention.
3. Parents should be encouraged to participate in community recreational activities with their children.
4. Maximum use should be made of existing recreational facilities in the afternoons, evenings, on weekends and throughout the summer.

## D. Youth Employment

### Standard 1.15 Expansion of Job Opportunities for Youth

Employers and unions should institute or accelerate efforts to expand job and membership opportunities to economically and educationally disadvantaged youth. These efforts should include the elimination of arbitrary personnel selection criteria and exclusionary policies. Employers should institute or

expand training programs to sensitize management and supervisors to the special problems young people may bring to their jobs.

Standard 1.16 After-School and Summer Employment

Each community should broaden its after-school and summer employment programs for youth, including the 14- and 15-year-olds who may have been excluded from such programs in the past. These programs may be sponsored by governmental or private groups, but should include such elements as recruitment from a variety of community resources, selection on the basis of economic need and a sufficient reservoir of job possibilities. The youth involved should have the benefit of an adequate orientation period and an equitable wage.

### Commentary

Delinquency prevention and the diversion of juveniles from system processing cannot be effective unless there are community services available for troubled youth. Ideally, these resources should be organized into a comprehensive network of services which can tailor community-level response to the specific treatment needs of juveniles referred from justice system agencies, schools, families or other social services. Community participation and involvement in programs designed to reduce or prevent delinquency are urgently needed. The Advisory Committee therefore recommends several target programs where community resources can be channeled in the most effective manner. Standards for school reform are also proposed.

#### A. Youth Service Bureaus

In recognition of the effectiveness of present youth service bureaus, the Advisory Committee recommends their establishment throughout the State, primarily in high delinquency areas. Proposed standards are intended to serve as guidelines to assist youth service bureaus in accomplishing goals as previously described. The Committee strongly urges the appropriation of State funds on a matching grant basis for the support and development of youth service bureaus.

#### B. Education

In reviewing the National Advisory Commission recommendations for education, the Advisory Committee questioned the appropriateness of proposing similar recommendations for New Jersey's educational system. The Committee favored many of the NAC concepts but did not feel it should encroach upon educational system mechanics. Thus, the proposed education standards are geared toward the acknowledgment of the responsibility of schools for juveniles who are or may potentially

become known to the existing juvenile justice process. NAC recommendations were retained where appropriate. The Committee strongly supports the view that schools must be responsible for providing appropriate educational opportunities for all students and should, through alternative educational models, seek to retain as many students as possible within the school framework.

C. Recreation and Employment

The Advisory Committee recommends communities develop recreation programs that stress youth and parental involvement as an integral part of an intervention strategy aimed at preventing delinquency. Communities are also advised to broaden after-school and summer youth employment programs.

In addition, the Committee encourages reform on the part of employers and unions to provide job opportunities for youth. Contrary to the NAC, the Committee does not recommend the revision of child labor laws. A comprehensive study of existing child labor laws should precede any standards advocating change. Such a study is not possible under the framework of this effort.

## Pre-Adjudication Alternatives

### Introduction

During 1974 the number of juveniles taken into custody by police increased 14.1% over 1973 figures, whereas adult arrests rose 8.2%<sup>1</sup>. Adult arrests for violent crimes in 1974 (murder, rape, robbery, atrocious assault) increased 2.2% over the previous year, however, the number of juveniles arrested for these crimes increased 13.1%. Although persons under the age of 18 account for only 33% of the State population,<sup>2</sup> they account for 50% of all index crime arrests, 60% of all breaking and entering arrests, 67% of all auto theft arrests and 52% of all larceny arrests.

As arrests increase, so do the number of juveniles referred to court. For the 1974 court year, 72,355 complaints were filed compared to 63,852 in 1973, reflecting a 13.3% increase.<sup>3</sup> Preliminary analysis of 1975 figures indicates that this rising trend is continuing at an even faster rate and may soon become unmanageable. The number of juveniles processed by the system that are repeat offenders or are known to the system because of prior contacts is also growing. An increasing court referral rate also increases case backlog and time delays. Complaints placed on a court calendar may not be disposed of for months, thus destroying the concept of swift justice and reducing any deterrent or meaningful effect. In addition, for many juveniles the stigma of being officially labeled delinquent or in need of supervision is detrimental to satisfactory social adjustment and may push a juvenile toward more serious offenses. Such occurrences indicate

<sup>1</sup>State of New Jersey, Division of State Police Uniform Crime Reporting Unit, Crime in New Jersey-1974: Uniform Crime Reports, Table 19, "Total Arrest Trends By Sex, 1973-1974," n.p., 1974, p. 64.

<sup>2</sup>New Jersey Department of Labor and Industry, Division of Economic Development, Office of Business Economics, Draft Report-Age Groups in New Jersey, 1970, "County Distribution of Selected Age Groups of Total Population in New Jersey," n.p., 1970.

<sup>3</sup>Administrative Office of the Courts, Annual Report of the Administrative  
Director of the Courts, 1973-1974, Tables E-2 and E-3, Trenton, N.J., 1974, p. 169, 171.

that juvenile justice system processing may not be the most effective method of dealing with youth exhibiting delinquent or criminal tendencies or who appear in need of supervision or services. There is also a growing indication that non-system response may be preferable to system processing for youth on the verge of serious delinquent behavior.<sup>4</sup>

For these reasons, it is essential that pre-adjudication alternatives be developed to provide additional methods of dealing with problem youth. Where appropriate, juveniles should be diverted from traditional juvenile justice system processing so that those who truly need court action will receive the necessary attention. Before juveniles can be diverted from the system however, it is imperative that formalized diversion mechanisms be developed for every juvenile court jurisdiction and that a network of services be available as suitable pre-adjudication alternatives.

The halting or suspending of formal justice system proceedings in favor of informal processing or disposition has always existed but has only recently been acknowledged as diversion, which can be beneficial both to the justice system and the community. Diversion reduces caseloads at the beginning of the system funnel and throughout the system, thus saving time and resources and allowing public funds to be expended on the more serious or chronic offender with a greater potential for benefit. It also allows offenders to be screened in or out of the system in terms of their real danger to society as well as enables the community to deal with juveniles evidencing minor offenses before total system processing, thus increasing chances of preventing more serious offenses. As a result, diversion provides

<sup>4</sup>National Advisory Commission on Criminal Justice Standards and Goals, Report on Corrections, Washington, D.C., 1973, p. 74.

opportunities to change or correct wayward behavior, although it must not be relied upon as a solution to the delinquency problem.<sup>5</sup>

It is generally recognized that diversion from system processing can occur at two points prior to adjudication. Diversion after police contact but prior to official police processing will halt system induction. Decisions at this level are the responsibility of the police who may utilize their discretionary authority at this juncture. Once an official action has been initiated, such as the signing of a complaint, diversion from further system processing is the responsibility of the court. At these decision points, diversion mechanisms as well as alternative resources and services must be developed.

Several diversionary programs that provide alternatives to system processing have been developed at penetration points. However, diversion as a process has not been formally recognized as a preferred alternative to court action for many juveniles. In addition, uniform methods, theories and procedures to describe specifically when diversion should occur, who should be diverted, under what conditions, to what alternatives and for what purpose have not been agreed upon. Procedural standards in these areas are prerequisites to the creation of formalized diversion mechanisms.

#### Problem Assessment

##### A. Police Pre-Adjudication Alternatives

The decision to sign a complaint and thereby initiate system processing usually arises at the police level. The actual number of juveniles who come in contact with police officers and are simply reprimanded or warned cannot be ascertained.

<sup>5</sup>Ibid., p. 77.

However, a total of 123,224 juveniles in 1974 were brought into custody or referred to police juvenile bureaus by police officers in New Jersey.<sup>6</sup> Once a juvenile is brought to the police station for questioning or other reasons, a juvenile officer must utilize discretion in deciding if a complaint is justified. Although many police departments have juvenile units or bureaus, it is usually up to the regular patrol officer in the field to bring youth in contact with the juvenile bureau. It is necessary, therefore, that all patrol officers as well as specially designated juvenile officers utilize effectively their discretionary authority in dealing with juveniles and in identifying youth who need services.

After a juvenile is brought to the attention of the juvenile bureau or officer, police utilize their discretionary authority to refer the youth to appropriate community resources or initiate a complaint. Discretionary police handling at this juncture is usually reflective of community attitudes and is more a function of informal police-community relations than strict law enforcement. Police officers in New Jersey are widely utilizing their discretion in the use of informal adjustments of juvenile matters as evidenced by the fact that only 46% of the juveniles brought into police custody in 1974 were referred to court.<sup>7</sup> Although most juvenile matters are disposed of informally, the discretionary authority of police has never been formally recognized. Presently the exercise of this discretion has not been guided and structured as much as possible to ensure uniform treatment and handling of juveniles or ensure that no juvenile who truly needs court attention is improperly screened out. Guidance should be accomplished

<sup>6</sup>State of New Jersey, Division of State Police Uniform Crime Reporting Unit, Crime in New Jersey-1974: Uniform Crime Reports, Table 21, "Police Disposition of Juveniles Taken Into Custody, 1974," n.p., 1974, p. 67.

<sup>7</sup>Ibid.

through the development of written policies and procedures in conjunction with court personnel.

Prior to the signing of a complaint, every avenue of informal or non-judicial settlement appropriate for the juvenile and acceptable to the complainant should be explored. Frequently, citizens who wish to sign a complaint against a juvenile desire only recompense, and this could be accomplished informally, thus insulating many juveniles from needless court attention. Parents who want to sign a complaint against their child more than likely are seeking help in dealing with a troublesome youngster or a difficult family situation. Referral to community services should be considered in these instances before relying on the court for assistance. Unfortunately, the provision of pre-complaint screening and referral services at the police contact level has not been developed to the fullest potential since only 24 police departments have structured juvenile aid bureaus complete with civilian counseling staff that can provide services and referral to other agencies when necessary.

Regardless of the referral decision, however, police departments customarily retain internal records on juveniles who come in contact with police. Internal reporting and recording procedures vary among police departments although it is commonly recognized that many juvenile officers or bureaus maintain index cards on juveniles with whom they come in contact. Entries are made on the cards whenever an apprehension, contact or disposition is made. In addition, many police departments utilize the adult Uniform Crime Report (UCR) arrest form to record the taking of juveniles into custody. This form is utilized even though it is designed specifically for adult or criminal use. When such a form is used, four copies are required, the majority of which are disseminated to county or State level agencies.

In light of the present concerns for the security and privacy of personal data maintained in informational systems, guidelines structuring the recording, maintenance and dissemination of juvenile information are urgently needed. A separate information and reporting system, complete with specialized forms, is necessary.

B. Court Pre-Adjudication Alternatives

Although more than half of the juveniles taken into custody by police never penetrate any further into the juvenile justice system, the number of complaints referred to court continues to rise. The New Jersey court system, as well as other system components, realizes that many of the cases that come before the juvenile court do not require formal court intervention. These cases are more appropriately disposed of through informal adjustments or other alternatives to system processing. As a result, an intake unit model was designed and implemented on an experimental basis in Morris County to screen and divert as many cases as possible prior to court attention. The initiation of juvenile court intake services first in Morris County and later in other jurisdictions has allowed diversion from traditional court processing to occur through the provision of complaint screening and referral to community agencies or to non-judicial settlement.

To understand more completely the relationship of court intake services to diversion, a discussion of the intake concept is necessary. The intake process is initiated with the receipt of a complaint or a petition to file a complaint. At

this first stage, a screening of the complaint or petition and details surrounding the incident is conducted to determine whether or not additional court action should be taken. If judicial attention is deemed necessary, a complaint is filed with the court or forwarded to the court and placed on the court calendar. If the interests of the public and the juvenile do not warrant further court attention, intake staff must consider alternative methods of appropriately disposing of the matter. It is at this decision-making stage that the determination is made to divert a juvenile from further system processing, which is one of the most important goals of intake services.

Alternative methods of case disposition usually consist of pre-judicial conferences and juvenile conference committee referrals. Pre-judicial conferences are meetings held with the juvenile, family, complainant and any other involved person during which a satisfactory adjustment of the matter is sought. Referrals to community services are often included as part of the settlement.

Juvenile conference committees consist of between six and nine community members, representative of the various socioeconomic, social and ethnic characteristics of the community. Court Rule 5:10-2 authorizes the appointment by the court of one or more juvenile conference committees for a county. Minor juvenile complaints are referred by intake staff to the committees for consideration. Conference committees exist both in counties with or without intake services and where there is no intake service, referrals are secured from the court. It is the function of the committees to express community disapproval and recommend behavior limits or requirements.

For both pre-judicial and conference committee dispositions, if a satisfactory adjustment is made within a certain time period, intake staff will recommend court dismissal. If a satisfactory adjustment is not reached and other alternatives

prove unsuccessful, referral to court for an adjudicatory hearing is necessary.

Juvenile court intake units have been established in Bergen, Camden, Essex, Hudson, Mercer, Morris, Passaic, Atlantic and Middlesex Counties and operate directly under the control of the presiding juvenile judge. In addition, intake screening services are provided in Somerset County by the probation department, which has been providing such services for over ten years. In these counties, most of the court processes and decisions surrounding such areas as detention or shelter placement, calendaring and complaint screening and adjustment can be centralized and coordinated. However, fundamental differences in procedures and available services currently exist between courts with intake unit components and those jurisdictions that lack such services. These differences between counties have resulted in the existence of two almost entirely diverse methods of processing juvenile complaints in New Jersey.

Courts with intake unit components are provided with comprehensive screening and review of all cases, and those juveniles who do not warrant additional court attention are systematically diverted. Complaint screening not only identifies those juveniles who could best be helped by non-judicial settlement, but also those that are chronic or serious offenders and need court intervention and possible segregation from society. Although courts without intake components have some type of complaint receiving mechanism, the capability and resources for consistent case screening and referral are limited. In jurisdictions lacking intake unit services, initial detention or shelter placements may be made without direct court control and may not be authorized by the court until the detention hearing, usually the morning after placement.

Aside from basic variances between jurisdictions that have or do not have intake units, multiple differences also exist among those jurisdictions currently possessing intake services. Although most intake units have responsibility for

detention and shelter commitments and complaint referral to pre-judicial conference, juvenile conference committee or on to court, standardized procedures and mechanisms for intake units have not yet been determined nor put into operation in all units.

One such procedural difference which impinges upon the ability to utilize court complaint statistics for analytical or comparison purposes is the various methods of docketing court complaints. In some jurisdictions, such as Morris County, all complaints referred to the court are first received in the intake unit. After review, only those cases necessitating court action are forwarded to the court clerk for docketing. Hence, only those cases placed on the official court calendar are considered as complaints referred to court. In other jurisdictions, such as Bergen County, all complaints are first forwarded to the court clerk for docketing and then received by intake staff. Data for complaints referred to court thus take on different meanings depending upon the docketing procedure utilized.

Aside from intake unit procedural variances, juvenile conference committees also exhibit diversity in regard to composition, referral rate, types of referrals and dispositions. Conference committees may hold cases in abeyance for as long as six months pending a satisfactory completion of recommendation. During such time, case settlement may not be reported to the court, causing confusion regarding referral outcome.

The effectiveness of conference committees hinges upon how well referral applications for conference committee consideration are screened and also upon how well the whole process is supervised. In jurisdictions with intake units, the capacity exists for referral screening and for the supervision and coordination of conference committees.

Juvenile and domestic relations courts that have an intake service component also have a greater chance to standardize and unify procedures within their jurisdiction. Intake services are also a prerequisite to a family court operation that treats the family as a whole under one court jurisdiction. Once intake services are provided for juvenile and domestic relations courts, the mechanism can be expanded to provide family intake, screening and referral to appropriate social service agencies. What is needed, therefore, is the establishment of court intake services in all court jurisdictions to provide immediate benefit for juvenile and domestic relations courts and to initiate development of a family court when such a jurisdiction is created. Services and procedures should be coordinated on a statewide basis for maximum benefit.

## New Jersey's Status In Comparison With the National Standards

The National Advisory Commission and American Bar Association, in their comprehensive studies of the criminal justice system, proposed numerous standards dealing with police and courts and their role in diversion. Only the National Advisory Commission touched upon several aspects of the juvenile justice system although no systematic view of delinquency prevention or juvenile justice was attempted. Hence, comparisons will be made only with these National Advisory Commission standards that deal specifically with juveniles.

### A. Police Pre-Adjudication Alternatives

The National Advisory Commission (NAC) on Criminal Justice Standards and Goals recommends in Police Standard 1.3 that every police agency acknowledge the existence of police discretion in the form of policy guidelines that establish the limits of discretion to eliminate discriminatory enforcement of the law and guide the use of arrest alternatives. NAC Police Standard 4.3 also recommends that every police agency divert from system processing any individual for whom the purpose of the criminal or juvenile process would be inappropriate or in whose case other resources would be more effective. Written procedures for diversion developed and prepared in cooperation with other system components to ensure coordination are also recommended.

During 1974, New Jersey police departments brought into custody a total of 123,224 youths of whom 56,698 or 46% were referred to court.<sup>8</sup> The remaining 54% were excluded from system processing and were either handled within police depart-

<sup>8</sup> State of New Jersey, Division of State Police Uniform Crime Reporting Unit, Crime in New Jersey - 1974: Uniform Crime Reports, Table 21, "Police Disposition of Juveniles Taken Into Custody, 1974," n.p., 1974, p. 67.

ments or referred to other agencies. Since less than half of the juveniles taken into custody by police are referred to court, it is obvious that police are widely utilizing their discretionary authority and are diverting most of the juveniles with whom they come in contact. However, an analysis of staff-conducted questionnaire responses of police departments with more than 100 sworn officers reveals that only 50% have developed written standard operating procedures or departmental guidelines for dealing with juveniles.

The National Advisory Commission further recommends in Police Standard 9.5 that police departments with more than 15 employees establish juvenile investigation capabilities by developing juvenile specialist positions. Departments with more than 75 employees or where conditions warrant should establish separate juvenile units responsible for investigating juvenile matters, providing assistance and maintaining liaison with other agencies concerned with juveniles. The 31 New Jersey departments that have over 100 officers have established juvenile units and initial data suggest the majority of departments with more than 50 sworn officers also have such capabilities.<sup>9</sup>

Police Standard 9.5 requires that all police officers receive specific training in juvenile delinquency prevention and juvenile problems. The New Jersey mandated pre-service police training curriculum currently requires six hours of training in youth relations. Of the nine academies commencing basic training sessions this fall, four offer the mandated six hours of instruction in youth relations, four offer seven hours and one offers seven and a half training

<sup>9</sup>Ibid., Table 39, "Full-Time Municipal Police Employees 1973-1974 By Region-County-Municipality," p. 133-141. Departments with over 100 sworn officers are as follows: Atlantic City, Bayonne, Bloomfield, Camden, Cherry Hill, Clifton, East Orange, Edison, Elizabeth, Hackensack, Hamilton Twp., Hoboken, Irvington, Jersey City, Kearny, Linden, Montclair, Newark, New Brunswick, North Bergen, Orange, Passaic, Paterson, Perth Amboy, Plainfield, Trenton, Union City, Union Twp., Wayne, West Orange and Woodbridge.

hours.<sup>10</sup> However, no in-service training is required for juvenile officers/specialists. Questionnaire data reveal that of departments with over 100 sworn officers only 25% provide any formalized special training for juvenile officers/specialists. Data from these and other departments suggest the most frequently used mode of training for juvenile officers in New Jersey is on-the-job experience.

NAC Police Standard 9.5 also states that juvenile specialists should provide support and coordination of all community efforts for the benefit of juveniles and actively employ all available resources to deter delinquency. Twenty-four police departments in New Jersey have developed juvenile aid bureaus funded by the State Law Enforcement Planning Agency which provide juvenile units with civilian counseling components. Juvenile aid bureaus attempt to maximize the benefits of diversion at the police level by providing counseling services and referral to other community services based upon the needs of youth who come in contact with police. However, for departments with juvenile aid bureaus, the percentage of court referrals in 1974 varies from 11% to 68%, thus clearly indicating a range of policy and procedural differences and court referral disparities even among departments with organized youth aid services.<sup>11</sup>

#### B. Court Pre-Adjudication Alternatives

In Corrections Standard 8.2, the National Advisory Commission recommends that each juvenile court jurisdiction establish within the court organized intake services to operate as part or in conjunction with detention centers. Intake services should divert as many youngsters as possible from the juvenile justice system through screening and referral and also reduce the detention of youth to an

<sup>10</sup>Data taken from a letter from Stanley L. Weppel, Program Supervisor, Curricula Development of the Police Training Commission, to Martha Lackey, Standards and Goals Staff, SLEPA, September 29, 1975.

<sup>11</sup>New Jersey State Police, Monthly Reports on Juvenile Dispositions, submitted to the Uniform Crime Report Statistic Unit, West Trenton, N.J., 1974.

absolute minimum. As previously mentioned, separate intake units have been established in Bergen, Camden, Essex, Hudson, Mercer, Morris, Passaic, Middlesex and Atlantic Counties, and plans are under development to include Monmouth, Union and Burlington Counties in the near future. These intake units receive all complaints referred to the court and initiate screening on the basis of the nature of the charge, facts surrounding the incident and any prior record or treatment history. Complaints are either held for pre-judicial conferences, referred to juvenile conference committees or appropriate social services or placed on the court calendar. At least 20% of the juvenile complaints recorded as received by the court in 1974 were referred or diverted from court attention.<sup>12</sup> Of those complaints referred, some 9,300 or 60% were sent to juvenile conference committees - 90% for delinquency offenses and eight percent for JINS charges.<sup>13</sup> The present manual for juvenile conference committees restricts conference committee jurisdiction to only minor delinquency offenses, however, some JINS complaints are still referred to the committees. A new manual under preparation by the Administrative Office of the Courts (AOC) will further clarify conference committee jurisdiction. Currently, little is documented regarding the activities of the committees, the operational procedures utilized or the effect of any recommendations upon the juveniles. Continuing research by AOC will explore these areas in an effort to assess the effectiveness of the conference committee concept.

<sup>12</sup>The percentage of complaints diverted from court is actually much larger because this figure does not include those complaints screened out of the system prior to docketing (as in Morris County).

<sup>13</sup>Statistics gathered from the Monthly Report on Juvenile Delinquent Complaints and the Monthly Report on Juveniles in Need of Supervision Complaints, sent from all juvenile courts to the Administrative Office of the Courts, Statistical Services Unit, compiled for the calendar year 1974.

In New Jersey, juvenile complaints may also be disposed of through referral to juvenile referees. A total of 200 complaints were recorded as settled by this method in 1974, four of which were JINS petitions.<sup>14</sup>

In addition to diverting cases from the court calendar, intake units in New Jersey are also responsible for authorizing admittance of juveniles into detention or shelter facilities in accordance with New Jersey Statute 2A:4-42. Although this procedure in jurisdictions with intake services is in compliance with NAC recommendations in Corrections Standard 8.1 and 8.2, police officers in conjunction with detention and shelter personnel must make the determination to detain in those counties lacking intake units.

One important difference in ideologies exists between the NAC recommendations and New Jersey juvenile court practices. The NAC believes that only delinquent offenses as opposed to JINS offenses should be subject to official court sanction and all other offenses or complaints should be diverted to more appropriate programs. During 1974, 77,598 complaints were filed in juvenile courts throughout the State, including 6,148 JINS complaints.<sup>15</sup> Adjudicatory hearings were held for 4,078 or 66.3% of these JINS complaints. In spite of the fact that delinquents and juveniles in need of supervision are separate legal categories and that juveniles in need of supervision cannot be labeled "delinquent," they are both subject to official court intervention. Although all juveniles in need of supervision and those delinquents not represented by counsel at the adjudicatory hearing cannot be committed to institutions to rehabilitate delinquents they must still suffer the stigma of juvenile justice system processing.

<sup>14</sup>Ibid.

<sup>15</sup>Ibid. This total identifies the number of complaints filed during calendar year 1974. The Annual Report of the Administrative Director of the Courts, 1973-1974, Tables E-2 and E-3, p. 169, 171, indicates that 72,335 complaints were filed in court. However, this figure is only for Court Year 1974 which is September 1, 1973 to August 31, 1974.

The National Advisory Commission further recommends in Corrections Standard 8.1 through 8.4, specific procedures and operational standards regarding juvenile detention and shelter facilities, a family court jurisdiction and how these areas interrelate with juvenile intake services. Assessment of these areas and a review of New Jersey's status in comparison with these NAC standards will be discussed in other chapters.

## Standards for Pre-Adjudication Alternatives

### A. Police

#### Standard 2.1 Police Discretionary Authority in Handling Juveniles

Police discretionary authority in handling juveniles should be acknowledged by the development and promulgation of statewide guidelines structuring the use of this authority. These guidelines should be distributed to all law enforcement agencies in an effort to make police-juvenile procedures uniform throughout the State. All related juvenile statutes and interpretations should be included as well as suggested discretionary alternatives, referral criteria and complaint screening procedures.

1. An appropriate State agency should be responsible for developing statewide guidelines. Prior to promulgation, the Adult and Juvenile Justice Advisory Committee on Criminal Justice Standards and Goals or other standard setting body shall review these guidelines to assure that they reflect the desired standards and/or system goals.
  - a. In addition, each law enforcement agency should develop an agency manual incorporating the statewide guidelines and including any local department requirements and a comprehensive listing of available youth-serving resources. Departmental juvenile manuals should be distributed to all sworn officers and any civilian juvenile bureau staff.
  - b. Departmental manuals as well as statewide guidelines should be periodically updated to reflect any changes in statutes, policy, procedures in handling juveniles or available community resources.

#### Standard 2.2 Police Pre-Adjudication Alternatives

The halting of further penetration into the juvenile justice system in favor of counseling or referral to youth serving agencies should be recognized by law enforcement agencies as an acceptable, and in many cases preferred, alternative to

adjudication for many juveniles.

1. This recognition should be demonstrated by the development and dissemination of written procedures outlining the pre-complaint screening and referral mechanism and specifying criteria for referral, developed in compliance with statewide guidelines.
2. Every police agency should establish in cooperation with the court written policies and procedures governing agency action in juvenile matters. These policies and procedures should stipulate at least:
  - a. The specific form of agency cooperation with other governmental agencies concerned with delinquent behavior, abandonment, neglect and juvenile crimes;
  - b. The specific form of agency cooperation with nongovernmental agencies and organizations where assistance in juvenile matters may be obtained;
  - c. The procedures for release of juveniles into parental custody; and
  - d. The procedures for the detention of juveniles.
3. Prior to initiation of a complaint, all avenues of possible alternative action should be explored with the juvenile and the complainant.
4. All referral decisions should be recorded and filed along with facts surrounding the offense or charge, disposition and follow-up results. Every attempt should be made to ascertain the outcome of any referral so that resource effectiveness and referral methods can be evaluated; however, upon referral, the case is to be closed. This information should be treated as confidential and utilized only for internal purposes.

### Standard 2.3 Juvenile Officer Responsibility

The responsibility for juvenile matters should be assumed on a 24-hour basis in all law enforcement agencies, either through the assignment of one or more officers per shift or through utilization of an on-call system.

1. Police departments must designate at least one officer as a juvenile officer.

2. All duties and responsibilities of said officer(s) should be clarified in writing.

#### Standard 2.4 Juvenile Bureaus

Where conditions and availability of personnel warrant, law enforcement agencies should establish separate juvenile bureaus or divisions to be responsible for all delinquency matters. The juvenile bureau should be an operational unit on a line level with other divisions or bureaus.

1. An appropriate juvenile bureau size for each law enforcement agency should depend upon case volume and intensity of juvenile problems in each agency's jurisdiction.
2. The duties and responsibilities of the juvenile bureau or division should be clearly designated to avoid extraneous assignments.
3. Manpower and resources allocated to a juvenile bureau should be sufficient to allow for the performance of all assigned responsibilities.
4. Primary emphasis of a juvenile bureau should be devoted to the prevention of delinquent behavior, diversion of juveniles from further system processing and the referral of juveniles needing assistance to appropriate resources.
5. The effectiveness of a juvenile bureau should be ascertained by youths successfully deterred from delinquent behavior and/or further system involvement and not on the number of "arrests" obtained by the bureau.
6. Where financial resources permit, professional civilian counseling or social work staff should be added to the juvenile bureau to increase capabilities of immediate intervention counseling and referral services.

#### Standard 2.5 Juvenile Officer Selection and Training

To be developed in conjunction with subcommittee III.

Standard 2.6 Police Juvenile Record Keeping

A separate system should be utilized for the recordation, reporting and maintenance of juvenile information. Law enforcement juvenile records and files should be maintained in such a manner and under such safeguards as will protect against disclosure to any unauthorized person.

1. Juvenile records should be maintained physically separate and apart from adult files.
2. Specialized forms differing from those required in adult or criminal proceedings should be utilized to record all information and action involving juveniles.
3. All identifying information should be deleted from juvenile records released for statistical purposes.
4. Reporting procedures should be standardized statewide.

(1)

## B. Court

### Standard 2.7 Diversion at the Court Level

Diversion at the court level should be formally recognized by the establishment of court intake service units in every juvenile and domestic relations court, mandated by the passage of legislation or through Supreme Court ruling.

1. Guidelines for the operation of court intake service units should be incorporated into any enabling legislation or court rule and should structure the decision-making processes, determine criteria for diversion and provide sufficient authority for operations.
2. Court intake services should also be recognized as a prerequisite to the establishment of a family court operation. Procedures and guidelines for intake units should be developed with this ultimate purpose in mind to minimize confusion when the conversion to family court status is eventually realized.

### Standard 2.8 Court Intake Services

Services offered and procedures utilized by intake units should be developed and coordinated on a statewide basis to provide uniformity and preclude any discrimination or violation of constitutional rights which may result from varying county practices. Although all intake units should be similar in operation, enough flexibility should exist to allow for differences inherent in each county that may necessitate adjustments in structure and procedure. Intake units should provide the following services which should be structured by uniform guidelines:

- a. Detention and shelter admission screening and authorization on a 24-hour basis.
- b. Reviewing of all juvenile complaints to be referred to court for accuracy and sufficiency.
- c. Complaint screening and assessment to determine eligibility for referral or necessity for court action.

- d. For compliants requiring court attention, referral to clerk of court for calendaring.
- e. Provision of pre-judicial conferences when considered appropriate with the juvenile, parents, family, complainant and any other involved parties to determine problems and necessary courses of action to include referral to available community services.
- f. Screening of all complaints considered eligible and appropriate for juvenile conference committee review prior to such referral.
- g. Supervision and coordination of all juvenile conference committees in each county.
- h. Maintaining a comprehensive index file of all available community referral services and resources, to be updated periodically.
- i. Assistance to local law enforcement agencies in developing guidelines structuring the discretionary handling of juvenile matters and in cultivating referral resources.
- j. Pretrial intervention is designed to deal only with adult defendants and no juvenile may be enrolled pursuant to Court Rule 3:28. The services of PTI programs however should, in appropriate instances and at the request of juvenile authorities and programs, be made available to juvenile defendants when the need for inter-program cooperative work is indicated.

#### Standard 2.9 Intake Unit Operations

The operations of all intake units should be structured by uniform guidelines applied statewide.

1. When the decision to divert a case from judicial attention is likely, the juvenile and his parents should be apprised of their rights and of all options available to them, including court adjudication. Diversion decisions should be made as quickly after receipt of complaint as possible.

2. Liaison should be established between prosecution and defense functions to ensure the interests of the State and the juvenile are properly protected.
3. If pre-judicial conferences are considered appropriate, they should be scheduled within ten days of receipt of complaint. Juvenile conference committee hearings should also be scheduled within a limited time period, ideally within one month.
4. Intake units should be directly under the authority of the presiding juvenile judge and be located as close to the juvenile court facility as possible.
5. Intake staff should be encouraged to deal with the entire family when it appears that family problems are a causal factor of the juvenile's behavior.
6. Family crisis counseling should be explored and encouraged in every intake unit.

#### Standard 2.10 Intake Unit Personnel

Court intake services units should be adequately staffed to perform the services enumerated in Standard 2.8. The size of each intake unit staff should be based upon the amount of complaints or juvenile activity generated.

1. Personnel should be experienced, specialized professionals or semi-professionals who have the capacity to work with youth and families.
2. Job specifications should clearly outline the functions, duties and responsibilities for each position.

Volunteers should be utilized to support and expand intake service capabilities where possible; however, decision-making responsibilities should remain the duty of professional staff.

### Standard 2.11 Intake Staff Training

Regularly scheduled programs for intake staff orientation and training should be instituted to maintain a high level of professionalism and keep intake personnel apprised of statutory developments as well as procedural changes and newly-developed methods of dealing with youth problems. To promote uniformity, standardized training in basic procedures should be offered at the State level.

In addition, advanced or specialized training should be offered either at the State or local level. Specialized training topics could include family crisis counseling, individualized counseling and decision-making. Training programs should also be available to volunteer staff.

### Standard 2.12 Detention and Shelter Admissions Screening

The authority to make detention or shelter admission decisions rests with the court. During regular court hours, juveniles to be detained or placed in shelter care should be brought before a juvenile and domestic relations court or family court judge. Where decisions cannot be provided directly by the juvenile judge, court intake personnel operating under the authority of the judge should provide this function on a 24-hour, seven days a week basis. Procedures to ensure the availability of intake staff to make detention decisions on a 24-hour basis should be established in every county.

### Standard 2.13 Juvenile Conference Committees

The formulation of juvenile conference committees should be actively encouraged in every municipality where there is sufficient caseload. In smaller jurisdictions, regionalized conference committees may be appropriate.

Juvenile conference committees, as a process, should be evaluated to assess effectiveness and to develop uniform and appropriate criteria for operation. The present manual for juvenile conference committees should be revised in response to this evaluation and should more clearly define desired characteristics of a conference committee.

1. Candidates for conference committee membership should be carefully screened prior to appointment by the presiding juvenile or family court judge. Desirable qualifications for conference committee membership should be delineated and utilized as screening criteria. No one should be allowed to sit on a conference committee whose presence would have an adverse effect on the proceedings or the child.
2. Specialized training programs should be developed and made available to conference committee members in order to upgrade problem assessment and counseling capabilities.
3. All cases to be referred to conference committees should be screened by intake staff prior to referral. The types of cases appropriate for conference committee referral may depend upon the expertise and experience of each individual committee. In any event, the voluntariness of all referrals should be stressed.
4. Conferences should be conducted in a professional and supportive atmosphere.
5. All conference committees in each county should be supervised and coordinated by intake staff.
6. The use of referees to make dispositions involving juveniles should be phased out as intake services are established throughout the State since informal, non-judicial methods of settlement are available through intake referral.

### Commentary

To promote system improvement, the Advisory Committee has undertaken a comprehensive investigation of the juvenile justice system and will recommend appropriate standards and guidelines where necessary. The Committee has initiated its study at system entry points, concentrating on the diversion of youth from justice system processing.

#### A. Police

The Committee acknowledges that diversion is an acceptable and in many cases preferred method of handling juveniles who commit minor offenses and juveniles in need of supervision. It is not appropriate for chronic serious offenders. Since most juveniles initiate system involvement through contact with law enforcement agencies, standards to structure the use of police discretionary authority in handling juvenile procedures comprise initial recommendations.

The lack of uniform procedures is an inherent problem of the juvenile justice system. To rectify this situation, the Committee calls for the development and dissemination of a State level manual for law enforcement agencies to serve as a guide in the handling of juveniles. The Department of Law and Public Safety in cooperation with appropriate State agencies would be a logical depository. As such, the Attorney General would have ultimate responsibility.

In addition to a statewide manual, the Advisory Committee recommends that each police department develop its own juvenile manual to incorporate the recommended guidelines as well as available local resources and required practices. Although the development of a State level manual may necessitate the appropriation of funds, local police departments should take the initiative in developing departmental manuals and in adopting the proposed standards.

A concern has been raised by the judiciary regarding the referral of juveniles to diversionary alternatives in lieu of court referral. To alleviate any possibility

for abuse, the Advisory Committee recommends police referral criteria be developed in conjunction with the courts. Once a complaint is signed, the matter becomes the responsibility of the court. Police should not attempt to divert juveniles whose actions have resulted in signed complaints. Discretionary authority should be utilized to screen cases prior to the signing of a complaint.

The Advisory Committee further recommends that each police department designate at least one officer as a juvenile officer to be responsible for all juvenile matters. Where conditions and available personnel warrant, separate juvenile bureaus should be established. The Committee also recognizes the importance of relevant selection criteria and the necessity for specialized police training in juvenile matters, however, standards in these areas will be proposed as a component of a comprehensive package of standards for police selection and training which will be completed in the near future.

In recognition of the need to protect the security and privacy of information, the Committee urges the development of a separate juvenile information system and the concurrent development of reporting forms and techniques specifically tailored to the informational needs of the juvenile justice system. Guidelines for the internal record keeping of police information relating to juveniles are proposed. In the interim, police departments immediately should delete all identifying information from reports released for statistical purposes. It is anticipated that these recommendations as well as any future proposals relevant to informational systems will be coordinated with the ongoing development of the Systems Master Plan.

#### B. Courts

The Advisory Committee advocates the establishment of court intake units in every juvenile and domestic relations court. Until this is accomplished, two different methods of processing juvenile complaints will co-exist in New Jersey.

Although many counties have instituted court intake units, procedures are not uniform throughout the State. The Advisory Committee therefore recommends general guidelines which should be incorporated into a statewide manual for the operation of intake services. Such a manual has been proposed by the Administrative Office of the Courts and is currently awaiting Supreme Court approval. It is anticipated that the intake manual will assimilate the proposed standards and that it will address itself to any additional Supreme Court rules necessary to ensure the juvenile's due process.

The Committee stresses the importance of having intake units under the authority of the presiding juvenile and domestic relations court; however, the standards do not designate or make reference to where intake units should be administratively housed since the Supreme Court has not yet determined this issue. The Advisory Committee also desires that the services of pretrial intervention programs, which are designed for adult defendants, be made available to juvenile defendants where necessary and desirable.

Recommendations are also offered to structure and guide the use of juvenile conference committees and follow-up practices. The present manual for juvenile conference committees is currently under revision as recommended by the Advisory Committee.

## Community Crime Prevention

### Introduction

Overall reported crime rates in New Jersey are increasing every year.<sup>1</sup> Rates for index crimes reported to police during 1972, 1973 and 1974 are as follows in Table 1<sup>2</sup>:

Table 1

	<u>1972</u>	<u>1973</u>	<u>1974</u>
Murder	483	544	481
Forcible Rape	1,245	1,384	1,438
Robbery	15,437	15,113	15,879
Atrocious Assault	10,361	11,705	11,763
Breaking and Entering	88,031	91,739	104,908
Larceny-Theft	64,723	137,870	175,569
Motor Vehicle Theft	43,229	41,821	40,096

Many other crimes which appear to cause much greater financial losses<sup>3</sup> are not reported because people often do not realize they have been victimized or because they feel nothing can be done.<sup>4</sup> Such crimes include bankruptcy, consumer and business fraud, government revenue loss, credit card and check fraud, embezzlement and pilferage, insurance fraud, securities theft and fraud and receiving stolen property. For many years police, courts, prosecution and corrections have been delegated the responsibility for reducing crime. N.J. Uniform Crime Reports reveals that traditional crime-fighting efforts have failed to solve the rising rate of crime.

<sup>1</sup> Improved reporting and techniques and increased police efforts to encourage citizens to report crime may account for some of the rise.

<sup>2</sup> State of New Jersey, Division of State Police Uniform Crime Reporting Unit, Crime in New Jersey - 1974: Uniform Crime Reports, Table 4, "State of New Jersey Five Year Recapitulation of Offenses, 1970-1974," n.p., 1974, p. 31.

<sup>3</sup> The U.S. Chamber of Commerce figures that over 40 billion dollars was lost to white collar crime alone in the United States during 1974. (Chamber of Commerce of the United States, White Collar Crime, 1974, p. 6.)

<sup>4</sup> Philip H. Ennis, Criminal Victimization in the United States, U.S. Government Office, Washington, D.C., 1967.

Some prominent police executives<sup>5</sup> have stated that until society improves the conditions of life, educational and employment opportunities, the moral education of youths and other factors, especially in the inner cities, the crime rate will not slow down. The National Advisory Commission (NAC) has determined that "crime prevention" can be interpreted in several ways depending upon the type of criminal behavior that is to be prevented. In some cases it refers to the resolution of social, psychological and economic conditions that lead to the desire to commit crime. In other cases it concerns the elimination of the opportunity for crime through the presence of police patrols, efficient and effective adjudication and rehabilitation, and "target hardening" to prevent commission of crime.

The National Advisory Commission on Criminal Justice Standards and Goals recognized the need to enlist the cooperation and assistance of institutions, agencies and groups existing in communities to aid in the reduction of crime. The Community Crime Prevention volume of standards details ways that school systems, manpower resources, rehabilitative and social welfare agencies, mental health clinics, labor unions, private businesses and industries, churches, clubs and social organizations as well as individuals can help prevent crime.<sup>6</sup>

The emphasis of the following standards will primarily deal with only one type of crime prevention which will be referred to as citizen initiative, target hardening, crime opportunity reduction or crime displacement. The other types of crime prevention mentioned above will be discussed at succeeding conferences.

<sup>5</sup>Robert J. Di Grazia, Commissioner of Police, Boston, Massachusetts; Patrick Murphy, Chairman of Police Foundation, Washington, D.C.; Edward M. Davis, Chief of Police, Los Angeles, California; James Parsons, Chief of Police, Birmingham, Alabama; and Hubert Williams, Director of Police, Newark, New Jersey, participating on "Meet the Press," WNBC, T.V., New York, Sunday, August 4, 1975.

<sup>6</sup>National Advisory Commission on Criminal Justice Standards and Goals, Report on Community Crime Prevention, Washington, D.C., 1973.

### Problem Assessment

There are several problems involved with target hardening.<sup>7</sup> First, the materials and designs of many homes, businesses and industries allow easy access due to inadequate security measures. These inadequate security measures may include door locks that can be opened with a credit card or screwdriver; poor lighting or obstacles blocking visibility of entrances; merchandise displays which facilitate shoplifting; banks with low counters and no barriers between customer and teller; and flimsy doors and windows. At least half of the breaking and entering offenses occur through front and back doors containing insufficient locking devices.<sup>8</sup> Fire and safety codes for buildings have existed for several years. These codes are enforced by an inspector who issues citations to the building owner when the codes have been violated. The development of security codes have not kept pace with fire and safety codes.

Secondly, most people do not realize how vulnerable they are to such crimes as robbery, breaking and entering, street crimes, shoplifting, confidence games and fraud. Informing people on methods to protect their property and person involves considerable expense for production and dissemination. Such methods include television, radio, newspapers, pamphlets, talks by experts to citizens' groups and security surveys.

Third, during the 1973-1974 fiscal year there was \$136,300,985 of stolen property reported to New Jersey Law Enforcement Agencies. Of this amount \$46,520,685 (34.1%) of property was recovered by these agencies.<sup>9</sup> Police property rooms or warehouses are stocked with thousands of bicycles, televisions, radios, stereos, kitchen appliances and even automobiles. Much of the recovered property cannot be returned to owners

<sup>7</sup>These problems were identified by crime prevention officers in 11 police departments (Trenton, Plainfield, North Plainfield, South Plainfield, Edison, Jersey City, Dover Township, Parsippany-Troy Hills, Millville, Mercer County Sheriff's Department and Rahway) and community relations officers in three departments (Newark, Paterson and Asbury Park).

<sup>8</sup>Memo quoting F.B.I. statistics from James Onembo, Community Service Unit, to Patrick B. McColgan, Chief of Police, Plainfield, December 30, 1974.

<sup>9</sup>State of New Jersey, Division of State Police Uniform Crime Reporting Unit, Crime in New Jersey - 1974: Uniform Crime Reports, Table 6, "Type and Value of Property Stolen and Recovered 1973-1974," n.p., 1974, p. 34.

because there are usually no markings to differentiate one article of the same make and model from another article. Property officers explain that property cannot be given to people just because they claim to have lost a particular item. Some proof of ownership such as a serial number or other differentiating marking must be presented before the stolen article can be returned to the owner.<sup>10</sup>

Fourth, in many types of property crime the consumer often pays the indirect cost of crime through property and health insurance rates and retail prices of merchandise which pass much of the cost of burglaries, robberies, shoplifting, internal thefts and other forms of larceny back onto the consumer. The ease with which this transfer of cost is made can contribute to a lack of interest in security on the part of the retailer and consumer. Those whose property and person are relatively secure are often the ones who assume part of the cost from those who are not secure. There are several programs operating in New Jersey which are aimed at solving these problems. The following will describe these programs and problems with the implementation of such programs.

Of the 457 police agencies in New Jersey, 64 agencies have 50 or more officers and 148 agencies have 25 or more officers. Crime prevention bureaus<sup>11</sup> will be operating in at least 16 agencies by the fall of 1975.<sup>12</sup> Community relations bureaus in several other cities have also been involved in target hardening activities.<sup>13</sup> These crime

<sup>10</sup>Police property officers in several police departments in New Jersey interviewed by telephone by Standards and Goals Staff, SLEPA, September, 1975.

<sup>11</sup>Crime prevention bureaus do target hardening or opportunity reduction work.

<sup>12</sup>See listing of agencies under footnote 7. Newly founded crime prevention bureaus include those in the Camden, East Orange, Hoboken, Elizabeth and Atlantic City police departments.

<sup>13</sup>Including Newark, Paterson and Asbury Park.

prevention and community relations bureaus have attempted to meet the aforementioned problems with a variety of programs.

Plainfield and Trenton city governments, in conjunction with crime prevention and fire officers and building inspectors, have established building security codes. The Plainfield code, for example, details building security requirements for commercial buildings and apartment complexes and is enforced through periodic building inspections. Some of these security requirements include improved lighting, building materials and locks. Notification is given to the building owner concerning violations of the code and a time limit for repairs is given. When follow-up inspections reveal a lack of compliance with the recommended repairs citations are issued.

All of the crime prevention bureaus have at least one officer who has received training for residential and business security inspections from the National Crime Prevention Institute in Louisville, Kentucky. Many of them have trained other men in their departments to do security surveys. Upon request, these units will survey homes, businesses and industries to point out weaknesses in security and at the same time to recommend improvements. Such improvements may include better locks or latches, lexon plastic to replace glass, better lighting for entrances, bars on windows or alarm systems. The time for making these surveys can vary from 15 minutes for apartments to an hour for homes and industries. As an example, the Millville Crime Prevention officer has a seven-page survey for businesses and a four-page survey for homes. The number of security surveys conducted by the crime prevention units varies, depending on the number of requests and the available manpower of the units. Anywhere from five to sixty surveys are conducted per month by crime prevention bureaus in New Jersey. Residential and business security surveys are conducted by officers in the 11 law enforcement agencies with crime prevention bureaus.

The objective of Operation Identification (Operation I.D.) programs is to enable home owners and business people to mark transportable objects with identification numbers. They are provided with engraving tools with which to etch their social security number, motor vehicle operator's number or other types of identification

numbers on such possessions as appliances, tools, bicycles, jewelry, televisions, radios and stereos. Participants are given decals to put on the front and rear entrance doors to notify potential burglars that property within has been marked.

The State Criminal Information System (SCIS) is designed so that the description, serial numbers and other identifiable markings of all stolen property worth over \$50.00 can be recorded in a computer data bank. Law enforcement personnel and purchasers of used merchandise can determine whether merchandise has been stolen by contacting the local or regional SCIS terminal.

New Jersey statute 45:22-34 requires that dealers in used merchandise report the description of all acquisitions on a daily basis to local police agencies. This statute needs to be updated based on the following problems. First, not all dealers in used merchandise are presently considered by some police agencies to be covered by the statute, such as repair service businesses or merchants who receive items as trade-ins. Second, the statute was passed before development of the SCIS. Until a statewide standardized reporting form is utilized by merchants and local police the rapid transference of information to the SCIS is seriously delayed and sometimes ineffectual. In order to encourage law enforcement officers to aggressively check on suspected stolen property, it is necessary that local and regional terminals have operational capabilities at all times.

Crime prevention and community relations officers appear before thousands of citizens at public and private gatherings each year to pass on advice concerning methods to make homes, businesses and individuals more secure. Films and demonstrations are often used to emphasize the message. Pamphlets listing crime prevention steps and engraving tools are made available after the presentation. The areas discussed may include topics such as burglary, robbery, shoplifting and internal theft prevention, safety tips for women and children drug abuse problems and prevention, consumer fraud and confidence games.

The quality of the speakers is an important asset for effective crime prevention talks, as this can make the difference between an attentive, concerned audience and an inattentive, unconcerned audience. Some police agencies have even encouraged officers to participate in public speaking courses to increase their communication abilities.

The mass media offers the widest possible exposure as an educational tool concerning crime prevention methods. Federal Communication Commission regulations enable public service programs to be aired by local stations. Police agencies in a number of jurisdictions utilize this air-time for participation in talk shows and presenting spot announcements regarding crime prevention tips. Newspapers have also been helpful in providing space for crime prevention tips, announcements concerning block association meetings, crime prevention lectures and other related activities and articles aimed at increasing public support for crime prevention.

The objective of programs such as Block Watcher, Neighborhood Watch and Towne Watch is to encourage people to become alert to suspicious or criminal activity and to report it to the police. Participants in these programs can be taught to look for such activities as broken or open windows and/or doors, "salesmen" attempting to force entrance into a home, anyone loitering in a parked car with the motor running, anyone concealing merchandise in a store, anyone removing accessories or gasoline from cars, persons walking down the street peering into each parked car and strangers carrying things from a neighbor's home. Identification cards with a blockwatcher number are issued to program participants so that calls can be transferred directly to the police dispatcher. The dispatcher can call the blockwatcher back directly if additional information is required. The number also assures anonymity for the blockwatcher without fear of reprisal.

A survey of crime prevention and community relations personnel as well as supportive data from SLEPA files indicates that, although large numbers of people have been made aware of Operation I.D., residential surveys and block watching activities through the mass media and presentations, only a small percentage of citizens have participated in these programs. Those programs with higher levels of participation and which also

show reductions in some types of crime have involved saturation tactics such as door-to-door canvassing, development of block associations<sup>14</sup> and extensive mass media exposure.<sup>15</sup> Presently, the Plainfield crime prevention bureau exemplifies this approach in New Jersey where the target hardening efforts first started in a high crime area. Between 1971 and 1972 breaking and entering, grand larceny and robbery offenses decreased 30%, 37% and 29% respectively in that area. Since then, target hardening activities have been expanded to include the whole city. Breaking and entering offenses have been steadily declining every year since 1972 and robberies have similarly decreased citywide, as can be seen in Table 2.<sup>16</sup> Other types of crime continued to rise during the same periods.

Table 2

<u>Offense Reported</u>	<u>July '72-June '73</u>	<u>July '73-June '74</u>	<u>% Change</u>
Robbery	337	278	-17.5%
Breaking and Entering	1318	1138	-13.7%

During 1973-1975 Parsippany-Troy Hills was experiencing an increasing number of bicycle thefts. In 1973, bicycles with a total value worth \$13,000 were stolen, while bicycles with a total value worth \$25,000 were stolen in 1974. The crime prevention officer attacked the problem through a series of newspaper, television and radio public service messages, presentations at schools, civic and service club lectures. As a result, bicycle thefts during the first six months of 1975 were reduced by 50%. (\$6,000 worth of bicycles were stolen during this time period.) In Camden where 2,100 people

<sup>14</sup>Block Associations are groups of people living in the same neighborhood who get together to deal with neighborhood problems.

<sup>15</sup>Nelson B. Heller, et. al., Operation Identification Projects: Assessment of Effectiveness, p. x, xi.

<sup>16</sup>City of Plainfield, New Jersey, "City-Wide Crime Prevention Unit," Grant #A-39-73, Quarterly Narrative Report to the State Law Enforcement Planning Agency, June 30, 1974.

joined a volunteer patrol program called Towne Watch, nonviolent crime has dropped 41% in two years.<sup>17</sup>

Evaluations of crime prevention activities in New Jersey are scanty since most of the programs are relatively new. Two major national studies of Operation I.D. indicate that:

(1) Of every 20 homes surveyed that have marked property through the Operation I.D. program, 19 have not been burglarized.<sup>18</sup>

(2) Unless Operation I.D. is used by a great majority of the population, the crime statistics in that community are not affected.<sup>19</sup>

Despite the impressive data on the reduction of crimes targeted by crime prevention personnel in some jurisdictions, there are a number of problems with the target hardening programs that have been identified.<sup>20</sup>

There is a shortage of manpower and resources to implement crime prevention programs. Those law enforcement agencies that have committed the largest ratio of manpower to target hardening activities appear to be showing significant reductions in target crimes. Those agencies that have not allocated appropriate manpower are having great difficulty not only in having an impact on crime, but in providing service to a significant number of the population. Table 3 is a comparison of crime prevention bureau size with population and the number of police officers in the jurisdiction.

<sup>17</sup>"War on Crime By Fed-Up Citizens," U.S. News and World Report, September 29, 1975, p. 19.

<sup>18</sup>Letter to National Neighborhood Watch Participants from Ferris E. Lucas, Executive Director of the National Sheriffs' Association, Information Sheet #2, January, 1975, p.2.

<sup>19</sup>Nelson B. Heller, et. al., Operation Identification Projects: Assessment of Effectiveness, p. x.

<sup>20</sup>Many of the following problems have been identified by crime prevention and community relations personnel through telephone and on-site interviews by Standards and Goals staff.

Table 3

	<u>#of Officers in Crime Prevention Bureaus 1975 21</u>	<u>#of Police Officers in the Law Enforcement Agency - 1974</u>	<u>Population of Jurisdiction with Crime Prevention Bureaus (1970 U.S. Census)</u>
Plainfield	5	121	46,862
Trenton	2	321	104,786
Jersey City	4	1,041	260,350
No. Plainfield	3	40	21,796
So. Plainfield	1	44	21,142
Edison	1	133	67,120
Parsippany-Troy Hills	1	73	55,112
Dover Township	1	31	15,039
Millville	1	39	21,366
Elizabeth	1	287	112,654

The efficient use of limited manpower and resources is a major problem in New Jersey's crime prevention bureaus. Some bureaus in New Jersey and elsewhere have partially overcome this problem by enlisting the services of a variety of organizations. These services include tactical units, police reserves, fire departments and sworn police officers; building inspectors; volunteer groups such as Boy Scouts, Jaycees, League of Women Voters, PTA's and Chambers of Commerce and individual volunteers. Some prevention personnel recognize that many community service organizations have a sincere desire to help the community fight crime. Such organizations have the expertise and manpower to organize crime prevention efforts on their own. Some crime prevention officers, therefore, view their role in terms of instigating and coordinating crime

prevention activities of these volunteer groups. Using volunteers can make the difference between a high or low cost crime prevention program. For example, a national survey of Operation Identification Projects indicated that the cost of Operation I.D. projects varied

from a low of \$.78 per household in Grand Rapids, Michigan, to a high of \$17 per household in Seattle. Operation I.D. projects reporting recruitment costs below a medium figure of \$4 per participant have generally benefited from free advertising donated by the local media and volunteer help contributed by businesses and crime organizations. Projects spending more than \$4 per participant are usually using paid project staff members to make group presentations and for door-to-door canvassing.

Some crime prevention bureaus effectively use their personnel by pinpointing their efforts to geographic areas or groups that are experiencing the most severe crime problems. Crime prevention personnel can direct their activities through the receipt of weekly, bi-weekly or monthly data which informs them as to the locations and times in which crimes are occurring, the groups of people who are most severely affected by crime, and the age, race, sex and residence of the offenders.

Other crime prevention bureaus dilute their efforts by trying to cover too broad a geographic area and concentrate mainly on groups such as civic or service clubs, that request assistance. Often those people who are most in need of crime prevention assistance are the last to request it.

In the area of crime prevention resources the cost of producing crime prevention materials such as pamphlets and the purchase of films is high. Crime prevention officers have suggested a need for technical assistance in the development of inexpensive security techniques, community participation and mass media messages.

There is a lack of support for some crime prevention programs by police officers. Crime prevention officers from some police departments indicated that patrol officers

<sup>22</sup> Nelson B. Heller, et. al., Operation Identification Project: Assessment of Effectiveness, p. xi.

and detectives often do not view crime prevention programs as legitimate functions or "real" police work. They think of the police role mainly in terms of apprehension, enforcement and investigation, even though most of their time is spent performing service functions.

In the case of citizen involvement in crime prevention programs where volunteers patrol areas of a city and report crimes or suspicious activities via portable radios, there have been reports that some police officers harass the volunteers on the street. Police often resent some of the volunteer groups when they infringe on traditional police functions. Police unions and related organizations are concerned that these quasi-police units threaten police job security. Substantial police concerns about these groups relate to their qualifications and reliability.<sup>23</sup> Declining morale due to police harassment has caused many volunteers to drop out of prevention programs even though there have been significant reductions in crime - especially burglary.<sup>24</sup>

Citizen apathy is a major hindrance to effective target hardening. Without citizens reporting crime and suspicious activities, cooperating as witnesses in court and participating in Operation I.D. and security survey programs, crime opportunities will increase. The National Victimization survey of eight impact cities, which included Newark, revealed that the incidence of unreported crimes may be twice as high as reported crime.<sup>25</sup>

There is a need for follow-up surveys to determine the level of community participation in Operation I.D. and security programs as well as to remind people to initiate recommendations for such programs. Some crime prevention personnel state that there is not enough manpower to make substantial initial contacts, much less follow-up surveys.

<sup>23</sup>Peter Freivalds, et. al., Police Community Relations - 1975, Final Report, p. 200.

<sup>24</sup>"War on Crime By Fed-Up Citizens," U.S. News and World Report, p. 19,20.

<sup>25</sup>The exact level is not known due to differences in Uniform Crime Reports reporting and survey methodology.

There is a problem when the crime prevention programs described in this research report displace crime rather than prevent it. Reducing the opportunity to commit particular crimes in certain areas does not eliminate the motivation of the criminal to achieve this goal elsewhere.

Two assumptions of the National Crime Prevention Institute are that most criminals operate in geographic areas they are familiar with and within their own capabilities. When they are forced to commit crimes in unfamiliar territory and/or commit different types of crime for which they are less experienced or which are more open, the chances of making a mistake and getting caught dramatically increase.<sup>26</sup>

Two types of displacement can occur. On the one hand, criminals may change their target to less secure homes, neighborhoods or jurisdictions or they may try another type of crime. For example, if a significant number of homes are relatively secure through Operation I.D. or security survey programs the burglar may turn to shoplifting, bicycle theft or robbery. Both alternatives have occurred in the Plainfield area and as a result, Plainfield crime prevention efforts have had to be broadened to include target hardening of other crimes<sup>27</sup> and neighboring jurisdictions<sup>28</sup> have established crime prevention bureaus.

<sup>26</sup>The National Crime Prevention Institute School of Police Administration, "Establishing a Crime Prevention Bureau," LEAA Grant # 72-DF-99-0009, University of Louisville.

<sup>27</sup>While there has been a reduction in breaking and enterings and robberies because of crime prevention efforts, there has been a 67.8% increase in other larcenies due to displacement. Most of these involved bicycles, shoplifting and motor vehicles. (City of Plainfield, New Jersey, "City-Wide Crime Prevention Unit," Grant # A-39-73, Quarterly Narrative Report.)

<sup>28</sup>Including North Plainfield, South Plainfield and Edison.

A lack of interjurisdictional coordination of crime opportunity reduction efforts aids the criminal who lives in one jurisdiction and commits crimes in others or transports stolen merchandise from one jurisdiction to another. Aside from the interchange of ideas and some resources in the Plainfield area, most crime prevention bureaus operate in isolation from neighboring jurisdictions. One example of this lack of coordination between jurisdictions and prevention bureaus is the Operation I.D. programs. There are three numbering systems used in New Jersey including motor vehicle operator's numbers, social security numbers and numbers used by a private nationwide computerized Operation I.D. program.

Both driver's license and social security numbers have been used in various programs and each has its own drawbacks. Operation I.D. programs using social security numbers can create problems of identification of recovered stolen property or property found in a suspect's automobile or home because the Social Security Administration refuses to reveal the names corresponding to social security numbers. Police agencies can keep a list of social security numbers and the corresponding names of participants, but if stolen merchandise is transferred to another jurisdiction and recovered by the police it may be impossible to determine ownership unless the jurisdictions are tied together into one Operation I.D. system or have integrated computer information retrieval systems.

Operation I.D. systems using driver's license numbers can eliminate people from the program who do not drive or who frequently relocate from one state to another. Interstate transfer of stolen goods can also complicate this system since some states use similar driver's license numbering systems.

The following standards are aimed at providing a comprehensive approach to target hardening, crime prevention and correcting many of the problems discussed in the "Problem Assessment." The final section of this crime prevention report will discuss additional rationale for the selection of certain approaches to solving these problems over others.

New Jersey's Status in Comparison With the National Standards

National Advisory Commission (NAC) Police Standard 3.2, recommends that police agencies establish programs that encourage members of the public to take an active role in preventing crime through volunteer neighborhood security programs, enactment of building security codes and security inspections of businesses and residences. In addition, police agencies having more than 75 personnel are encouraged to establish specialized crime prevention bureaus to facilitate these activities.\*

Fifteen law enforcement agencies out of 457 municipal police agencies in New Jersey have personnel specifically assigned to do work in target hardening crime prevention. Several police-community relations units have also been involved in some aspects of crime prevention. These personnel have been involved in providing residential and business security surveys, developing security codes and encouraging citizen participation in crime reporting and target hardening. Most of the crime prevention bureaus and community relations bureaus, however, have enough manpower to cover only a small percentage of the population within their municipalities. For example, five to 60 business and residential surveys are conducted per month in municipalities that have thousands of homes and businesses. Only two municipalities, Plainfield and Trenton, have established building security codes. In addition some crime prevention bureaus that direct

\* See also the following NAC standards covering the subject of NAC Police 3.2: NAC Police 1.4; NAC Community Crime Prevention 5.5, 9.1, 9.2, 9.4, 9.5 and 9.6. ABA Police Function Standard 3.3 (V) recommends establishment of building security codes similar to fire prevention codes.

their activities to giving crime prevention talks to civic and social community groups miss a large portion of the population that do not attend such functions.

The Community Crime Prevention problem assessment suggests that some New Jersey crime prevention bureaus can fulfill the need for more manpower by hiring civilians or recruiting volunteer community groups, neighborhoods or individuals, especially individuals who volunteer as police reserve officers. Such activities relate to NAC Police Standard 10.1 and 10.2.

Many civic, social and professional groups in New Jersey have developed volunteer crime prevention programs either on their own or as a result of crime prevention bureaus initiatives. For example, the Jaycees are presently sponsoring an operation identification program throughout New Jersey. In Camden 2,100 people joined a volunteer patrol program called Towne Watch. Plainfield crime prevention officers have helped establish over 60 block associations. Civilians have also been hired on crime prevention bureaus to supplement police manpower and to contribute non-law enforcement skills, such as knowledge in community organizing.

In order to facilitate the use of sworn police and civilian personnel in target hardening, a certain amount of preparatory and in-service training is needed. Presently, law enforcement agencies in New Jersey send crime prevention officers to the National Crime Prevention Institute in Louisville, Kentucky to receive such training. In some cases these officers have returned to their agencies to conduct training classes which prepare others for target hardening work.

The expense of transporting and training crime prevention personnel at the Crime Prevention Institute prohibits training the large number of personnel necessary to implement target hardening activities. (Related NAC Standards include Police Standards 16.3 and 16.5).

New Jersey provides technical assistance in several areas to local law enforcement agencies but not in the area of target hardening. NAC Police Standard 11.3 recommends that every state provide management consultation and technical assistance to all police agencies within the state to evaluate the effectiveness of programs and make recommendations.

The most effective crime prevention bureaus appear to be those that pinpoint their efforts at the geographic areas where crime has increased significantly, groups of people that have the greatest crime problems and specific crimes.

NAC Standards most directly relating to target hardening programs based on crime analysis include Criminal Justice System Standards 4.3, 4.2 and 4.8. Some crime prevention bureaus in New Jersey are able to pinpoint their efforts either through a manual or computer assisted crime analysis system. Other bureaus, however, base their activities primarily in response to requests for services.

Another factor leading to the success of target hardening efforts is inter-jurisdictional coordination and exchange of information. NAC standards relating to these areas include Police Standards 4.2, 5.2 and 24.4. Although significant progress has been made in integrating information and police telecommunication systems in New Jersey, there has been very little coordination of crime prevention efforts across jurisdictional boundaries.

Standards for Community Crime PreventionStandard 1.1 Establishment of a Uniform Statewide Building and Community Security Code

The State should enact an amendment to the present State Building Code to incorporate a Uniform Building Security Code. Local governments should be authorized to establish local security codes that equal or exceed the State code. The formulation of the code should be done in cooperation with building, fire and public safety departments, utilizing the expertise of urban planners, architectural firms, security companies and officials from communities that already have such codes. The codes should take into account the least costly alternatives for implementation.

Two aspects should be considered in developing these codes: building security and security of the area surrounding the buildings. The codes should differentiate between existing structures and those to be constructed in the future. Minimum requirements for new structures and/or new uses should include:

- a. Adequate lighting;
- b. Visible entrances and exits;
- c. Secure doors, windows, locks, latches;
- d. Alarms; and
- e. Street and housing identification.

Buildings constructed in the future should meet these criteria and aspects of environmental design such as:

- a. Maximum density of housing;
- b. Juxtapositioning of access paths and housing to facilitate surveillance from within and outside;
- c. Quality of building materials;
- d. Adequate recreation facilities and parks;

- e. Adequate space between buildings;
- f. Entrances and access paths free from obstacles for visibility; and
- g. Juxtapositioning safe zones with other areas.

Building security codes should be developed for industries, businesses, multi-dwelling apartments and homes built after a date mandated by legislation.

#### Standard 1.2 Enforcement of Building Security Codes

The means of enforcing building security codes covering public and private buildings should be carried out by local government through security surveys followed by a notice of violations. Manpower for conducting surveys of businesses, industries, apartment dwellings and newly constructed homes (before sale) must include crime prevention officers where available, fire officers, building inspectors or a combination of the three trained in security inspection methods. Failure to comply with security codes should result in a notice identifying violations. Follow-up surveys should be performed within a reasonable time, depending on the extensiveness of violations and citations issued for continued violations. Compliance as a condition for obtaining government contracts, loans or grants should be used to enforce the code at the State and local level. Homeowners should be allowed and encouraged to request security surveys but compliance with recommendations should be optional.

#### Standard 1.3 Mass Media Crime Prevention

Liaison between law enforcement officials and the mass media (television, radio and newspapers) should be established to utilize public service time for airing crime prevention messages. Mass media crime prevention should present individuals and business people with methods for protecting their property, families and persons from a broad range of crimes including burglary, robbery, assault, consumer fraud, vandalism and shoplifting. Messages should also be aimed at increasing the reporting of crimes and suspicious activities by informing the public as to what to look for and how to report it.

Standard 1.4 Identification and Recovery of Stolen Property

Methods for identification and recovery of stolen property should be improved.

Such improvements should include the following:

1. N.J.S.A. 45:22-34 should be amended to cover:

- a. Repair service businesses that sell used merchandise;
- b. Sale and trade-in of used merchandise;
- c. The description of merchandise forwarded to local police to include any and all serial numbers, identification marks and signatures; and
- d. Purposeful failure to comply with or conspiracy to ignore this statute should be a misdemeanor.

2. All statutes covering the possession, sale, transfer, acquisition and handling of used merchandise should be aggressively enforced by law enforcement investigative personnel and/or crime prevention officers.\* To facilitate implementation of this standard and enforcement of N.J.S.A. 45:22-34 the Attorney General's office should:

- a. Order the State Criminal Information System (SCIS) to develop a state-wide standardized form for the recording of used merchandise as mandated by N.J.S.A. 45:22-34. This form should allow easy transference of information to the SCIS.
- b. Ensure that there is adequate manpower for the SCIS to receive and compute queries 24 hours a day, seven days a week and on holidays.

\* See Standard 1.6, "Establishment of Regional Crime Prevention Bureaus and Activities" and "Supporting Methodology for Standards" for implementation of this standard.

3. Crime prevention bureaus through implementation of Standard 1.3, "Mass Media Crime Prevention" should encourage individuals and businesses to maintain a list of identification numbers and descriptions for all valuable portable items such as televisions, radios, stereos, appliances, typewriters, adding machines and tools. All retailers should distribute, free of charge, a form developed by SCIS and distributed by local law enforcement agencies on crime prevention bureaus by which customers can list serial numbers and descriptions of merchandise purchased and other portable valuables at home. Individuals seeking to purchase used merchandise from other individuals should be encouraged to contact local law enforcement agencies to check the serial numbers and description of the merchandise against stolen property reported in the SCIS.

Standard 1.5 Property Insurance Rate Reductions for Participation in Operation Identification and Security Survey Programs

The State Department of Insurance should contact insurance companies to develop a rate policy that assigns lower insurance rates to home owners, businessmen and industries for implementing operation identification and security survey recommendations. Participants should receive certification of implementation that can be forwarded to insurance companies.

Rate policy reductions should be coordinated with the Crime Indemnity Program of New Jersey which is sponsored by the Department of Insurance. It should also be coordinated with the Federal Crime Insurance Program for Commercial and Residential Policies which is sponsored by the Federal Insurance Administration of the United States Department of Housing and Urban Development.

Standard 1.6 Establishment of Regional Crime Prevention Bureaus and Activities

Law enforcement agencies should establish and disseminate to the public and every agency employee, written policy acknowledging that crime defies jurisdictional boundaries and that crime prevention is a legitimate function of law enforcement personnel. This policy should indicate that police efforts in this area depend upon public participation.

Law enforcement agencies and local governments within each county and region of the State should develop a coordinated crime prevention program through the establishment of crime prevention bureaus which transcend municipal boundaries.

Crime prevention bureaus should have the following functions:

1. To encourage members of the public to take an active role in preventing crime through:
  - a. Providing information leading to the arrest and conviction of criminal offenders;
  - b. Participating in target hardening activities;
  - c. Becoming involved in identification and recovery of stolen property programs including enforcement of N.J.S.A. 45:22-34, 2A:111-25, 2A:111-26
2. Assist in the establishment of volunteer neighborhood security programs that involve the public in neighborhood crime prevention and reduction.
3. Provide residential, business and industry security surveys.
4. Establish liaison with the mass media to implement Standard 1.3, "Mass Media Crime Prevention."
5. Foster and coordinate activities in established civic, social, professional, public and private organizations to prevent crime through programs dealing with social and economic correlates to crime such as:

- a. Drug abuse;
- b. Education and job skill deficiencies;
- c. Unemployment of youths;
- d. Broken homes;
- e. Psychological and family problems;
- f. Unemployment for ex-offenders and hard core unemployables;
- g. Lack of recreation;
- h. Mental and physical health problems.

6. To develop an annual report on the activities and results produced by the crime prevention bureau and to present the report at a public meeting.

7. Develop any other activities as deemed necessary.

Crime prevention bureau activities should be based on crime analysis studies and coordinated with other law enforcement strategies. Such studies either done locally or through the State Uniform Crime Report. Unit should identify:

1. Types of crimes committed;
2. Geographic location of crime;
3. Time of day specific crimes occur;
4. Modus operandi of criminals; and
5. Suspects: age, sex, employment status, residence and other personal characteristics.

#### Standard 1.7 Training and Technical Assistance for Crime Prevention

Crime prevention training should be developed by the Police Training Commission (PTC) in several areas:

- a. Training for crime prevention specialists operating in crime prevention bureaus in target hardening and security surveying;
- b. Training in public speaking for officers who frequently address public groups;
- c. Minimum training for patrol officers and investigators in target hardening.

Such training should be made available not only to police officers, but to police reserve, special police, fire officers, building inspectors and civilian specialists.

The Police Training Commission should expand its technical assistance capabilities to include crime prevention. PTC technical assistance should provide aid to regional crime prevention efforts in developing and coordinating crime prevention bureaus and developing community initiatives in other public and private agencies.

Standard 1.8 Establishment of a Clearinghouse for Crime Prevention Materials and Information

The State library should establish a clearinghouse for crime prevention materials and information to be provided upon request to local communities, crime prevention bureaus and libraries. The library should collect information developed by various law enforcement agencies throughout the country, security companies and national associations. Such information should include crime prevention:

- a. Movies and slides;
- b. Pamphlets, posters and stickers;
- c. Books and reports.

Supporting Methodology for Standards

The Community Crime Prevention standards are aimed at providing an integrated multi-phased approach to crime prevention. In addition to the criteria and recommendations presented in the standards, the following information presents several alternative methods for their implementation.

Standard 1.3, "Mass Media Crime Prevention," recommends that law enforcement officials develop a liaison with the mass media (television, radio and newspapers) to utilize public service time for airing crime prevention messages. Such a liaison should involve not only local media but also media that covers large parts of the State such as major newspapers, radio and television networks. The following types of activities should be developed through a cooperative effort between media personnel, law enforcement officials and crime prevention officers:

1. Crime prevention question and answer programs in which individuals can ask questions related to criminal justice and crime prevention. Inquiries can be answered immediately or researched and reported at a later time.
2. Crime prevention advertisements which present methods by which individuals and businesses can protect their property, families and persons from a broad range of crimes including robbery, assault, consumer fraud, vandalism and shoplifting.
3. Encourage individuals and businesses to keep a list of serial numbers, makes and models of all valuable portable objects such as televisions, radios, typewriters, stereos, appliances, jewelry, adding machines and tools.
4. Messages aimed at encouraging individuals to report crimes or suspicious behavior by indicating how to report it and what to watch for such as:
  - a. Strangers entering a neighbor's house when it is unoccupied;
  - b. Strangers loitering or strange cars in the neighborhood, school area and parks;

- c. Broken or open windows or doors;
- d. Suspicious looking people attempting to force entrance into a home;
- e. Offers of merchandise at extremely low prices;
- f. Strangers leaving one car and driving off in another;
- g. Anyone removing accessories, license plates or gasoline from cars;
- h. Anyone in a store concealing merchandise on their person;
- i. Persons seen entering or leaving a business place after hours;
- j. Sounds of breaking glass or any other loud explosive noise;
- k. Any vehicle parked with the motor running;
- l. Persons walking down the street peering into each parked car;
- m. Display of weapons, guns, knives;
- n. Strangers carrying appliances, household goods, luggage or other bundles from a neighbor's home;
- o. Injured persons.\*

Standard 1.6, "Establishment of Regional Crime Prevention Bureaus and Activities," is aimed at providing a coordinated and comprehensive approach to developing the community capability to prevent crime by hardening crime targets and initiating community crime prevention activities and established civic, social, professional, public and private organizations to deal with social and economic characteristics of offenders which appear to be correlated with criminal behavior. In the function of fostering and coordinating community programs in established groups to deal with social and economic problems, crime

\*These activities are listed in the National Advisory Commission Standards and Goals Report on Community Crime Prevention, p. 315.

prevention bureaus should not become involved in the day-to-day operation of the programs. Such programs can include:

1. Crime prevention programs in schools;
2. Stay-in-school programs;
3. Recreation;
4. Counseling for youths and families;
5. Crisis intervention counseling - hot lines;
6. Drug abuse prevention and rehabilitation;
7. Job training;
8. Part-time and summer hiring of youths;
9. Employment for ex-offenders and hardcore unemployables;
10. Big Brother, Boy Scouts, Girl Scouts, YMCA.

Manpower for crime prevention bureaus can include any of the following, as long as they have the appropriate training and experience to perform their duties:

- a. Police officers;
- b. Civilian specialists in community development and organizing, press relations, target hardening;
- c. Community services officers;
- d. Fire officers;
- e. Building inspectors;
- f. Special and reserve officers.

Local governments and law enforcement agencies should determine which type of administrative structure should oversee regional crime prevention bureaus.

Alternatives for implementing regional bureaus include the following:

- a. Police departments serving large cities;
- b. Mutual service agreements to consolidate crime prevention activities of several small and medium sized police departments;
- c. Task forces made up of representatives from several municipalities;
- d. Sheriffs' offices;
- e. County police agencies;
- f. Prosecution offices;
- g. Privately funded agencies.

Commentary

The Crime Prevention Standards and Methodology are aimed at developing guidelines for a comprehensive program to reduce the opportunities for offenders to commit crime. It has become increasingly clear that crime reduction requires a high level of citizen involvement. The standards and methodology are aimed at creating greater citizen involvement in programs to reduce crime opportunity.

The problem assessment section has included most of the rationale for the standards. This section, therefore, will relate the reasons for selecting one approach to solving those problems over others.

The establishment of a State office of crime prevention was rejected as a needless bureaucratic expense in favor of establishing regional crime prevention bureaus to coordinate interjurisdictional crime prevention efforts. The functions that could have been performed by a single State agency are allocated to appropriate existing agencies or the regional bureaus. Such functions include: mass media and public education crime prevention, training and technical assistance, development of a clearinghouse for crime prevention information, development of a model building security code and other legislation and pursuance of property insurance rate reductions for participants in crime prevention programs. This approach will avoid the creation of another State superagency with the resultant hiring of additional administrative, staff and clerical employees. The creation of such an agency far removed from the crime prevention bureaus would create too much bureaucratic requirements and paperwork without adding significantly to their operating efficiency.

Standard 1.6 recommends a regional approach to establishing crime prevention bureaus as opposed to local bureaus for several reasons. There are more than 450 municipal law enforcement agencies in New Jersey, most of which do not have the resources to establish a crime prevention bureau or assign personnel to work

in that area. Establishment of many small local crime prevention bureaus is not cost effective because it violates the principle of economies of scale which would create an extensive waste of resources. Economies of scale means that one organization can do work cheaper than several small organizations because they can purchase supplies by volume and eliminate the duplications of many functions such as payroll, personnel, training, record keeping, evaluation and planning.

The efforts of many small independent crime prevention bureaus are negated since crime transcends jurisdictional boundaries. Increased efforts against crime in one municipality often result in a displacement of crime to neighboring jurisdictions requiring a high level of coordination between municipalities. This type of coordination does not significantly exist between the many independent municipal police departments. In addition, it is impossible to develop a meaningful picture of crime by only analyzing crime in individual local municipalities because of the displacement effect and mobility of criminals. Crime patterns, therefore, must be analyzed on a regional basis in order that broad short and long range strategies can be developed to account for the many variables influencing crime in individual municipalities.

Standard 1.1 recommends the establishment of a Uniform Statewide Building and Community Security Code as opposed to leaving code development to local government. Such a code will establish minimum standards for building and community construction. The development of codes by local governments, since there are more than 600 municipalities in New Jersey, would result in extensive conflicts and uneven building standards which can complicate construction of homes and industries and enforcement of the codes. In addition, only two New Jersey

municipalities have developed building security codes.

Standard 1.4 was developed to increase the difficulty and danger of selling stolen property by increasing the capability for identification and recovery of stolen property. There are several statutes covering the sale, possession, transfer and acquisition of used merchandise. These statutes, developed many years ago, need to be updated to keep pace with the increased mobility of the criminal population and modern technological capabilities.

Standards 1.3 and 1.4 are aimed at reducing the apathy of citizens and businesses toward crime by providing information on how to protect one's family, property and person. Rebates on insurance rates for participation by residents and business people in crime prevention programs as recommended in Standard 1.5 should also increase participation in crime prevention programs. In addition the penalties for violation of building security codes provide further incentive.

Certain criteria and alternatives for implementing the standards are considered important but not appropriate for inclusion in the standards. Therefore, a methodology section was developed to discuss manpower and administrative control alternatives for crime prevention bureaus, types of activities that crime prevention bureaus can foster in the community, and types of mass media crime prevention programs.

## Pretrial Processing

### Introduction

As the incidence of crime spirals upwards, the criminal justice system is required to handle ever increasing numbers of persons. As more people are funneled through the system, the jails, the courts and the correctional institutions are being filled beyond capacity, creating an atmosphere detrimental to effective law enforcement and socially detrimental to those within the institutions.

A natural result of longer delays between arrest and trial is longer periods of pretrial incarceration at a time when a defendant is presumed to be innocent. This interrupts the normal life of an accused as well as his ability to earn a livelihood. The economic and emotional trauma of lengthy pretrial incarceration can be avoided only by streamlining the pretrial process and thereby effectuating release as early as possible.

In formulating standards and goals in the area of pretrial processing, we have kept in mind the main objective of release whenever possible. Only in those instances where an accused's subsequent appearance is not assured should he be detained. The pretrial release decision should be person-oriented rather than based totally upon the nature of the alleged offense.

In addition to the area of release pending trial, we have addressed ourselves to other alternatives to formal prosecution such as prosecutorial screening and pretrial intervention. Through the use of these procedures, appropriate cases can be diverted away from the formal criminal justice system and can be disposed of through the counseling of a diversion program or by administrative dismissal. Only those offenders who commit serious crimes or who are not amenable to pretrial rehabilitation need to be formally treated and tried.

These standards and goals are geared toward fairness to accused individuals while also having the side effect of reducing the populations of the jails and reducing the backlog of cases. It is hoped that implementation of these standards will result in greater efficiency and in minimal detention of minor offenders.

We recognize that many of our suggestions have already been implemented in this State by statute or court rule. We have, nevertheless, included them in our standards and goals for both the purpose of continuity and to show our agreement with the present status of some areas of the law.

Problem Assessment

Attempts at reforming the pretrial process, slow in coming, have begun to take hold. The direction and emphasis that should govern changes are by no means uncontroversial. While there is a consensus as to the existence and urgency of the problems that surface during the pretrial phase, there is little agreement on their solution. If the influx of defendants is increasing more rapidly than society can build institutions to house them or man the courts to try them, some compromise must be made. Such is clearly the case in our criminal justice system. There is a limit to the resources at hand for the meting out of justice. Some have claimed that the penalties of the criminal justice system, namely jails and prisons, should be retained only for those individuals who are convicted of serious crimes.<sup>1</sup>

The limits of manpower, hardware and space likewise make it necessary to weed out those defendants for whom a formal trial would be inappropriate, unnecessary or inefficient.

The drama of full-fledged litigation that the layman perceives as the normal course of events following the apprehension of a suspect in fact occurs in only a small fraction of cases. Actually, the criminal justice system can be more accurately seen as a funneling mechanism where discretionary decisions at the pretrial level frequently are made regarding the disposition of the accused.

To understand more completely the relationship of discretion to the pretrial phase, a discussion of the justice process is necessary. Criminal proceedings may originate in three ways: 1) By a law enforcement officer who either witnessed the offense or has probable cause to believe that an individual has committed the offense and arrests the individual; 2) By the filing of a complaint by a public officer or private citizen or 3) By a grand jury indictment. An arrest or summons follows either the filing of a complaint or indictment. As soon as is practicable

<sup>1</sup> Andrew Von Hirsch, Doing Justice; The Choice of Punishment for the Report of the Committee for the Study of Incarceration, Hill and Wang, New York, 1976.

the accused is brought before a judicial officer. In all cases, the defendant is advised of his rights, conditions of release are established if the defendant is in custody and, if the offense is indictable, a date is set for a probable cause hearing. Release pending trial may be effectuated at this point.

In the overwhelming majority of cases, system processing initiates with an arrest. The issuance of an arrest warrant or the arrest of an individual in turn commences the process whereby the individual is taken to the police station, routed through the usual booking and identification procedures and detained until such time as release can be effectuated. Discretion should be utilized in considering the necessity for issuing an arrest warrant or for arresting an individual. NAC and ABA agree that a summons or a citation usually should be served in lieu of an arrest warrant or in lieu of continued detention after arrest. Just as it became impracticable to detain people for automobile violations as the population grew and automobile owners proliferated, so it has now become unworkable to detain every suspect in the criminal justice process.

For certain offenses, mandatory use of a citation or summons in lieu of a warrant or in lieu of continued detention following arrest could help to alleviate congestion in the criminal justice system. It would also obviate unnecessary suffering on the part of the accused. Certainly a goal should be to refrain from inflicting any unnecessary inconvenience upon a person who is still, in the eyes of the law, innocent.

The effects of an arrest upon an individual are not only of an immediate nature but can have long-term repercussions, especially if the individual is unnecessarily detained pending further processing. In many cases, the formal steps taken after an individual has been arrested can be eliminated, which would result

in savings both of time and manpower. However, if a decision is made to detain a person following arrest, the individual should be brought before a judicial officer as soon as possible so that he may be informed of his rights and the charges against him and that release may be effectuated if deemed appropriate. Prompt presentation, however, is not always possible, usually due to the unavailability of key manpower and other processing delays. The practice currently exists whereby an individual may be arrested on a Friday evening and detained awaiting an appearance before a judicial officer until Monday morning. Such practices cannot be reconciled with the notion of presumptive innocence. Time limitations are needed to minimize any inconvenience for the accused and lessen the potential for abuse.

Traditionally, the defendant awaited his trial in custody unless he qualified for and could bear the cost of a bail release. The setting of bail is based on the theory that the risk of financial loss will prevent defendants from absconding prior to trial. Problems and inequities within the bail system are well documented. It is replete with inconsistencies and blatant discrimination against the poor. In practice, bail often is not set according to the defendant's individual circumstances but is determined largely by the offense charged. The bail system is also frequently distorted by the deliberate practice of setting bail out of reach of a defendant where the public demands it or where preventive detention of the defendant is desired.<sup>2</sup>

Aside from financial hardships, bail practices have other serious consequences for defendants. Studies have indicated that a defendant's failure to secure pretrial release may have an adverse relationship on trial outcome.<sup>3</sup> Detained defendants are

<sup>2</sup>American Bar Association Commission on Standards of Judicial Administration, Standards Relating to the Administration of Justice, Chicago, Illinois, 1974, p. 217.

<sup>3</sup>Ibid.

more likely to receive an unfavorable disposition and custodial sentence.<sup>4</sup> In addition, studies have shown that conviction rates are higher for detained defendants.<sup>5</sup> The public also suffers when defendants are detained. Costs of detaining defendants who cannot afford bail and, frequently, the resulting support of their families must be borne by the public.

Recently, experimental bail projects such as the Manhattan Bail Project have demonstrated that rational bail decisions are possible if a "quick but careful inquiry" is made relating to the defendant's community ties.<sup>6</sup> Such projects have also demonstrated that most defendants qualifying for release, either on low bail or on their own recognizance, and so released appear in court when required. Thus, pretrial detention can and should be greatly minimized.

New Jersey has initiated the practice of brief investigations into defendants' backgrounds in an effort to make bail and other release decisions more related to the risk of non-appearance. A greater, more equitable use of other release alternatives as well as continued improvements in the application of bail are needed to minimize pretrial detention to the fullest extent possible.

Concurrent with the normal pretrial steps of arrest, arraignment and release or detention pending further court action, is the practice of screening. Screening, which is the removal of a case from justice system processing, can occur anywhere from prior to the preparation of a complaint until indictment.

According to the National Advisory Commission on Criminal Justice Standards and Goals, less than half of all adults that are apprehended are formally charged;

<sup>4</sup>Rankin, "The Effect of Pretrial Detention," 39 N.Y.U.L. Rev. 641 (1964).

<sup>5</sup>Ares, Rankin and Storz, "Manhattan Bail Project," 38 N.Y.U.L. Rev. 84 (1963). See also Foote, "The Coming Constitutional Crisis in Bail," 11, 113, U. Pa. L. Rev. 1125, 1137-1151 (1965).

<sup>6</sup>American Bar Association, Standards Relating to the Administration of Justice, p. 216.

thus indicating that screening is a common practice.<sup>7</sup> It is, however, an informal practice not subject to review or governed by explicit criteria and/or guidelines. As in any pretrial decision, screening relies upon the discretion of individuals in a position of authority: in this case the prosecuting attorney. Normally the likelihood of acquittal or insufficient evidence are factors most likely to persuade the prosecutor to remove an individual from the system. While there is nothing intrinsically undesirable about prosecutorial screening, a potential for abuse, poor judgment or unequal application exists; therefore guidelines are necessary.

Aside from considerations of justice in terms of fair and equal treatment of offenders, screening can engender serious internal problems. The police, whose job it is to apprehend the suspect, may, understandably, feel frustrated when their efforts seem to be undercut. When screening occurs, the public may feel that the complex legal procedures encourage criminals to outwit the system. Such frustration is exacerbated when the decision appears to be a misguided one. Hence the fashioning of and compliance with explicit guidelines which spell out the rationale and place some constraints in terms of accountability for the practice is desirable to mitigate the resentment that occurs both inside the system and in the community.

In addition to being screened out of the system, defendants may be diverted to appropriate programs in lieu of criminal prosecution. Diversion, in this sense is defined as the removal of a defendant from the ordinary course of prosecution to participate in a prescribed program, the successful completion of which results in the dismissal of charges. Diversion can be beneficial to the defendant, the criminal justice system and the community. For the defendant, diversion to a suitable

<sup>7</sup>National Advisory Commission on Criminal Justice Standards and Goals, Report on Courts, Washington, D.C., 1973, p. 17.

program does not have the stigma associated with conviction and is less damaging to the individual's self-esteem. Diversion also reduces caseloads at the beginning of the system funnel and throughout the justice process, thus allowing public funds and system resources to be expended on the more serious or chronic offender with a greater potential for benefit. Furthermore, diversion programs enable the community to benefit from the productivity of persons who might otherwise be a drain on public funds.

Pretrial intervention (PTI), a formalized mechanism for the removal of defendants from the ordinary course of criminal prosecution to supervised participation in a work or treatment program, is presently the only court-approved diversion program for adults in operation. Only in the last decade has PTI been considered as an accepted option to prosecution. Since 1970, when the New Jersey Supreme Court promulgated Court Rule 3:28, PTI programs have been implemented in Essex, Hudson, Bergen, Camden, Morris, Union, Mercer, Middlesex, Atlantic and Gloucester Counties. Current programs may be grouped into two categories: those which provide general counseling and referral services and those programs which are designed to treat a specific problem such as alcoholism. The majority of programs which are designated PTI programs provide general counseling services and, where community agencies are available, make referrals to other agencies which may more appropriately handle certain problems such as unemployment or drug dependency.

Court Rule 3:28 was amended in September, 1973 to include the operation of certain drug and alcohol treatment programs under the designation of PTI programs. To date, such programs have operated in the larger, more urban portions of the State as in the Essex and Camden County Treatment Alternatives to Street Crime (TASC) drug programs and the Union and Hudson County alcohol treatment programs. However, the remaining counties also utilize available agencies within their own boundaries to treat clients with alcohol and drug problems.

In addition to Rule 3:28, diversion of some persons with drug problems may be made under the authority of N.J.S.A. 24:21-27. This statute permits diversion prior to trial as well as "conditional discharge" (suspension of sentencing for "supervisory treatment" after a plea or adjudication of guilt) and is available for certain first offenders charged with use or possession as outlined in the statute. Because the statute neither prescribes a program nor defines "supervisory treatment," many judges may prefer to utilize Rule 3:28 rather than N.J.S.A. 24:21-27 as a mechanism for diversion of selected drug offenders.

Although Court Rule 3:28 does set forth broad procedural guidelines, pretrial intervention is still in the inchoate stages of formalization. This is best illustrated by the differing selection criteria utilized by each program. For example, Morris County handles only persons charged with specific indictable offenses, whereas the other PTI programs, in addition to certain indictable offenses, also accept persons charged with non-indictable offenses. The types of indictable offenses which are excluded sometimes vary among programs. For instance, while Bergen County would not consider acceptance of atrocious assault and battery cases, Hudson County would consider acceptance of such cases. Many program differences depend to a large extent upon the availability of funding resources.

It is evident, therefore, that the problems that accrue to PTI practices are more or less the same that beset other discretionary pretrial proceedings and call for the same types of reform; namely structured, formal guidelines based on explicit criteria. Although it may not be possible to foresee and therefore include in guidelines all the relevant considerations that bear on individual cases, uniformity of procedure that allows for the offense as well as the individual needs of the defendant is essential and should be the aim of any pretrial improvement.

## New Jersey's Status in Comparison With the National Standards

### A. Use of Summonses

New Jersey Court Rule 3:3-1 allows the issuance of a summons in lieu of an arrest warrant if the person issuing the warrant has reason to believe that the defendant will appear in response thereto. A summons may also be issued after arrest if the person taking the complaint has reason to believe that the defendant will appear in response to a summons. Such procedures are consistent with the NAC and ABA standards (NAC Courts 4.2, Corrections 4.3, Police 4.4; ABA Pretrial Release 2.1, 2.2, 2.3, 3.1, 3.2). However, detailed procedures or guidelines structuring the use of such summonses, as presented in NAC Courts 4.2, are not provided in the court rules. In addition, the use of a summons is not mandatory as suggested in NAC Corrections 4.3 and ABA Pretrial Release 3.2 and thus is infrequently used. A proposed court rule is being considered by the Supreme Court Committee on Criminal Practice which would make issuance of a summons mandatory in certain cases unless certain exclusionary criteria are met.

### B. Prosecutorial Screening

In acknowledgment of prosecutorial discretion to screen cases at the pretrial level, the national standards recommend criteria and procedures to be utilized in prosecutorial screening and charging. (NAC Courts 2.1, 2.2; ABA Prosecution Function 3.4, 3.9). The decision to prosecute in New Jersey is within the discretion of the prosecutor, as decided in State v Winne, 12 N.J. 152 (1953).

N.J.S.A. 2A:158-4 also states that, except for the Attorney General, the county prosecutor has exclusive authority to prosecute. Disciplinary Rule 7-103(a) is also in accord with the recommended standards in prohibiting charges where the prosecutor believes that the charges are not supported by probable cause. A recent Attorney General opinion (Formal Opinion No. 11, 1976) states that prosecutors must exercise discretion in a "reasoned manner" and "in good faith." The opinion concludes

that prosecutors have the authority to administratively terminate complaints both prior to and following probable cause hearings.

The national standards also recommend the development of written guidelines structuring the use of prosecutorial discretion as well as other administrative procedures. (NAC Courts 1.2, ABA Prosecution Function 2.5). New Jersey does not have a statute or rule requiring a formalized statement of policy or the development of a handbook although several prosecutors' offices have developed such office manuals.

#### C. First Appearance

The national studies also recommend that a defendant be presented before a judicial officer as soon as possible. (NAC Courts 4.5, ABA Pretrial Release 4.1). NAC further stipulates a time limit of six hours. At this appearance, it is recommended that the defendant be advised orally and in writing of the charges against him, his constitutional rights and the date of his trial or next appearance. ABA Pretrial Release Standard 4.2 also recommends counsel be appointed no later than the time of first appearance.

In comparison, Court Rule 3:4-1 requires that an arrested person be taken before the nearest available committing judge (warrantless arrests) or the court named in the warrant without "unnecessary delay." No time limit is expressed. Rule 3:4-2 requires the judge to inform the defendant of all matters as recommended by the national standards as well as refer the defendant to the Office of the Public Defender.

Also at the first appearance, the NAC and ABA recommend that the defendant's release be determined quickly and emphasize immediate inquiry into factors relevant to release (NAC Courts 4.5, ABA Pretrial Release 4.3). ABA Pretrial Release Standard 4.4 recommends a defendant charged with an offense subject to no more than one year's imprisonment should be released on his own recognizance without any

inquiry. If the maximum penalty exceeds one year, an inquiry into the facts relevant to release should be conducted prior to or in conjunction with the first appearance (Pretrial Release Standard 4.5). New Jersey court rules do not require an investigation of the defendant's background prior to the first appearance.

D. Pretrial Release

Court Rule 3:26-1 states that defendants may be released on bail on such terms that will assure their presence in court when required and that take into account personal characteristics of each defendant. The rule also gives the court discretion to release a defendant on his own recognizance or with the imposition of terms or conditions appropriate to such release. The general policy is against unnecessary sureties and detention.

In reality, not all individuals are taken before a judge or magistrate in order that they be admitted to bail. Bail schedules which list suggested bail ranges for specific crimes are utilized by several police departments and clerks of court in some counties for the purpose of setting bail, in direct contradiction to ABA Pretrial Release Standard 5.3. In some instances, bail schedules are recommended by the prosecutor and approved by a judge while in other instances, primarily at the municipal level, the schedules are issued directly by the judge. Thus, the bail attached to a specific crime varies with the discretion of the individual creating the bail schedule and is subject to personal biases.

Many recommendations for pretrial release other than bail are proposed by the national studies. Both studies recommend defendants be released on their own

recognizance whenever possible and that an adequate investigation of each defendant's characteristics be undertaken to determine an appropriate release procedure (NAC Courts 4.6, Corrections 4.4; ABA Pretrial Release 5.1). If a defendant cannot be released on his own recognizance, he should be released on the least onerous condition(s) reasonably likely to assure his appearance where required (NAC Corrections 4.4, ABA Pretrial Release 5.2).

In New Jersey, there is no presumption that the defendant should be released on his own recognizance although he may be so released at the discretion of the judge according to Court Rule 3:26. Data collected by the Administrative Office of the Courts indicate that the utilization of ROR programs in 1974 ranged from 25.0% of the cases in Cape May County to 78.0% of the cases in Sussex County.<sup>8</sup> Factors upon which pretrial release decisions are based are set forth in Rule 3:26 and State v Johnson, 61 N.J. 351 364 (1972) and are comparable to those listed in NAC Corrections Standard 4.5 and ABA Pretrial Release Standard 5.1. Courts in many municipalities and all the counties in New Jersey utilize a modification of the Vera Institute point scale for release decisions. The Vera system assigns points to factors related to likelihood of appearance, requiring defendants to meet a minimum number of points to be eligible for release. Those courts which do not utilize any form of the scale upon which to make their decision often subjectively make decisions to release on bail.

In spite of the use of point systems, courts in few municipalities and relatively few counties attempt to verify information received through defendant interviews, which is recommended by NAC Corrections Standard 4.6. The NAC further states that the staff which handles bail/ROR programs should verify information received in relation to bail and should be under the direction of the same agency that develops presentence reports. Although New Jersey statutes and rules do not specify who should gather

<sup>8</sup>Administrative Office of the Courts, Municipal Court Monthly Reports on the bail or jail status of defendants at commencement of trial, January-December, 1974.

and verify such pretrial release data, it is conducted by probation staff.<sup>9</sup> The definition and type of investigation varies among the courts.

An additional problem in New Jersey is the limited number of staff (on a county level) assigned to conduct such investigational duties. Of the 11 counties with full-time bail/ROR programs<sup>10</sup> the number of staff ranges from one investigator (Somerset) to 13 (Passaic). Ten counties<sup>11</sup> run bail/ROR programs on a part-time basis and assign only one staff member.

The national standards also suggest the use of release alternatives other than traditional bail in the form of conditions on release and bail variations (NAC Corrections 4.4, ABA Pretrial Release 5.2, 5.3). Research indicates that all of the recommended release alternatives except "detention during specified hours" (NAC Corrections 4.4) exist in New Jersey. Court Rule 3:26-4(a) allows for the institution of a 10% cash bail program in any court with the approval of the Assignment Judge. Such programs are currently in operation in eleven counties. Senate Bill No. 326, which is in its second reading as of October 1, 1975, would provide for a statewide system of 10% cash bail. The NAC also recommends the elimination of participation by private bail bond agencies, which is currently allowed in New Jersey although the matter is presently under study by the Supreme Court Criminal Practice Committee.

The national standards also suggest that substantive law and procedures be

<sup>9</sup>Administrative Office of the Courts, Probation and Research Department, Survey of Bail/ROR Programs, Preliminary Reports, June, 1974.

<sup>10</sup>Ibid., Bergen, Burlington, Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Passaic, Somerset and Union Counties.

<sup>11</sup>Ibid., Atlantic, Cape May, Cumberland, Gloucester, Hunterdon, Morris, Ocean, Salem, Sussex and Warren Counties.

created to deal with nonappearance after pretrial release (NAC Corrections 4-7, ABA Pretrial Release 5.6-5.8). According to N.J.S.A. 2A:104-13, it is a crime to fail to appear when released on bail or personal recognizance, and Court Rule 3:3-1(b) further states that failure to appear in response to a summons will result in the issuance of an arrest warrant. Provision is also made in Rule 3:26-6(a) for forfeiture where there is a breach of a condition. These procedures are normally followed in New Jersey courts.

National recommendations are also proposed for procedures relating to review of release decisions (NAC Corrections 4.5, ABA Pretrial Release 5.9). New Jersey rules do not provide for automatic re-examination of release decisions although an appeal is available on all levels. ABA Standard 5.9 also requires periodic reports to be made to the court for each defendant who has failed to secure release within two weeks of arrest. New Jersey rules do not require such reports, but they are filed with the Administrative Office of the Courts.

The ABA and NAC also suggest every convicted defendant be granted credit for pretrial detention (ABA Pretrial Release 5.12, NAC Corrections 5.8). Court Rules 3:21-8 and 7:4-6(f) provide credit on the term of a custodial sentence for any time served in custody between arrest and imposition of sentence.

#### E. Diversion

The NAC and ABA recommend the diversion of selected defendants where appropriate (NAC Courts 2.1, 2.2; ABA Prosecution Function 3.8; Defense Function 6.1). The National Advisory Commission further suggests factors to be considered in making diversion decisions as well as recommends operational procedures. Court Rule 3:28(b) allows diversion of any offender into an approved pretrial intervention program (PTI) upon the recommendation of the trial court administrator, chief probation officer or other program director who is approved by the Supreme Court. The

prosecuting attorney and defendant must consent to such diversion. In counties where a pretrial intervention program is approved by the Supreme Court for operation, Court Rule 3:4-2 requires the judge, at the first appearance, to inform the defendant of the existence of such program, the name of the program director and the location where applications may be made for enrollment. Information relating to areas such as personal background, previous criminal record and present and pending charges is then gathered at an initial interview by PTI staff prior to the determination of the applicant's eligibility.

NAC Courts Standard 2.2 further suggests that the decision by the prosecutor not to divert a defendant should not be subject to judicial review. Prosecutors have exercised "veto power" over the enrollment of defendants into pretrial intervention programs, however, this procedure is currently being considered in a case pending before the New Jersey Supreme Court.

F. Comprehensive Pretrial Planning

The National Advisory Commission, in Corrections Standard 4.1, recommends the provision of comprehensive pretrial process planning which is non-existent in New Jersey. The standard also suggests information which should be available for bail and pretrial release planning and collected in a central location. Collection of reliable data would enable evaluation and planning to be conducted both within the counties and on a statewide basis. Currently, evaluation of release programs in some cases is hampered because of the lack of available information.

(2) CPC 1976  
Standards for Pretrial Processing

Standard 1.1 Summons in Lieu of Continued Detention Following Arrest or in Lieu of Warrant

Upon the apprehension, or following the charging of a person for an offense other than the common law felonies of arson, burglary, kidnapping, murder, rape, robbery or sodomy, or the attempt to commit such crimes, a summons should generally be issued in lieu of continued detention following arrest or in lieu of the issuance of an arrest warrant by a judicial officer. Upon the apprehension or arrest of a defendant for such common law felonies, or the attempt to commit such crimes, the defendant should be taken into custody and so remain until a judicial officer determines appropriate release conditions.

All law enforcement officers should be authorized, by court rule and statute, to issue a summons in lieu of continued detention following an arrest without a warrant for offenses other than the specified common law felonies or attempts to commit such crimes. All judicial officers should be given authority to issue a summons rather than an arrest warrant in all cases in which a complaint, accusation or indictment is filed or returned against a person not already in custody.

The summons should be served upon the defendant in the same manner as a civil summons; however, limited detention for identification purposes should be authorized.

I. Authority of Law Enforcement Officer - A law enforcement officer, acting without a warrant, who has probable cause to believe that a person has committed any offense other than the common law felonies of arson, burglary, kidnapping, murder, rape, robbery or sodomy, or attempt to commit such crimes, should be required to issue a summons in lieu of continued detention following arrest. Detention may be continued, however, if:

A. The behavior and past conduct of the defendant indicates that his release presents an imminent danger to individuals or to the community;

- B. The defendant is under lawful arrest and fails to identify himself satisfactorily or supply required information concerning his identification;
  - C. The defendant refuses to sign an acknowledgement of receipt of the summons;
  - D. The defendant has no ties to the community reasonably sufficient to assure his appearance;
  - E. The defendant has previously failed to appear in response to a summons;
- or
- F. Arrest or detention is necessary to carry out additional legitimate investigation action.

Should a field officer determine the necessity for continued custody, another independent decision should be made by the supervising officer at the police station. Any law enforcement officer who determines a need for continued custody should be required to state the reasons for the decision in writing.

II. Authority of Judicial Officer - All judicial officers should be authorized by law to issue a summons rather than an arrest warrant in all cases in which a complaint, accusation or indictment is filed or returned against a person not already in custody.

A. A summons should be issued if the alleged offense is other than the common law felonies of arson, burglary, kidnapping, murder, rape, robbery or sodomy or attempt to commit such crimes; however, an arrest warrant may be issued if:

1. The behavior and past conduct of the defendant indicates that failure to take him into custody presents an imminent danger to individuals or to the community;

2. The defendant has previously willfully failed to respond to a summons or has violated the conditions of any pretrial release program;

3. The defendant has no ties to the community and there is a reasonable likelihood that he will fail to respond to a summons;

4. The whereabouts of the defendant is unknown or the arrest warrant is necessary to subject him to the jurisdiction of the court; or

5. Arrest and detention are necessary to carry out additional legitimate investigative action.

B. At the time of the application for an arrest warrant or summons, the judicial officer should require the applicant to produce such information concerning the defendant which reasonable investigation will reveal. This information should include the defendant's residence, employment, family relationships, past history or response to legal process and past criminal record.

C. Where a crime other than the common law felonies or attempts to commit such crimes has been charged, the judicial officer who determines a need for the issuance of a warrant should be required to state the reasons for the decision in writing.

D. The issuance of a warrant for persons accused of committing the common law felonies of arson, burglary, kidnapping, murder, rape, robbery or sodomy, or attempt to commit such crimes, should be at judicial discretion.

III. Content of Summons - Whether issued by a law enforcement officer or by a judicial officer, the summons should:

A. Inform the defendant of the offense with which he is charged;

B. Specify the date, time and exact location of the first court proceeding, whether trial or preliminary hearing; and

C. Advise the defendant of the consequences of failing to appear.

Standard 1.2 Criteria for Prosecutorial Screening

It should be recognized that at various times the need exists to terminate formal or informal action against an individual involved in the criminal justice system and that the prosecuting attorney has discretion to do so without court approval prior to indictment. This need may arise where prosecution is not justified or where it would not further the interests of the criminal justice system.

I. A defendant should be screened out of the criminal justice system and criminal prosecution terminated if there is not a reasonable likelihood that the evidence admissible against him would be sufficient to obtain a conviction and sustain it on appeal. In this type of screening decision, the prosecuting attorney should consider the probability of conviction and affirmance of that conviction on appeal.

II. Criminal prosecution should be terminated when the benefits to be derived from prosecution or diversion would be outweighed by the costs of such action. In this determination, the factors to be considered are:

- A. Doubt as to the defendant's guilt;
- B. The impact of further proceedings upon the defendant and those close to him, especially the likelihood and seriousness of financial hardship or family life disruption;
- C. The seriousness of the offense;
- D. The value of further proceedings as a deterrent to others which will result from prosecution;
- E. The value of further proceedings as a deterrent to the defendant, viewed in light of his past criminal conduct, the seriousness of his past criminal activity which might continue in the absence of a deterrent; the possibility that further proceedings might tend to increase the defendant's commitment to criminal activity; and the likelihood that programs available as diversion or sentencing alternatives may reduce the likelihood of recidivism;

- F. The value of further proceedings in fostering the community's sense of confidence in the criminal justice system;
- G. The cost of prosecution;
- H. Any improper motives of the complainant;
- I. General non-enforcement of the statute involved;
- J. The likelihood of prosecution and conviction of the defendant by another jurisdiction, state or federal; and
- K. Any assistance rendered by the defendant in the apprehension or conviction of other defendants and any socially beneficial activity engaged in by the defendant that might be encouraged in others by terminating prosecution.

### Standard 1.3 Procedure for Prosecutorial Screening

I. Following the return of an indictment by the grand jury, criminal prosecution should be terminated only by the court.

II. The decision to institute criminal proceedings should be initially and primarily the responsibility of the prosecuting attorney. Where the defendant has not been taken into custody, no complaint should be filed without the review and formal approval of the prosecuting attorney.

III. After a person has been taken into custody or a complaint has been signed, the decision to proceed with formal prosecution should rest with the prosecuting attorney.

A. The prosecuting attorney should have the discretion to terminate criminal prosecution when, based on criteria identified in Standard 1.2, it is counterproductive to prosecute.

B. The prosecuting attorney should have the discretion to dispose at the municipal level lesser criminal activity by appropriate charges under the disorderly persons act.

C. The decision to continue formal proceedings should be a discretionary one on the part of the prosecuting attorney and should not be subject to judicial review. Refusal of the prosecuting attorney to screen out of the system should not be the basis for attack upon a criminal charge or conviction.

IV. Written guidelines should be formulated by the prosecuting attorney to structure the exercise of prosecutorial discretion and identify those factors to be considered in the screening decision. Guidelines should reflect local conditions and attitudes and should be available to the public.

V. When the decision to terminate prosecution is made, a written statement of the prosecuting attorney's reasons should be prepared and kept on file.

Screening practices within the prosecuting agency should be reviewed periodically

to ensure that guidelines are being followed and to assist in their evaluation and revision.

VI. If the prosecuting attorney administratively dismisses a complaint or screens a defendant out of the system, notification should be given to the complainant or victim and the police or the complainant should have recourse to the court. If the court determines that the decision not to prosecute constituted an abuse of discretion, it should order the prosecuting attorney to pursue formal proceedings.

#### Standard 1.4 First Appearance

Initial appearances on all charges should be scheduled before a judge without unnecessary delay. At this appearance, the defendant should be advised in clear and easily understandable language of the charges against him, or his constitutional rights (including but not limited to his right to pre-trial release and to be represented by counsel, appointed if he is indigent) and of the date of his trial or probable cause hearing. If he is entitled to public representation, arrangements for such should be made at this time.

A determination of whether pretrial release is appropriate should also be made by the judge at this time. If a defendant has been conditionally released prior to the first appearance, a reduction of release conditions can be sought at the first appearance.

I. If not released on summons or other lawful manner, every arrested person shall be taken before a judge without unnecessary delay but in no instance later than 48 hours after the arrest.

II. Unless the defendant intelligently waives the right to be represented by counsel, no further steps in the proceedings should be taken until the defendant and his counsel have had an adequate opportunity to confer.

III. In all cases not concluded at the first appearance, the judge should decide the question of the defendant's pretrial release. Release should be effected if appropriate.

IV. If the defendant cannot make bail or be otherwise released from continued custody following the first appearance, the detention hearing or the hearing of probable cause should be held without unnecessary delay and in no case longer than ten days following the date of arrest.

Standard 1.5 Pretrial Release

Adequate investigation of defendants' characteristics and circumstances should be undertaken to identify those defendants who can be released prior to trial solely on their own promise to appear for trial. Release on this basis should be made wherever appropriate. If a defendant cannot appropriately be released on this basis, consideration should be given to releasing him under certain conditions, such as the deposit of a sum of money to be forfeited in the event of nonappearance, or assumption of an obligation to pay a certain sum of money in the event of nonappearance or the agreement of third persons to maintain contact with the defendant and to assure his appearance.

Participation by private bail bond agencies in the pretrial release process should be minimized to the fullest extent possible.

Standard 1.6 Alternatives to Pretrial Detention

A court rule should be adopted to develop, authorize and encourage the use of a variety of alternatives to the detention of persons awaiting trial. The use of these alternatives should be governed by the following:

I. Judicial officers on the basis of information provided by the pretrial services agency should select from the list of the following alternatives the least restrictive condition or conditions that will reasonably assure the appearance of the defendant for trial:

A. Release on personal recognizance into own custody without further conditions (ROR).

B. Release on the execution of an unsecured appearance bond executed by the defendant or a third party.

C. Release into the care of a qualified person or organization reasonably capable of assisting the defendant to appear at trial.

D. Release with imposition of restrictions on activities, associations, movements and residence reasonably related to securing the appearance of the defendant.

E. Release on the basis of financial security to be provided by the defendant (bail).

1) Full Cash;

2) 10% Cash;

3) Traditional Bail Bond;

4) Real Estate.

F. Imposition of any other restrictions other than detention reasonably related to securing the appearance of the defendant.

G. Partial detention, with release during certain hours for specified purposes.

H. Detention of the defendant.

II. Judicial officers in selecting the form of pretrial release and determining the likelihood of appearance should consider the nature and circumstances of the offense charged, the weight of the evidence against the defendant, his ties to the community, his record of convictions, if any, and his record of appearance at court proceedings or of flight to avoid prosecution.

III. Participation by private bail bond agencies in the pretrial release process should be restricted to the fullest extent possible.

IV. Willful failure of the defendant to appear before any court as required shall be subject to appropriate sanctions.

Standard 1.7 Procedures Relating to Pretrial Release and Detention Decisions

The following considerations should be included in the formulation or procedures related to pretrial release and detention decisions:

I. A person in the physical custody of a law enforcement agency on the basis of arrest, with or without a warrant, should be taken before a judicial officer without unnecessary delay and in no instance more than 48 hours.

II. When a person accused of a crime is taken into custody, an investigation by the pretrial services agency should commence without delay to gather information relevant to the pretrial release or detention decision. The nature of the investigation should be limited to facts related to the likelihood of appearance at trial and should include but not be limited to the following:

- A. Current employment status and employment history.
- B. Present residence and length of stay at such address.
- C. Extent and nature of family relationships.
- D. General reputation and character references.
- E. Present charges against the defendant.
- F. Prior criminal record.
- G. Prior record of compliance with or violation of pretrial release conditions.
- H. Other facts relevant to the likelihood that he will appear for trial or factors which would make flight unlikely.

III. The utilization of bail schedules should be discontinued.

IV. Pretrial detention or conditions substantially infringing on personal liberty should not be imposed unless:

- A. The defendant is granted a hearing, as soon as possible, before a

judge and where required is accorded the right to be represented by counsel (appointed counsel if he is indigent); and, at the discretion of the judge, the right to present evidence on his own behalf, to subpoena witnesses and to confront and cross-examine the witnesses against him.

B. The judge finds substantial evidence that confinement or restrictive conditions are necessary to assure the presence of the defendant for trial.

C. The judge states on the record his findings of fact, the reasons for imposing detention or release conditions, and the evidence relied upon.

V. Where a decision has been made to detain or impose conditions substantially infringing on the defendant's liberty, the defendant should be authorized to move for judicial review of that decision.

VI. Whenever a defendant is released pending trial subject to conditions, and there is probable cause to believe that the defendant has violated one or more of those conditions, he may be detained pending a hearing. If, after a hearing as described in IV (A) hereof, the judge finds a willful violation of one of the conditions of pretrial release, he should be authorized to impose such different or additional conditions as are appropriate under such circumstances.

Standard 1.8 General Criteria for Diversion

In appropriate cases offenders should be diverted out of the criminal justice system before formal trial or conviction.

I. Such diversion is appropriate where the benefits to society from channeling an offender into an available noncriminal diversion program outweigh any harm done to society by abandoning criminal prosecution. Among the factors that should be considered with respect to diversion are as follows:

- A. The nature of the offense;
- B. The motivation and age of the offender;
- C. The attitude of the victim;
- D. Any likelihood that the offender suffers from a mental illness or psychological/physical abnormality which was related to his crime and for which treatment is available;
- E. Any likelihood that the crime was significantly related to any other condition or situation such as unemployment or family problems that would be subject to change by participation in a diversion program;
- F. Any history of the use of physical violence toward others;
- G. Involvement with syndicated crime;
- H. A history of anti-social conduct indicating that such conduct has become an ingrained part of the defendant's life-style and would be particularly resistant to change; and
- I. Any special need to pursue criminal prosecution as a means of discouraging others from committing similar offenses.

### Standard 1.9 Use of Diversion

The State, in cooperation with relevant public and private noncriminal justice agencies, should develop and implement formally organized programs of diversion, such as pretrial intervention (PTI), that can be applied in the criminal justice process from the time an illegal act occurs to the time of adjudication.

I. In order to provide the opportunity for formalized pretrial diversion to all New Jersey citizens, pretrial intervention programs should be expanded until there is a program available to the residents of each county within the State. Each PTI program should make the most effective use of existing community services and where services for a particular problem are not available, the program should attempt to incorporate such needed services within its program. Provisions should be made for inter-state transfers.

II. Pretrial intervention programs should operate under a set of written guidelines that ensure periodic review of policies and decisions. The same guidelines should be utilized by prosecutors, program administrators and judges and should specify:

A. The objectives of the program and the types of cases to which it is to apply;

B. The means to be used to evaluate the outcome of diversion decisions;

C. A requirement that the official making the diversion recommendation state in writing the basis for his determination; and

D. A requirement that the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decisionmakers.

III. Diversion should not be utilized as a substitute for prosecution where the facts of the case are not sufficient to obtain a conviction or where screening is more appropriate.

IV. A plea of guilty should not be considered a condition for enrollment into

any diversion program.

V. The factors to be used in determining whether a defendant, following arrest but prior to adjudication, should be selected for diversion to a noncriminal program, should include the following:

1. The nature of the offense.
2. The facts of the case sufficiently establish that the defendant probably committed the act.
3. The motivation and age of the defendant.
4. The willingness of the victim to have no conviction sought.
5. Existence of personal problems, character traits, etc., which may be related to the defendant's crime and for which services are unavailable within the criminal justice system, or may be provided more effectively outside the system and the probability that the causes of criminal behavior can be controlled by proper intervention.
6. Likelihood that the defendant's crime is related to a condition or situation, such as unemployment or family problems that would be conducive to change through the defendant's participation in the diversion program.
7. The needs and interests of the victim and society are served better by diversion than by official processing.
8. The defendant's crime does not constitute part of a continuing pattern of anti-social behavior.
9. The defendant does not present a substantial danger to others.
10. The defendant's crime is not of an assaultive or violent nature, whether in the criminal act itself or in the possible injurious consequences of such criminal act.
11. Likelihood that the arrest has had such a serious effect on the defendant that it would serve as the desired deterrent against repetitive criminal behavior.

12. Prosecution would exacerbate the social problem that led to the defendant's criminal acts.

13. History of the use of physical violence toward others.

14. Any involvement with organized crime.

15. A history of anti-social conduct indicating that such conduct has become an ingrained part of the defendant's life-style and would be particularly resistant to change.

16. The defendant would present a substantial danger to others.

17. The crime is of such a nature that the value of pretrial intervention would be outweighed by the public need for prosecution.

18. Services to meet the defendant's needs and problems are more effectively available through resources not available to the pretrial intervention program.

19. Where the defendant's involvement with other people in the crime charged or in other crimes is such that the interest of the State would be best served by processing his case through traditional criminal justice system procedures.

20. Where the harm done to society by abandoning criminal prosecution would outweigh the benefits to society from channeling an offender into a diversion program.

VI. The statewide system of pretrial intervention should be comprehensively evaluated. The results of any evaluation and subsequent interim evaluations should be distributed to all participating judges, the county prosecutor, and the program administrators for the purpose of ensuring the uniformity and effectiveness of PII programs.

Standard 1.10 Procedure for Diversion Programs

The decision to divert should be made as soon as adequate information can be obtained.

I. Guidelines for making diversion recommendations and decisions should be established and made public. Written guidelines should be promulgated after consultation with the prosecutor and after giving all prosecutorial suggestions due consideration and then should be distributed to all police agencies and judges within the county.

II. Diversion should be permitted only under a court-approved diversion agreement providing for suspension of criminal proceedings on the condition that the defendant participate in the diversion program. This agreement should be between the defendant, prosecutor and court. Uniform procedures should be developed for the formulation of such agreements and their approval by the court. These procedures should contain the following features:

A. Emphasis should be placed on the defendant's right to be represented by counsel during negotiations for diversion and entry and approval of the agreement.

B. Suspension of criminal prosecution for longer than one year should not be permitted.

C. The agreement submitted to the court should contain a full statement of those things expected of the defendant and the reason for diverting the defendant.

D. Upon expiration of the agreement and successful completion of the diversion program, the court should dismiss the prosecution and no future prosecution based on the conduct underlying the initial charge should be permitted.

E. For the duration of the agreement, the prosecutor or the program director should have the authority to advise the court, upon notice to the defendant, that the defendant is not performing his duties adequately under the agreement and, if the court determines that the defendant is not, it shall permit the prosecution to be reinstated.

III. Whenever a diversion recommendation is made, the staff member making it should specify in writing the basis for the decision, whether or not the defendant is diverted. These statements should be collected and subject to periodic review within the respective agency to ensure that diversion programs are operating as intended.

Standard 1.11 Pretrial Services Agency

The State of New Jersey should take action, including the pursuit of enabling legislation or court rule where necessary, to create a centrally coordinated and directed pretrial services agency. This agency should be established as a permanent section within the Administrative Office of the Courts and should be responsible for the supervision, operation and evaluation of all pretrial release and diversion programs and procedures as well as the development of a comprehensive plan for improving the pretrial process.

I. The pretrial services agency should provide the following services:

A. Operation of diversion programs, such as pretrial intervention.

B. Continuing information gathering necessary for pretrial release and intervention decisions as outlined in Standards 1.7, "Procedures Relating to Pretrial Release and Detention Decisions" and 1.9, "Use of Diversion."

C. Determination of the individual needs of defendants and, where appropriate, emphasize diversion to alternative community-based services (halfway houses, drug treatment programs or any other residential or nonresidential adult programs) based upon identified needs.

D. Provide assistance in assessment, evaluation and classification services for purposes of program planning for sentenced offenders and pretrial detainees.

E. Supervision of defendants released pending trial and assistance to enable defendants to appear at trial.

II. The following principles should be followed in establishing, planning and operating pretrial services:

A. Initiation of pretrial services should in no way imply that the defendant is guilty. Protection of the rights of the defendant must be maintained at every phase of the process.

B. Any information gathered from the defendant shall be privileged.

C. Private specialized community services should be made available to the pretrial services agency where necessary and funds should be provided for their purchase. Services should include but not be limited to the following:

1. Psychiatrists;
2. Clinical psychologists;
3. Social workers;
4. Interviewers; and
5. Education specialists.

Standard 1.12 Comprehensive Pretrial Process Planning

In the initial planning process the pretrial services agency as described in Standard 1.11 should collect the following information:

- A. The extent of pretrial detention, including the number of detainees, the number of days of detention and the range of detention by time periods.
- B. The cost of pretrial release programs and detention.
- C. The disposition of persons awaiting trial, including the number released on bail, ROR and other nonfinancial conditions, and detained.
- D. The number of persons who are granted bail status changes.
- E. The disposition of such persons after trial including for each form of pretrial release or detention, the number of persons who were convicted, who were sentenced to the various available sentencing alternatives, and whose cases were dismissed.
- F. Effectiveness of pretrial conditions, including the number of defendants who (a) failed to appear, (b) violated conditions of their release, (c) were arrested for another offense during the period of their release.
- G. Conditions of treatment of and rules governing persons awaiting trial, including the extent to which such treatment and rules meet the recommendations in the Standards.
- H. The need for and availability of resources that could be effectively utilized for persons awaiting trial, including the number of arrested persons suffering from problems relating to alcohol, narcotic addiction or physical or mental disease or defects, and the extent to which community treatment programs are available.
- I. The length of time required for bringing a criminal case to trial and, where such delay is found to be excessive, the factors causing such delay.

The comprehensive plan for the pretrial process should include the following elements:

A. Assessment of the current status of programs, facilities and policies relating to pretrial release and detention.

B. A plan for improving the programs and facilities relating to pretrial release and detention, including priorities for implementation of the recommendations set forth by this committee.

C. A means of implementing the plan and requiring approval of the expenditure of funds for, or the continuation of, programs consistent with the plan.

D. A method of evaluating the extent and success of implementation of the improvements.

E. A strategy for processing large numbers of persons awaiting trial during mass disturbances, including a means of utilizing additional resources on a temporary basis.

F. Ascertainment of the statistical requirements necessary for evaluation planning, and operation of a pretrial release system.

### Commentary

Although the national studies in their recommendations for pretrial processing did not contemplate disorderly persons offenses, these standards proposed by the Advisory Committee are applicable both to disorderly persons and indictable offenses. In addition, the Advisory Committee recommends these standards with the assumption that local, State and federal governments will take active steps to ensure compliance and provide funds where necessary.

In some cases, new legislation will be required in order to implement these proposals; in other cases, new administrative rules and in still others, only encouragement. It has been discovered, in the course of the many intensive discussions necessary to formulate these standards, that they often call for procedures that are already permitted or recommended but are not generally observed. Thus, while it is to be hoped that the present standards will influence future legislation and administrative regulation, much of their usefulness will be lost if they are not widely promulgated, discussed and campaigned for among those who do the day to day work of the system.

#### A. Use of Summonses

The intent of Standard 1.1 is to make the issuance of a summons mandatory in certain situations. Presently, provision is made for the use of a summons in lieu of an arrest warrant (Court Rule 3:3-1 and 3:4-1) although it is infrequently used. The Advisory Committee recommends that the use of a summons in lieu of continued detention following arrest or in lieu of a warrant should be mandatory for offenses other than the common law felonies of arson, burglary, kidnapping, murder, rape, robbery or attempts to commit such crimes. These common law felonies were deemed exceptions

since they are considered more heinous, are usually punishable by longer sentences and are similar to the offenses which require bail to be set by a superior or county court judge as enumerated in Court Rule 3:26-2. Attempts to commit these crimes were also exempted.

Specific criteria are offered to structure the use of summonses by both police officers and judicial officers. In comparison, the National Advisory Commission and American Bar Association recommend the use of a summons or citation in lieu of an arrest. The Advisory Committee varies somewhat in that it calls for the use of a summons in lieu of continued detention following arrest (and also in lieu of a warrant). This change was made to retain a law enforcement officer's right to search during an on-scene arrest and to allow for the photographing and fingerprinting of a suspect, which is required for all arrests in New Jersey. The NAC and ABA made no such provision. It is recognized that statutory changes may be needed to deal with present identification procedures required after arrest.

The Advisory Committee recommendation also deviates from NAC proposals in that it requires the defendant to sign a receipt of the summons rather than the summons itself.

#### B. Prosecutorial Screening

The recommended standards for prosecutorial screening are designed to serve as guidelines for prosecuting attorneys and to promote uniformity in screening while allowing for individual discretion. The Advisory Committee proposes that

the prosecuting attorney should have the discretion to terminate prosecution prior to indictment whenever it is counterproductive to prosecute and the standards provide guidelines at each instance where such prosecutorial screening may occur. The Advisory Committee further recommends that no complaint should be filed without the active review and approval of the prosecutor, thus suggesting that police officers review matters with the prosecutor prior to preparing a complaint. Ideally, such a procedure should be standardized statewide; however the Advisory Committee acknowledges the fact that statewide compliance may not be practical or possible at present.

For many years, the issue of whether a prosecutor has the authority to administratively discuss a complaint prior to grand jury presentment remained controversial and unsettled. As a result, practices differed throughout the State. A recent Attorney General opinion concludes that a criminal complaint may be disposed of by a prosecutor without presenting the matter of the grand jury.<sup>12</sup> The proposed guidelines are consistent with this interpretation and offer criteria to be considered for administrative disposition.

The standards for prosecutorial screening utilize the most relevant portions of the ABA and NAC recommendations and are therefore quite similar. However, factors detailed by the national studies which should not be considered in screening decisions were excluded.

### C. First Appearance

The standard governing the first appearance of the defendant before a judicial officer is primarily concerned with safeguarding the rights of the individual defendant. Following a series of Supreme Court rulings (most notably Mapp v Ohio, Escobedo v Illinois, Gideon v Wainright, Mallory v U.S. and Miranda v Arizona) the arrest, detention and information gathering procedures have been constrained by a rather specific format. A crucial problem concerns the time allowed to

<sup>12</sup> Attorney General Formal Opinion No. 11, March 31, 1976.

detain the suspect before he is brought before a judicial officer. The NAC specifies six hours whereas the ABA advocates the scheduling of a first appearance without unnecessary delay. To rectify New Jersey's situation, the Advisory Committee follows the ABA lead in recommending initial appearances on all charges be held without unnecessary delay. In interpreting whether delay is unnecessary, a distinction is drawn between defendants who are issued a summons or released following arrest and those who are arrested and detained. For persons arrested, the first appearance should be held in no instance later than 48 hours after arrest. For defendants issued a summons, the standard of unnecessary delay is sufficient since there is no detention and hence no urgency.

At the first appearance, the Advisory Committee recommends the defendant be advised in clear and easily understandable language of the charges against him, the date of his next appearance and of his constitutional rights, including but not limited to his right to release and representation by counsel if entitled. The Committee intends that to be entitled, the defendant must meet criteria as expressed in Rodriguez v Rosenblatt, 58 N.J. 281 (1971) and Argersinger v Hamlin, 407 U.S. 25, 92 S. Ct. 2006, 32 L. Ed. 2d 530 (1972) with respect to non-indictable offenses. Indigent defendants charged with indictable offenses are entitled to the assignment of counsel at public expense.

The Advisory Committee as well as the national studies recommend defendants be released whenever possible at the first appearance. If the defendant is detained however, a detention or probable cause hearing should be scheduled within ten days of the arrest. If held within this time period, the probable cause hearing may obviate the need for a separate detention hearing as required in Gerstein v Pugh 95 S. Ct. 854 (1975). The Committee recognizes the desirability of combining the detention hearing with the first appearance or probable cause hearing.

D. Pretrial Release

Pretrial release standards proposed by the Advisory Committee call for release determinations based on each defendant's individual characteristics and a greater use of release alternatives other than bail. These recommendations closely parallel the suggestions of the NAC and ABA with only minor differences.

The Advisory Committee recommends an investigation commence as soon as possible to gather information relevant to release determinations. The nature of the investigation should be limited to the defendant's likelihood of appearance without any consideration of preventive detention. The Committee also recommends the elimination of bail schedules for setting bail which does not take into account the personal characteristics of the defendant but rather consider the offense charged.

In Standard 1.6, the Advisory Committee calls for the adoption of a court rule to develop, authorize and encourage the use of a variety of alternatives to detention. Many of the suggested alternatives are presently available although only bail and release on personal recognizance (ROR) are used with any regularity. The listing of alternatives provided in Standard 1.6 ranges from the least restrictive to detention and it is suggested that the least restrictive release alternative be selected for each defendant. A revision in Court Rule 3:26-4(a) is necessary to allow 10% cash bail in every county. Presently this option is in operation on a limited basis and requires the approval of the assignment judge.

Although the NAC and ABA recommend the abolition of private bail bondsmen in the release process, the Advisory Committee elects not to concur since there may be circumstances where the defendant has no other way of securing bail. The Committee therefore recommends that participation by private bail bond agencies be minimized to the fullest extent possible.

The Advisory Committee also recommends procedures for a hearing if release conditions are violated by the defendant. It is important to note that a

technical violation or even the possibility of the commission of a new crime does not necessarily mandate a hearing and possible revision of release conditions unless it bears directly upon the possibility of non-appearance.

The Committee deviates somewhat from NAC recommendations regarding release condition violations since the national study makes reference to the revocation of release. In New Jersey, release can only be denied where there are no conditions that will assure appearance at trial, State v. Johnson, 61 N.J. 351, 364 (1972).

The Advisory Committee also felt the judge need only state his reasons on the record for imposing detention, release conditions and revisions rather than provide the defendant with a written statement, as suggested by NAC. The Committee as well as the national studies recommend all release decisions be reviewable.

#### E. Diversion

For purposes of this document, diversion is defined as the halting or suspending of formal justice system proceedings in favor of informal processing or disposition. Presently, diversion programs such as pretrial intervention are in operation in ten counties although uniform procedures are not utilized statewide. The Advisory Committee recommends the expansion of pretrial intervention programs until there is one available to defendants in every county and also recommends guidelines for state-wide operation. Recommendations proposed by the Committee for diversion apply especially to the operation of pretrial intervention programs; however, standards are intended to be applicable to any future approved diversion program as well.

In recommending factors to be considered in determining a defendant's suitability for diversion, the Committee combined NAC recommendations with its own suggestions as well as those offered by the Atlantic County Prosecutor's Office.

The Advisory Committee emphasizes that diversion, a process separate from screening, should not be utilized as a substitute for prosecution where the facts of the case are not sufficient to obtain a conviction or where screening is more appropriate. The Committee did not concur with NAC's recommendation that the decision by the prosecutor not to divert a particular defendant should not be subject to judicial review in view of the fact that litigation pending before the Supreme Court relates to this determination. (State v Strychnewicz, Docket No. 11624 and related cases: State v Rose, Docket No. 11416, State v Leonardis, Docket No. 11406.)

F. Pretrial Services Agency and Comprehensive Planning

The creation of an agency within the Administrative Office of the Courts is recommended to coordinate and direct all pretrial services to include information gathering, pretrial intervention and supervision of released defendants. This agency, to be designated as the Pretrial Services Agency, would also be responsible for planning and the evaluation of the pretrial processes. The pretrial area, including the release determinations and supervision of defendants awaiting trial is a responsibility of the courts; therefore, the Committee deems it proper to place authority for pretrial services under the Administrative Office of the Courts rather than a correctional agency. In addition, much of the services necessary during the pretrial phase as well as statistical capabilities are currently provided through probation departments, which are supervised by the Administrative Office of the Courts.

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