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DEPARTMENT OF THE PUBLIC ADVOCATE

OFFICE OF INMATE ADVOCACY

ANNUAL REPORT

1974

secretaries. The Office has jurisdiction involving approximately 290 institutions within the State of New Jersey.

#### OPERATIONS

The ordinary activities of the Office involve three major program categories:

- 1) Individual Complaints
- 2) Subject Matter Investigation
- 3) Litigation

As of November 30, 1974 the Office has received 291 individual complaints. Two hundred twenty two have been disposed of, 39 have been referred to appropriate agencies, 24 are still open and under investigation, while six have been mooted by release of the complainants.

In order that the Office determine the validity of any complaint and the appropriateness of that complaint for action under the boundaries of our jurisdiction, it is necessary to personally interview virtually every complainant. Complaints which can not be resolved administratively and indicate "class" interest, become Subject Matter Investigations. As of November 30, 1974, there are 16 such matters undergoing intensive investigation, research and/or negotiation.\* They are as follows:

- 1) The sufficiency of medical facilities and treatment at New Jersey State institutions. This involves, among other things, survey of the facilities, analysis of treatment standards, review of internal regulations and meetings with responsible officials.

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\* Some of these have already developed into litigation, infra.

2) The appropriateness of disciplinary ~~procedures, in light of constitutional standards,~~ at State and County institutions. Insofar as State facilities are concerned this has resulted in a formal appearance before the New Jersey Supreme Court (discussed infra, Avant v. Clifford).

3) The conditions and regulations concerning the State Prison readjustment unit at the Vroom Building. This investigation has developed into formal negotiations with the Department of Institutions and Agencies (discussed infra).

4) State Parole Board practices vis-a-vis sex offenders at the Rahway Treatment Unit. This has resulted in formal appearance before the Appellate Division, Superior Court (discussed infra, William Campbell v. New Jersey State Parole Board).

5) Denial of certain First Amendment rights retained by inmates at the Union County Jail. Contact and negotiation with responsible officials has resulted in a preliminary agreement to rectify the situation.

6) The confining of juveniles in County adult facilities. This has developed into suits (discussed infra, Askins and Donald v. The Board of Freeholders and Sheriff of Cumberland County; Howells and Cooper v. Board of Freeholders and Sheriff of Cape May County).

7) The physical conditions at the Camden County Jail. This matter was subject to a pre-existing suit, however the County Penal Study Commission requested our involvement and we are cooperating with that group.

8) The methods and standards used by the Division of Correction and Parole in calculating pre-trial jail time for State incarcerated offenders. This significantly affects the amount of time an inmate serves in prison.

9) The methods and standards used by the Division of Correction and Parole for the classifying of all State prisoners. "Classification" determines the status of every inmate and therefore is of critical importance to the entire inmate population.

10) The Mercer County Youth House. Freeholder Joseph Tighe requested an investigation into this facility.

The investigation is completed and a meeting with responsible officials concerning our findings is imminent.

11) Mail procedures and other First Amendment issues at the Atlantic County Jail. A report will be submitted to the responsible officials.

12) First Amendment issues at the Passaic County Jail. A report will be submitted to the responsible officials.

13) The matter of Bail Reform in New Jersey. A report is being developed for submission to appropriate State officials.

14) The Tort Claim Act. The Public Advocate has presented our position, calling for the repeal of those sections discriminating against inmates, to the Office of the Governor.

15) Parole Board practices relating to State Prison inmates confined in the Youth Correctional Complex. We have assisted in developing legislative proposals for the amelioration of abuses.

16) Mail procedures and visitation at the Cape May County Jail. Negotiation has resulted in assurances by the responsible officials that the procedures in question will be changed.

It should be noted that those matters listed above which are not already in litigation are potentially litigable. Where we have reached agreement with responsible officials we continue to monitor compliance.

As of November 30, 1974 there have been seven matters raised to the status of litigation:

1) The readjustment unit at the Vroom Building. Forty-six out of the 56 inmates confined there requested our office to represent them in connection with conditions related to their confinement, procedures used for their transfer there and other appropriate matters. Intensive

investigation taking approximately three months resulted in our drafting a formal complaint for submission to court. Prior to filing we contacted Commissioner Klein to inform her of our proposed course of action and to request negotiation on the matter. Negotiations were commenced on November 21, 1974 and substantial preliminary agreement has been achieved. We have, however, requested formal memorialization of this agreement by December 15, 1974. This was done in order that we acquit ourselves of our responsibility to the 46 inmates who have retained us. (Previously they filed a pro se complaint in the Federal District Court and withdrew it in favor of our efforts).

We have agreed to meet with Commissioner Klein on other State institution matters as well as Vroom.

2) Avant v. Clifford. Our Office requested that this matter be reheard in the New Jersey Supreme Court and that we be granted amicus status. Such has been done. The issues presented in Avant go to the root of the regulation making power of the Department of Institutions and Agencies vis-a-vis State Prison. Further, it placed before New Jersey's highest court the significant and constitutional question of due process in the prison environment. Our recommendation as amicus that certain fundamental changes be initiated in the disciplinary process at State Prison has been accepted and agreed to by the Division of Correction and Parole for implementation by January 1975. Avant has not been scheduled for oral argument as of this date.

3) McGinnis v. New Jersey State Parole Board. Notice of Appeal has been filed and docketed. The issues presented by this case include due process parameters in a parole rescission hearing and the extent of Fifth Amendment protections in the correctional context.

4) William Campbell v. New Jersey State Parole Board. This case presents to the Appellate Division the question of the appropriateness of State Parole Board involvement in the paroling of sex offenders. It has been found that approximately 75% of those sex offenders recommended for parole release by the Special Classification Review Board are turned down by the State Parole Board. Since a sex offender does not go before the Parole Board unless exhaustive analysis is had by experts who recommend his release, there is an apparent abuse of

Parole Board discretion. Presently we are awaiting disposition of a motion to remand the matter for evidentiary hearings.

5) Askins and Donald v. Board of Freeholders and Sheriff of Cumberland County. This matter concerned the detention of juveniles in the Cumberland County Jail. We obtained an Order disallowing such detention for under 16 year old children, and temporarily allowing detention for 16 - 18 year old juveniles accused of serious offenses pending completion of a juvenile facility in December 1974. The court retained jurisdiction and has ordered the responsible officials to report periodically regarding the new facility. Although we were in disagreement as to the temporary detention of the 16 - 18 year old group, we decided that imminent completion of the new facility did not warrant interlocutory appeal because of the time factors involved.

6) Howells and Cooper v. Board of Freeholders and Sheriff of Cape May County. (Same as No. 5 above).

7) Robert Urbano v. Department of Institutions and Agencies. This matter involved Division of Correction and Parole standards relating to review of institutional punishment of inmates. Negotiation failed to produce any results and the imminence of sanctions against the inmate caused our office to file a petition for Emergency Relief before Judge Baruch Seidman of the Appellate Division. Our formal appearance caused the Division of Correction and Parole to agree to resolve the matter and in cooperation with staff from the Department of Institutions and Agencies, Division of Correction and Parole the matter was resolved in favor of Urbano and more importantly resulted in definitive standards for review of institutional punishment.

#### SPECIAL MATTERS

Although the bulk of our work is as described above we are involved in other matters as well.

1) Disturbances. We have significantly participated in the peaceful resolution of three disturbances. Two at the Mercer County Jail and one at Bordentown Refomatory. We participated as inmate

counsel with responsible officials in all three matters. The time spent by our staff in resolving these confessions can be measured at well over 200 man hours.

2) State and County Officer Training. We are formally involved as instructors in both the New Jersey State Correctional Officers Academy Training Program at Skillman and the Mercer County Officers Training Program at the Mercer County Workhouse. We have, in fact, developed for the State a program geared specially toward correction officers entitled "Rights, Duties, and Responsibilities of Correctional Personnel". This program is unique (or was) to our knowledge and has resulted in requests for assistance from other states.

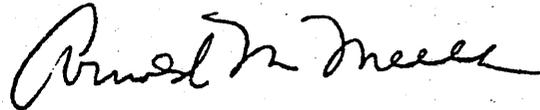
3) Advice. We have been called upon by numerous State, County and private agencies to render advice and assistance in matters regarding corrections and parole. A result of this phenomena is our planning a manual of proposed standards for the implementation of inmate rights at County institutions.

4) Law School Clinic Program. We have been requested by Rutgers Law School, Newark, and Seton Hall Law School to provide our assistance to their correction law clinics. This we have done by meeting with faculty and students on a regular basis.

Although the above reflects with some detail our present operations, we wish to emphasize that we have had no dealings with municipal institutions (lock-ups). In the event that we are successful in negotiating significant changes in the State and County systems, we will then have the time to investigate local facilities which, traditionally, have been the most neglected and unaccountable. Further, the report does not reflect the creation of form packets for inmates with apparently justifiable grievances whom we do not have the resources to represent or whom we would not represent because their interest is too narrow.

Attached please find a breakdown of the number and type of complaints from the various State institutions and a breakdown by number from County institutions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Arnold M. Melk".

ARNOLD M. MELK, DIRECTOR  
OFFICE OF INMATE ADVOCACY