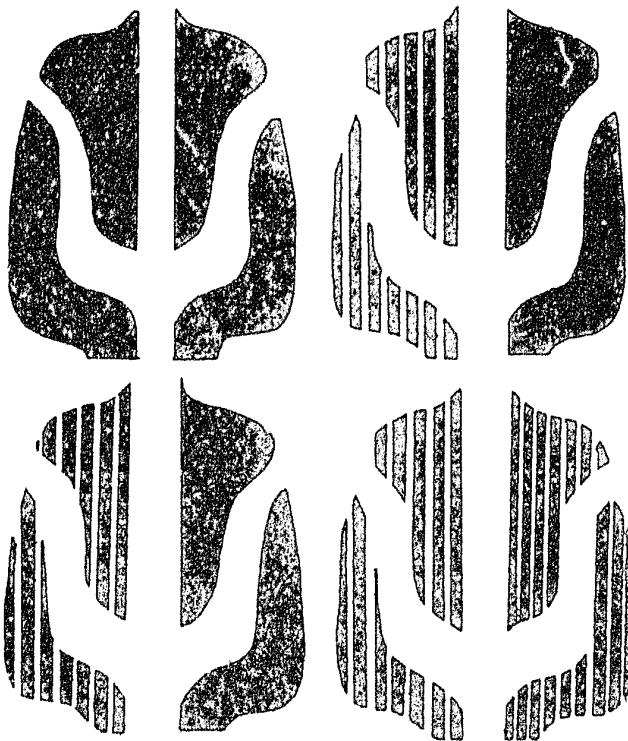


BLACKS AND THE CRIMINAL JUSTICE SYSTEM

The Fourth Alabama Symposium on Justice
and the Behavioral Sciences



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BLACKS AND THE CRIMINAL JUSTICE SYSTEM

Proceedings from the Conference Held February 24-27, 1974,
at the University of Alabama

Charles E. Owens, Editor

Report Number 26
Center for Correctional Psychology
Department of Psychology
The University of Alabama

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PREFACE

It seems that since the days of slavery in America, being born black has always been a crime. For more than 300 years, beginning with the period of slavery, the criminal justice system has been a constant bedpartner to the black experience.

In 1904, a group of black people convened in Atlanta, Georgia for a conference titled, "The Causes of Negro Crime." To the best of my knowledge this was the first recorded conference that: Attempted to define the black experience and its unique interaction with the criminal justice process; highlighted discrimination in the criminal justice system; and presented recommendations for change in the system.

Seventy years later, February 1974, more than 200 people from some 25 states gathered together for a conference which focused on "Blacks in the Criminal Justice System." This conference was both significant and historical.

It was significant because:

It took place at The University of Alabama

It brought together a host of blacks from every sector of "the system", including social workers, professors, community leaders, mayors, lawyers, ex-offenders, doctors, city councilmen, judges, correctional officers, members of probation and parole boards, wardens, law enforcement personnel, state commissioners of corrections, and interested citizens.

It also brought together whites working throughout the system who share our concerns.

This conference was historical because:

It was.

Over a span of four days vital issues were discussed during all sessions. In some, models and strategies were developed around the various themes: Walter Jackson and Bill Thompson talked about *the reintegration of ex-offender*

into the community through participation of inmate and community people. Lawrence Tolliver and Regina Davis presented strategies to monitor the judicial process. Jack Highsmith expressed techniques and tactics for recruiting and hiring minorities in law enforcement. A model for the training of correctional staff was presented by Richard Lyles and George Ashford. Working with families of the incarcerated was cited by Dorothy Williams. Jack Solomon focused on educating inmates. Enumerating new directions for probation and parole were Mamie Reese and George Felkenes, and community based programs were discussed by Jerry Miller and Eugene Rhoden.

Most small group sessions educated and stimulated participants, gave new information in old ways and presented old information in new ways. Some raised more questions:

Lloyd Baccus, John McKee, Grover Bell, and William Jenkins asked, *Is there a therapeutic technique that is effective with blacks?* Bertram Perry queried, *Is racial or sexual discrimination justification for crime?* Joe Gallagher asked, *Who is the retarded offender and what do you do with him?* Stanley Brodsky, Lloyd Baccus, and Hobart Banks discussed positive and negative aspects of indeterminate sentencing. Alvis Adair and Alex Swan explained the effect of incarceration on inmates and their families.

Others examined the unique problems of the offender. Angelina Bell, Jeanette Walton, and Mike Seay examined the unique problems of the black female offender. Ferris Lawrence, Mike Seay, and Mafundi probed the many obstacles and hurdles that society puts before the ex-offender.

Directions and challenges for making an impact on the entire criminal justice system were given by Bennett Cooper who presented the keynote address and Judge George Crockett who set the conference tone with stimulating remarks. Judge Crockett stated, *"If you really want to change the criminal justice system you have to change the attitudes of the hub of the system, the judges."* Bennett Cooper challenged the group to initiate a national organization that would address itself specifically to the needs of blacks in the criminal justice system.

This document is divided into three parts. Section I contains five presentations from the conference. Section II is a recording of the formation of the National Association of Blacks in Criminal Justice and Section III contains the conference program and a list of the participants in attendance.

The five papers published in these proceedings are but a small representation of the many other papers, of equal significance and importance, presented during the conference. Included in these five papers are broad and specific concerns of blacks in the criminal justice system. Bennett Cooper shares personal experiences, gives his views of "criminal justice" and highlights the relationship of the "system" to blacks. Daniel Skoler focuses on legal and legislative issues and their impact on blacks. Samuel Barnett reviews and evaluates research conducted on blacks in the criminal justice system and provides direction for future research. A critical look at the black community, the relationships of the police to this population, and a model for community control of the police is presented by Alex Swan. Finally, in an essay, Andrew Chishom discusses recruitment and retention problems of black employees and some of the internal conflicts black correctional workers experience.

The pursuit and attainment of justice is never easy, and for many black Americans, justice often waivers between fantasy and fiction. Fantasy in that they think justice does exist for them and fiction in that they are told that it does exist, when in fact it does not.

In order for justice with equality to become a reality for all segments of our society, all segments of our society must become involved in making it a reality. Behavioral scientists, both black and white, must become part of this group.

This report and this conference represent one modest step in achieving this goal.

C.E.O.

ACKNOWLEDGEMENTS

A lot of good things happened at the conference in February and a lot of good people helped these good things to happen.

The students in the class I taught on "Blacks and the Criminal Justice System" were beautiful. They provided conference participants with information, transportation, and hospitality which contributed to the warm atmosphere of the conference. I sincerely hope that they became a part of the experience.

Mary Lyn Pike, Alexis Artwohl, Anita Armstrong, and David Robertson, stipend and work study students, were especially helpful in coordinating the operation of the conference. They provided not only laughter when I felt that everything was going wrong, but also strength and direction when I really didn't even know what was going on.

George Faulk and the Continuing Education Center staff did an excellent job with the administrative details of the conference.

From afar, Richard Tapscott and Frank Jasmine in Washington, D.C., and Sam Barnett in New Jersey provided assistance in putting me in contact with many of the conference participants and speakers.

Last, but not least, my co-workers in the Center for Correctional Psychology at the University were extremely supportive in this endeavor. Thanks, Stan Brodsky, Carl Clements, Bill Chambers, Doug McElvy, and Charlie Haun.

While the thrust of the conference focused on blacks in the criminal justice system, the people who made the conference a success were black and white. I am especially proud to have been part of an experience where people moved beyond the color of one's skin to accomplish a common objective.

C.E.O.

SECTION I

CONFERENCE PRESENTATIONS

BLACKS IN CRIMINAL JUSTICE: AN OVERVIEW

by

Dr. Bennett Cooper

Let me say that it is a real pleasure for me to be here. Chuck Owens called me some time ago to ask me if I would come, and I said I would be happy to.

Let me also commend President David Mathews on his cooperation with a program of this sort. There are men of lesser stature that would not have allowed it in this university or any other university. Furthermore, I can genuinely say that a few years ago I didn't think I would be standing in the University of Alabama talking about blacks in corrections or blacks in the criminal justice system.

The words "criminal justice system" are abrasive to me. I think we ought to just say "criminal justice" and stop right there, because the justice that is dispensed in this country, particularly toward blacks, is criminal. The phrase really has some meaning when it says "criminal justice" and you stop there, but if you go on to "system," it makes the phrase more sinister because it systematizes the whole business and makes it difficult for all of us.

It is easy to criticize. I can criticize anything and so can you, but we need to examine it some. I do not think most of us really need to examine it much because we are pretty familiar with it. I was speaking not long ago to a black political organization, and I asked them, "how many of you know anybody in prison?" In a group of about 200, five or six hands went up. I said, "Now ladies and gentlemen, you know better than that, there aren't any blacks that do not know some blacks in prison. Now tell the truth, how many blacks know some blacks in prison?" Then everybody put their hand up. To blacks, crime is normal, it has been a way of life. It has not been a way of life that blacks have liked, but it has been one that has been forced on them. Nonetheless, blacks know about crime, and crime certainly knows blacks.

I have been in corrections some seventeen years. I came into the business as a chief psychologist in 1957. I

later became an associate superintendent in the structure, then superintendent in the structure, eventually a commissioner of corrections for the State of Ohio, and finally the Director of the Department of Rehabilitation and Corrections. How I got there, I do not know. However, I want to relate to you at least some of my feelings about the criminal justice system, how it works, and how it doesn't work.

Let me illustrate first my feelings about the general area of crime by relating a little story. I guess most of us have heard of a former illustrious mayor of New York named Robert Wagner. Wagner was considered to be a good administrator. He went around to all of his departments and spent some time there to find out how the department worked. The first place he went when he was elected was the Night Court in New York City, the likes of which you have never seen before. When Wagner was serving as an acting judge, the first man that came before him was a fellow who had stolen some bread in order to feed his family. Wagner asked the fellow, "Why did you steal that bread?" The man replied, "I stole it to feed my family." Wagner told him, "Well, that is a noble motive for stealing, but you broke the law, so I will have to punish you and fine you ten dollars." The man replied, "I don't have the ten dollars. If I did, I would have bought the bread." Wagner then told him, "I'm going to loan you ten dollars so you can pay your fine." Then Wagner turned to the crowded courtroom and said, "Now I am going to fine each one of you fifty cents apiece because you live in a city where a man has to steal bread to feed his family."

I think that illustrates the real point of what we are talking about when we discuss the criminal justice system and how it works and does not work. The criminal justice system, in my experience, has been a highly selective process. Highly selective in that it screens some in and screens some out. It screens most blacks in and most whites out; screens most poor folk in and screens most affluent people out. The system is so selective that you can predict who will and who will not be put in jail.

Judges do not like to hear that you can predict who they will send to prison or who they will keep in the criminal justice system. I was speaking before a Judges' Association meeting recently, I said the same thing and a judge invited me to his court to show me that I could not predict who he was going to send to prison. I told him that I may not be able to predict for each individual, but

I could in terms of socio-economic status, race and sex. The judge took real issue with this. He said, "I'll tell you what, let me give you a little sample case here." I agreed, and he said, "Why don't you be the judge?" I replied, "Well God forbid, but we'll try that." He continued, "Now you are the judge and you have two people in front of you. One is a young man who has offended the law and is here with his family and friends and the best attorney that money can purchase. He has some resources and skills in the community. The other young man has come in alone with no family, a State-paid attorney, no resources, no skills, and little education. It is your decision as to whether you are going to send them to prison or place them on probation. What would you do?" Well I could see that he has a stacked deck when he gives you stories of this kind, but I thought for a moment and said, "I would place both of them on probation." He said, "That's incredulous, why would you do that?" I replied, "If your court cannot understand or does not have the resources to assist the person who needs it most, then they both ought to be on probation. But more than that, your court ought to have the resources to handle both types of situations. Society itself stands to gain more from the man who needs the most help." The judge walked away, he did not want to talk about it any longer.

Actually what happens is that those three entities, the judge, the prosecutor, and the defense counsel, really control what happens in prison and the criminal justice system. Most of you know this but it is a point that has to be made over and over. Those three entities get together and decide on the fate and future of many people, most of whom are black and poor. They bargain away the lives of people, get them to cop pleas to things they aren't guilty of, which in my mind is unethical to say the least. They take oaths to this ethics business and assuming they know what oaths mean I guess they feel they stick to them. I do not have any bones to pick with the profession as a whole, just with all of those who do wrong.

As I see it the real issues of blacks in corrections and the criminal justice system are who goes into the system, how they get there, and what happens to them after they arrive. If everybody had an equal chance then we would not have as much to complain about. Let's look at it from this point of view. All of us know that the people who are in the criminal justice system, once they get there, are not likely to ever get out again. The sys-

tem perpetuates itself right from the inception and that is why those of us who have looked at the business for a few years have come to the conclusion that a number of things need to be done.

The first thing that needs to be done is to eliminate the system almost entirely. Recognizing that in our time our society is not going to allow offenders of the law to go unpunished, what is it that needs to be done, and can be done reasonably? Let me say that as a social scientist I generally agree with the principles of human behavior in that it changes slowly. There are those who say that the criminal justice system cannot change rapidly. As a social scientist I tend to agree with that, but as a black person who has seen what happens in the system, we cannot wait for that slow change. There has to be some radical action taken, action that our society is not ready for, and certainly that the system is not ready for, and may never be ready for. If we wait for the system to get ready, we may well not make the change, or even attempt to make the change.

A good many people in this room know a friend of mine by the name of John Boone who was the Commissioner of Corrections in the State of Massachusetts. He was a black man who had a dream about changing a correctional system and changing it pretty rapidly. John Boone is no longer Commissioner in the State of Massachusetts. He tried to change it, really made the effort, and was, in effect, emasculated. The follow-up was that somebody in the Governor's office in Massachusetts called me and offered me the job. I said, "You just got through emasculating one black man, what do you want to do, emasculate another?" The point is that the man who really tries to make radical changes does not last long because the system will not allow him to. Some of the guards in Massachusetts said that they would never take an order from a "nigger." That was allegedly one of the battle cries as it was related to me.

Any of us who have been in this business any length of time, any length of time, know one pretty salient fact about the business. The longer you keep a person locked up, the less likely he is to ever be able to adjust to the outside again. If at all possible, do not lock people up. That's paramount. Now with that thought in mind and knowing that we are not going to keep everybody out of lock-up, the next thing is to get them out as quickly as possible. If you have to lock people up, get them out in the

shortest possible time. This is consistent with the fact that the deleterious effects of prison life will not have taken as much effect if you get them out as soon as you can.

One of the greatest problems in the prison system is the parole process and how long people are kept there. As recently as a couple of weeks ago I asked my parole board to tell me why they were needed. They have not answered that yet. In my mind, parole, as it is presently structured, is one of the worst travesties of justice I have ever seen. When we couch in the hands of a few people, with inadequate information, the power to decide when a person is released and when he is not, I think it is wrong. If it sounds like I am for the abolition of parole boards, I am. I have said it before and I continue to say it. I feel that one of the most serious problems in the prison system is how long we keep people there. Recently we got the authority to let a person loose just about whenever we want to, as long as he is not in on murder, but the parole board still has to do it by law. Until we get parole boards out of it, we are going to keep a lot of people locked up longer than we need to.

The great, great majority of people in prisons do not really need to be there, and do not pose any real threat to society. In fact, some of you know as well as I do that when the decision was made in Florida to release two thousand people from correctional institutions, the incidence of crime did not go up. If, however, you know that you have to keep some in prisons, then what else can be done?

Another thing that needs to be done is to afford a person experiences even while he is locked up, experiences that he can use in adjusting when he gets out. That means, pretty simply, that you cannot keep people locked in maximum security and you cannot parole them from there because the traumatic effect of sudden release from total lock-up is one that human beings are not able to adequately cope with. (And human beings are able to adjust to almost anything.)

We have to get people out of immediate lock-up, we have to get them back living as close to home as possible and as normally as possible, and we have to do some things that we have not done before. For example, we are now trying to get the legislature to give us the authority to let people go home for a week for no reason besides doing whatever they want to while they are there.

That brings up another issue when you talk about getting prisoners and convicts back into the community. It is not too bad if you are able to divert them from prison and keep them in the community, because most people in the community at that point would know that these people have offended the law and any kind of diversionary program up front is kind of acceptable. But after a prisoner has been confined and you attempt to open community-based facilities, that is when it hits the fan.

If someone has ever been a prisoner he looks at the criminal justice system totally different than someone who has not been. The greatest illustration I have had of these different perceptions happened last November when fifteen administrators from the United States were invited to Europe to meet with fifteen European administrators. It was remarkable what the administrator from Holland related about how they were having approximately five escapes per year from the institutions in Holland when he first took charge. Each escape caused a big furor in the community and was national news. The reason for the furor in the community was that each man who escaped always assaulted somebody to take money and clothes in order to get away. When the administrator took charge, the first thing he did was give all the convicts money and clothes. Escapes went up five hundred percent, but nobody was assaulted, nobody was robbed, and the escapes came on the news so frequently that they were no longer news. You couldn't do that and remain as an administrator in charge of facilities in this country, it would not be tolerated. If you try to give convicts money and clothes that allow him to get away, you may as well leave too. The difference is that most Europeans have in some sense been prisoners at one time or another, so their perspective of those who have broken the law and are imprisoned is considerably different than that of the American puritan ethic which black folks have not been allowed to live in; not that they necessary want to, but still they have not even been allowed to try.

The Dutch administrator had ten commandments and I think they were pretty great. They dealt with institutions and I want to read them to you.

1. Never say that imprisonment makes sense, just say that you have to give sense to imprisonment.
2. Never speak to your clients of treatment, just try to help them if they are aware that they are in need of help.

3. Do not consider a prisoner as a person who has lost his rights, just help him to use his rights and to respect the rights of others.
4. Do not say that in prison everything is forbidden if it is not allowed, just say that everything is allowed if it is not really necessary to forbid it.
5. Do not think that prisoners are not ready to accept their sentences, a lot of them do and they are not in need of security measures.
6. The best security is the minimum security and that should be your maximum security.
7. Always consider a prisoner as your fellow human being, you will find out that he differs less from you than you might have supposed.
8. The main problems of your clients are lying outside, not inside the prison walls, so do not isolate your institution from the outside world, which is also the prisoner's world.
9. A prisoner is not always wrong, sometimes a prisoner may even be right.
10. Remember that the prison is the prisoner's house to live in, not yours, so it is important to know how he wants to live.

These are the ten commandments of one administrator from Holland, whether they're accepted by all of Holland is another question.

Let me tell you that as black people it seems to me we have to view this whole criminal justice system as not only racist but classist as well. "Classist" says that not only will we deal with black people in this manner, but we will also deal with all poor people in this manner and we are bound to get just about all the blacks when we do that. So we will get all the blacks and then the poor whites in the same process. We wind up with a classist, racist society, and that's where the problem of the criminal justice system lies. It does not lie in prisons or in the criminal justice system per se except as they are consequences of the classist, racist society we live in. That is why the system is what it is, because it takes all of

the "undesirables" out that the classist, racist society doesn't want and isolates them in some out of the way place, keeping them there, out of sight and hopefully out of mind.

However, the last few years have seen a sudden and dramatic change in terms of how oppressed people in prisons feel about it, and I do not need to recant to you the tragedies of the prisons. You have all seen them, heard of them, and some of you may have been in them. There are those who feel that if you are not working to change these conditions by violence and overthrow of the system then you are not making a contribution to change. I have to take some exception to that viewpoint because I think we need people with all levels of effort. Riots have actually made my job easier. I can change things a lot more by saying that we are going to have a riot if we don't change. That kind of action, whether you like it or not, is an assist in the whole business. We might not like that kind of assist because some people have to pay the sacrifice and it is a dear, dear sacrifice that people pay.

The number of blacks working in the correctional system is minute, and there are reasons for this underrepresentation. I understand the reasons and I understand the dynamics of why blacks are not happy about working in prisons. I realize they don't want to be a part of punishing and dehumanizing their brother. My point is that this attitude is not going to help those who are in there at all. In fact it is going to be worse for them if there are not some of us blacks working in corrections and the criminal justice system. Just because we do not like it is no reason for not doing something to improve this situation.

We can produce change more rapidly by design than by chance. One of the things that I hope comes out of this conference is the development of a strategy that we can use to make rapid changes. I hope something more than hospitality comes out of this experience. I hope more than rhetoric results because lately the trend has been to turn to rhetoric. All of us are getting good at it and we try to outdo each other, so let's get more out of it than that. Let's get down to planning some strategy. It seems to me that a black oriented conference of this kind ought to become a permanent organization. The history of progress has really come by concerted action, and unless we concert our action the progress that all of us want to see will not take place.

An organization could assist in the whole area of affirmative action for the employment of blacks, for their use, for their trade-off, for their technical assistance, and could assist anybody in any part of the country if it becomes strong enough. One of the things we can do in the future is to expand this conference so that we will need a bigger room than this, one twice this size. Each brother and sister, each participant here ought to bring another so we will have twice as many as we did this year.

The real struggle here is for the dignity of man and I think the struggle is for all of us, not just for some of us, and it is for those who are in prison as well. Unless those outside prison struggle for those who are in then his dignity is not going to be respected.

I did not think of this, I wish I had, but it has been said that we are our brother's keeper. We do a great job of that, keeping our brothers in prison; but until the time comes that we accept the fact that we are our brother's brother and help him to get out, help change the whole system, then we are going to be right where we have been for the last two hundred years. In my final parting word let me say that the challenge is here and I would ask that you join the fray and that you see that there is a perpetuation of that which has been started so nobly here by Charles Owens. Thank you.

THE BLACK EXPERIENCE AND THE CRIMINAL JUSTICE SYSTEM:
LEGAL AND LEGISLATIVE PERSPECTIVES

by

Daniel L. Skoler

Introduction

The past decade, perhaps more than any comparable period in our national history, has been one of identification, focus, and attention for the inequities and deficiencies of our criminal justice system. To some extent (e.g. unprecedented court caseloads) these have been the product of a changing, stressful, growing, urbanized society with attendant strains on all governmental institutions, including criminal administration machinery. In other ways (e.g. prison system conditions) the shortcomings have been the legacy of decades of neglect unworthy of a justice and dignity oriented society.

Whatever the case, a central fact that cannot be ignored -- and will not go away -- is that the burdens of today's substandard conditions and systems have been disproportionately borne by black citizens.* This is also simply because blacks have fallen most squarely and directly within those two broader social groupings on whom system inequities have impacted most hurtfully, minorities and the poor. It is important to recognize this because the gravest abuses and the most significant reform thrusts for black citizens have not always been defined, or even properly categorized, on a racial basis. They lie in issues such as counsel for the indigent, eliminating undue sentencing disparity, proper regulation of administrative discretion, expanded availability of pretrial release for those who cannot afford bail, and removal of inhumane institutional conditions which, regardless of rhetoric, are as much battlefields for black rights and equity as the more clearly identified racial issues such as segregation of offenders in jails and prisons or more black judges, policemen, correctional workers, etc., among criminal justice officialdom.

* For an insightful development of this theme, see Burns, The Black Prisoner as Victim, 2 Black Law Journal, (1971), reprinted in Hermann and Haft, Prisoner's Rights Sourcebook, pp. 25-31, Clark Boardman, 1973.

This paper will deal with both kinds of issues in some selected areas, largely drawn from the author's recent involvement in the peno-correctional phase of the criminal justice process. The limitation of subject matter will, of course, fail to do justice to the total perspective which the subject warrants. However, it may offer a level of specificity sometimes difficult to achieve in broad critiques of race and criminal justice.

The black experience, from a legal and legislative perspective, then, will be mirrored in four areas:

1. Sentencing disparity in courts as related to black offenders.
2. Segregation in places of confinement.
3. Rights of the accused and the convicted which have had a special and somewhat "exclusive" impact on blacks.
4. Employment of blacks in the criminal justice system -- the ultimate response to problems of discretion, attitude, and bias than can never be fully reached by legislative, judicial or "due process" mandate.

Sentencing Disparity

The general problems of injustice and abuse surrounding the imposition of sentences on this nation are well known, widely discussed, and the subject of great concern among the legal profession:

"Among the ironies of the law, there are many surrounding the manner in which sentences are imposed in the majority of our jurisdictions. One of the most striking involves a comparison of the methods for determining guilt and the methods for determining sentence. The guilt determination process is hemmed in with many rules of evidence, with many tight procedural rules . . . a carefully structured system of appellate review designed to ferret out the slightest error . . . But by comparison to the care with which the problem of guilt is resolved, the protections in most jurisdictions surrounding the determination of sentence are indeed miniscule . . . It is not an overstatement to say of these jurisdictions that in no

other area of our law does one man (trial judge) exercise such unrestricted power. No other country in the free world permits this power to exist." Standards Relating to Appellate Review of Sentences, American Bar Association Project on Standards for Criminal Justice, pp. 1-2 (Approved Draft, 1968.)

Thus, there is solid support within both "activist" and "establishment" camps for (1) legislation providing for appellate review of sentences, (2) sentencing councils at the trial court level to guide the judge before he makes decisions, (3) broader use of presentence reports for more intelligent sentencing decisions, (4) shorter statutory "maximums" and highly limited or no "minimums" to bar undue or discriminatory severity with a particular defendant, and (5) expanded opportunity in the sentencing stage for the convicted offender to present his case.* These are overdue and sound measures which will, undoubtedly, improve the black experience with the "sentencing process."

In the evolution of these reform thrusts, however, there has been little solid data on how blacks have fared in sentencing as a group distinct from the poor and disadvantaged communities. Two recent studies, emanating from different sides of the country, offer some concrete form to the racial disparity that has generally been thought (and assumed) to exist.

In early 1973, the "Philadelphia Inquirer" released the results of a computer study of case dispositions in the Philadelphia criminal courts for over 1,000 persons indicted during 1971 for four serious crimes -- murder, rape, aggravated robbery, and aggravated assault and battery. Many comparisons were made but those relevant to the "black experience" issue indicated that:

-- When both the offender and the victim in the serious crime were white, the offender was sent to jail in 45% of the cases but when the offender was black and the victim was white, jail was ordered in 67% of the cases.

* See ABA Project on Standards for Criminal Justice, Standards Relating to Sentencing Alternatives and Procedures (Approved Draft, 1968); Corrections Report, National Advisory Commission on Criminal Justice Standards and Goals, Chapter 5: Sentencing (1973).

-- Whites were acquitted of the major charge for these offenses in 86% of the cases but blacks in only 61% of the cases.

-- Blacks were more likely to be sent to jail, i.e., blacks were imprisoned in 64% of the cases and whites in 42% of the cases (with corresponding probation dispositions of 58% for whites and 36% for blacks).

-- Blacks were more likely to receive longer sentences, i.e., were sent to jail for 7 months or longer in 69% of the cases as compared with 49% for whites.

This was one of the first major urban court systems to undergo such scrutiny. More than 10,000 court documents and 20,000 pages of transcripts of court proceedings were reviewed to follow the 1,034 defendants from commission of crime to trial and sentencing.

On the West Coast, a study done by Julius Debro of the University of Maryland examined two federal districts in California to probe the question of whether blacks were discriminated against within the federal system by virtue of sentences received or whether harsher dispositions might have been due to other factors such as type of crime and prior criminal record. (Debro, The Black Offender as Victim, paper prepared for 1973 Conference on Minorities in Corrections and Law Enforcement, Chicago State University, October 24-26, 1973.) The author cited recognized national statistics to set the stage:

-- Average sentences for felons sent to federal prison during fiscal year 1970 were 57.5 months for blacks and 42.9 months for whites -- more than a one year disparity (Federal Bureau of Prisons Statistical Tables, 1970).

-- In 1970, blacks constituted 60.4% of those arrested for robbery, 58.2% for murder or nonnegligent manslaughter, 45.5% for forcible rape, and 34.5% for burglary, despite the fact that the black percentage of the population was less than 15% (1970 FBI Uniform Crime Reports, pp. 131-133).

Mr. Debro's conclusions about the foregoing pointed out that the sentence or disposition decisions were largely the determinations of probation staff rather than of judges (since probation officer recommendations were

followed in over 90% of the cases). Second, detailed follow-up revealed that the more severe dispositions for blacks could be attributed to "legitimate" factors such as seriousness of offense, employment history, prior conviction and arrest records, as opposed to "illegitimate" factors such as birth, beliefs and religion. The ultimate conclusion (if this is a correct interpretation) is that the harsh impact of the sentence system on blacks was largely a built-in bias of the system based on black vulnerability to existing values and variables which were considered proper criteria for recommending against probation, i.e., unemployment, higher prior arrest rates, irregular residence patterns, and current conceptions of seriousness of offense (e.g., assaultive versus white collar or economic crimes). Overt racism, at least in the two federal districts sampled, was not significantly evident and covert attitudes affecting harsh dispositions were difficult to detect because of the "legitimate" sentencing considerations available to justify given dispositions.

The significance of the research, taken together, shows a de facto disparity in meting out punishments but one protected by legitimate "establishment" criteria which impacted detrimentally against black citizens.

Segregation in Places of Confinement

The illegality of segregated prisons is no longer considered to present a substantial federal question. Although there continues to be recognition that racial tensions may be taken into account by prison administrators in dealing with immediate threats to security, discipline or safety, burdens of proof here fall on the shoulders of such authorities. Recent cases continue to address borderline questions in this area, e.g., U.S. v. Wyandote County, Kansas, 480 F. 2d 969 (10th Cir. 1973) (vague fear that desegregation would result in violence ruled insufficient to permit continued policy of jail segregation) and Thomas v. Pate, 14 Crim. Law. Rep. 2378 (7th Cir., Jan. 10, 1974) (existing de facto segregation in cell assignments held to shift burden of proof to correctional authorities to demonstrate no personal responsibility and show that affirmative action to offset effects of past segregation was not feasible).

The foregoing area may well be one in which the law is ahead of correctional administration and its ability

to cope with racial tensions in the "pressure cooker" of the modern American Prison. Certainly racial hostility is no problem to be ignored in correctional institutions but it is clear that the "ball park" for resolution of the problem is not to be a segregated one. (The courts have even denied prisoner requests to replace mandatory desegregation orders with freedom of choice options. *Renfrow v. Carter*, 296 F. Supp. 201 (N.D. Ga. 1968).

Rights of Convicted with Impact on Blacks

To treat this subject adequately, one would have to span the already huge and growing body of prisoners' rights law and literature. Virtually every litigation and legislative issue of the past decade concerning rights of the confined has special significance for blacks. This would include such subjects as disciplinary and classification procedures; medical and health care; inmate safety and abuse; sanitation and security; access to courts and counsel; solitary and segregated confinement; speech, religion, press access and assembly; the so-called "right to treatment"; work, education, and home furlough programs; probation and parole granting and revocation; community supervision conditions and rules; pretrial release and bail; detainers and transfers; offender civil and job disabilities; and inmate councils and unions.

Suffice it to observe that under the leadership of "grass roots" court activism (doctrine here has "moved up" from trial courts across the nation shocked at correctional conditions rather than "moved down" from the Supreme Court as in the school desegregation area), there is broad recognition and acceptance today that individuals under confinement or other correctional supervision retain a wide variety of Constitutional rights available to other citizens. The recognition is not only reflected in court decisions but in national standards, legislative models, and administrative regulation models that provide a stable base for "institutionalizing" the rule of law here. (See for example, the "Rights of Offenders" Standards (Chapter 2) from the Corrections Report, National Advisory Commission on Criminal Justice Standards and Goals (1973); the Uniform Correctional Policies and Procedures of the Association of State Correctional Administrators (1972); and the Model Act for Protection of the Rights of Prisoners of the National Council on Crime and Delinquency (1972).)

What will be discussed here are some areas where nonrecognition or delayed recognition of rights has focused with particularity on blacks. The examples presented are of the First Amendment scope, i.e., religion and speech.

With religious belief considered an established component of rehabilitation programming and the long recognized legitimacy of Catholic, Protestant and Jewish observance behind prison walls, the burden of restriction in this area of prisoner's rights has fallen predominantly on the emerging Black Muslim faith and, therefore, on black shoulders. Muslims have had to assert, litigate, and establish religious freedom claims that were no longer battles for other faiths -- and have conducted this endeavor vigorously, effectively, and responsibly. Accordingly, some of the most important advances in First Amendment religious protections have come out of the black prison experience. Confronted at first by hostility and suspicion in religious practice and aspirations, Muslims have overcome unreasonable system responses by repeated victories in the courts. This began with First Amendment recognition and protection as a legitimate religious faith, *Pierce v. Lavalley*, 293 F. 2d. 233 (2d Cir. 1961), *Sewell v. Pegelow*, 291 F. 2d. 196 (4th Cir. 1961), moving to privacy and confidentiality of practice, *Howard v. Smyth*, 365 F. 2d. 428 (4th Cir. 1966) and reasonable duties to accommodate meeting, literature, dietary, and other special needs, *Barnett v. Rodgers*, 410 F. 2d. 995 (D.C. Cir. 1969).

Another area of recognized right that was available to inmates at large but denied to blacks as such, was the ability to receive normal "nonsubversive" literature oriented to blacks, i.e., newspapers, magazines, etc. Restrictions were both overt and covert but, by and large, courts have recognized the need for fair treatment on either First Amendment or Equal Protection grounds. See *Jackson v. Godwin*, 400 F. 2d. 529 (5th Cir. 1968) and *Rivers v. Royster*, 360 F. 2d. 593 (4th Cir. 1966) (equal protection clause mandates the right of black prisoners to receive papers and periodicals of general circulation allowed to white inmates and may not be avoided by limiting approved publications to "hometown newspapers" where these are written basically for the white majority).

Black Employment and Participation in the Criminal Justice System

One of the most striking manpower problems in our cor-

rectional systems (and, indeed, other criminal justice components such as police, courts, and prosecution) is the vast disparity between the racial composition of inmate or offender populations and the racial composition of inmate or offender populations and staffs. This too has been part of the black experience -- a de facto exclusion from decision making and operation of the system's machinery. The best research on this subject was undertaken in 1967-1968 by the Joint Commission on Correctional Manpower and Training which found, of the 152,000 workers in corrections from bottom line to top management (now over 180,000) a nonwhite component of 13% of the total manpower pool with the most marked underrepresentation in adult rather than juvenile corrections and in institutions rather than field supervision. Here was the breakdown:

	Adult Institu- tions	Juvenile Institu- tions	Adult Field	Juvenile Field
Administrators*	0%	14%	5%	3%
First Line Supervisors	1%	23%	6%	15%
Functional Specialists**	9%	25%	15%	21%
Line Workers	5%	26%	xxx	xxx

* Today, there are five directors of state departments of adult or juvenile corrections, three directors of major metropolitan corrections departments, and several deputy and assistant directors from minority group ranks.
** Includes probation and parole officers.

As against this, one must compare not fully reliable national estimates which suggest at least a majority of all offenders in institutions today coming from minority groups, with the great bulk (40% or more of incarcerated populations) being black. (See ABA Corrections Commission, A Correctional Must -- Increased Staff Recruitment from Minority Groups (1972).)

The foregoing imbalances have given impetus to a move to increase minority hiring in corrections. In the past two or three years, significant developments give hope that the goal of increased minority hiring will move significantly toward realization. Activity has proceeded on three different levels -- rhetoric, judicial decisions, and administrative regulations -- each playing an important role.

Political and correctional leaders, along with study commissions, have endorsed the concept of increased minority hiring in corrections. This lends support to legislative and administrative efforts and makes it difficult for these same leaders to reverse positions or justify no progress. Voices which have joined in the chorus include those of the National Commission on Law Enforcement and Administration of Justice, National Advisory Commission on Criminal Justice Standards and Goals, American Bar Association, and the U.S. Justice Department -- all solid "establishment" groups. One of the most forthright declarations of commitment has come from the correctional chiefs themselves in a recent policy statement:

"There is a clear need to increase the number of minority personnel at every level of corrections -- from top management to the newest correctional officer or clerk. Constant care must be taken to see that minority staff are treated fairly in every aspect of assignment, promotion and discipline.

It is desirable that every central headquarters have a high level official directly responsible for supervising the recruitment and fair treatment of minority employees. In large correctional systems, such a position should exist at every major institution. Access to the head of the system should always be possible for any employee concerned with a problem of discrimination. Artificial and unnecessary hindrances to minority employment should be eliminated. Civil service requirements should be carefully examined to determine of any unreasonable barrier exists to the employment of minority personnel."
(Association of State Correctional Administrators, Uniform Correctional Policies and Procedures, 1972.)

However, the history of the civil rights and equal opportunity movements has demonstrated that public or private organizations, acting alone, cannot be depended on for self-reform in this area.

Judicial decisions have removed difficult barriers by establishing presumptions of discrimination when disproportionate racial balance exists in hiring which the employer has the burden of refuting. An increasing variety of employment requirements and practices have been struck down by courts as discriminatory. The leading case here is the landmark decision in Griggs v. Duke Power Company, 401 U.S. 424 (1971). The case involved a suit

brought by incumbent black employees of the Duke Power Company. The company had a policy of requiring a high school education and passing grades on two professionally prepared aptitude tests in order to be hired for anything but the lowest level of the company. It set the same requirements for incumbent employees to transfer from any department to another one. The plaintiffs in the suit charged that these policies violated Title VII of the 1964 Civil Rights Act.

A unanimous Supreme Court agreed. The Court ruled that it was not necessary for the plaintiffs to prove that the employer intended to discriminate in order to maintain this suit:

" . . . Good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as 'built-in headwinds' for minority groups and are unrelated to measuring job capability."

The important question was whether or not the employment practice could be shown to predict how well the employee could handle the job. If not, the employment practice was to be prohibited as discriminatory. In addition -- and this is critical -- the burden of proof was placed on the employer to prove that the requirements were good predictors of job performance. In this case, neither a high school education nor the results of the aptitude tests could be shown to relate to job performance. Consequently, they were prohibited as discriminatory.

In the wake of the Griggs case, several lower courts have handed down decisions dealing with other discriminatory job requirements. Although most of these cases have been directed against police and fire departments, the legal principles would be equally applicable to correctional facilities and personnel. Several cases, for example, have challenged written tests as being inappropriate to judge job performance for hiring and recruitment. (Litigation aside, major correctional agencies such as the U.S. Bureau of Prisons and the California Department of Corrections have proved that effective recruitment of line officers can be conducted without significant reliance on written tests.)

Successful challenges have also been made to minimum educational requirements. Here, the courts have often balanced the need to avoid employment discrimination and

the desire to upgrade work forces by upholding requirements that employees attain certain credentials within a reasonable time after they are hired.

Other job criteria that have been attacked as improperly screening out minority persons are arrest and conviction records, garnishment of wages, credit references, and being the parents of illegitimate children. All of these have been found by some courts to unduly discriminate against minorities and to be unrelated to job performance.

Courts have been willing not only to declare certain procedures in job recruitment and promotion illegal, but have also applied far reaching relief. The most common relief has been an injunction against the discriminatory hiring or promotion practice, often accompanied by an order to compensate for lost back pay. Less frequent, but by no means rare, are orders for affirmative hiring ratios or preferences for minority employees in police and other law enforcement agencies. Most commonly these orders require a one-to-one or one-to-two, black to white ratio for future employment.

Administrative agencies, backed by federal antidiscrimination legislation, have promulgated tough new regulations which promote a significant impact on minority correctional hiring.

The Justice Department's Law Enforcement Assistance Administration (LEAA), which supplies large sums of federal money for correctional programs, now requires grant recipients to file statements detailing the racial and other minority composition of their staffs. Where disparities exist, an affirmative action program is required and, for the first time, good hard presumptions based on clear numerical formulas exist. In corrections, for example, any grantee (\$25,000 or more in LEAA funds) with a percentage of minority staff less than 70% of the minority inmate percentage will get special attention when compliance statements are received.

The basic statutory foundation for employment discrimination action is Title VII of the Civil Rights Act of 1964 which makes it unlawful for an employer of 15 or more employees "to fail or refuse to hire or to discharge any individual or otherwise discriminate" in terms of employment conditions, privileges, opportunities, etc. (42 U.S. Code, sec. 2000e, as amended by Equal Employment

Opportunity Act, P.L. 92-261 (1972). The Act's 1972 amendments have taken a giant step forward in relation to expanding minority employment in the criminal justice system by extending the jurisdiction of the U.S. Equal Employment Opportunity Commission to public employers with 25 or more employees and to enforce the provisions of Title VII in federal courts. Reflecting previously discussed judicial development, EEOC has issued regulations confirming that any employment selection device which has the effect (regardless of proven discriminatory intent) of screening out disproportionate numbers of blacks or other protected minority classes is discriminatory unless (1) the device is validated and (2) has high utility in predicting job performance (29 Code of Federal Regulations, sec. 1607). LEAA has also given notice that decisions on where to locate new correctional facilities will be closely scrutinized for their effect on minority hiring. This will attack the crushing problem of remote rural locations for prisons housing primarily urbanized blacks with little home community contact and almost no hope of significant staff of compatible racial background. If necessary, special housing and transportation arrangements will be required to make minority staff participation feasible (see Minority Recruitment in Corrections - New Federal Aid Requirements, ABA Corrections Commission, pamphlet, 1973).

Together, these minority employment forces indicate a needed and supportive trend toward increased minority hiring in corrections. The job, as always, will be slow and difficult of achievement but the legal apparatus, if used, has never been better.

Summary

The foregoing, hopefully, illustrates how the difficult "black experience" has provided a criminal justice reform legacy which may benefit the nation and its citizens for years to come. Certainly that experience has been central in accelerating a variety of needed changes and providing the "case in point" materials so important in moving the slow process of law reform. Perhaps the greatest thrust that remains is to move out of the "court forum" and into the more enduring and more pervasive arena of legislative codes and administrative regulations. These guide the everyday behavior of criminal justice and other governmental systems -- both toward minorities and citizens at large. If the lessons of the

"black experience" make their imprint here, we will have reached no millenium, but the justice system at least will have been placed more solidly on the action course called for by a distinguished black judge a few years back:

"Because of our refusal to solve the real, critical problems, because of our persistent preference to scream the easy cliché as a substitute for action, I sometimes wonder whether our nation will be able to reach its potential of greatness . . . The rational response to the work of the great commissions of recent years is not the appointment of still more commissions to study the same problems -- but rather the prompt implementation of their many valuable recommendations."

A. Leon Higginbotham
Address at 100th Anniversary Conference of American
Correctional Association, 1970.

CURRENT RESEARCH ON BLACKS IN THE CRIMINAL JUSTICE SYSTEM
AND SOME MAJOR SUGGESTED IMPLICATIONS FOR THE FUTURE

by

Samuel B. Barnett

Introduction

A little more than twenty years ago, during my first experience with the prison system as a guard at a maximum security prison in Pennsylvania, I was stunned by two facts obvious there. One was the clear majority of black prisoners, about 1,000 out of a total population of 1,300. The second was the almost complete subjugation of the prisoners' minds and bodies to the will of the guards. What appeared to me to be a game played between guards and prisoners was a serious matter. As they moved in their nearly lock-step lines to breakfast, lunch, or dinner, the prisoners studied every physical move of the guards. Prisoners also seemed to be capable of studying the inner thoughts of the guards and if stared at in return by the guards would drop their eyes to the ground in an apparent apologetic gesture of nondefiance. The complete absence of consideration of the prisoner as a person and the insistence upon the destruction of his individual dignity and worth is a notion that has stayed with me over the years.

As a returning paratrooper from the Korean War familiar with the behavior patterns of the private-sergeant relationship in the military, it was clear to me that the sergeant was superior only in rank to the private. As contrasted with my experience in the prison, there wasn't any suggestion that he was by virtue of his rank or position a superior human being. As a matter of fact, there were some soldiers who questioned whether rank, with it attendant compromising to military regulations, didn't make you a person of questionable individual qualities.

George Jackson Jr. stated in one of his books, Soledad Brother - Prison Letters of George Jackson, "If I leave here alive I'll leave nothing behind. They'll never count me among the broken men, but I can't say that I'm normal either. I've been hungry too long, I've gotten angry too often. I've been lied to and insulted too many times. They've pushed me over the line from which there can be no retreat. I know that they will not be satisfied until

they've pushed me out of this existence altogether. I've been the victim of so many racist attacks that I could never relax again. I can still smile now, after ten years of blocking knife thrusts, and the pick handles of faceless sadistic pigs, of anticipating and reacting for ten years, seven of them in solitary. I can still smile sometimes but by the time this thing is over I may not be a nice person." His message of a person pitted against a system determined to break his attempts to hold on to his manhood and dignity comes through loud and clear.

Malcolm X, in his famous book The Autobiography of Malcolm X, talks about his prison experience not in terms of glowing praise for programs and plans of rehabilitation that provided insights into a possible new life, but in terms of cursing guards and solitary confinement. Finally he reached an experimental prison (ironically with only 15% blacks) where he was able to completely enmesh himself into a world of books and learning and trying to isolate himself from his environment.

The late Dr. Negly Teeters, an internationally known criminologist, penologist, and prison reformer, wrote and talked about the historic treatment process afforded men assigned to the prisons in this country. In his famous book New Horizons in Criminology he illustrated the treatment process in America's prisons which does not rehabilitate men but returns them to society in most cases much more embittered and resistant to society's norms than before they entered the prison.

During my search for materials written recently and in the past about blacks in the criminal justice system, several things became clear. First, I could find no research studies conducted on black offenders in the criminal justice systems. Most material deals with criminal offenders, period. One has to surmise from the nature of the prison population that the subjects were black. This could be a mistake because in some cases prison programs with educational benefits and other "goodies" seemed to be reserved for a small minority of white inmates in spite of the fact that the prison population is overwhelmingly black.

Secondly, none of the research efforts which were considered in my review concerned themselves with the struggle between the prisoner's desire to remain a man or a human being, and the prison administration's attempt to strip him of what they view as anti-social behaviors and convert

him to a more conforming member of society or the institutionalized cripple that most become.

Thirdly, the enduring attempt of white America to subjugate the black man economically, spiritually, mentally, politically, and socially, is reflected through arrest rates, jail sentences, and the operation of the prison system.

This is not to imply that other minority groups who came to America were not initially discriminated against and did not fill our jails disproportionately to their numbers in the total population. However, most of them were able to gain political power over their domains and neighborhoods and rise to a position where they could control some of the flow of their people to the jails. No other ethnic group can claim that they were subjected to the same experiences in America that blacks have been. No other group has endured as many attempts by America to keep them "in their place" as the black man has. No other group can claim special code words such as "talking back to a white man" or "was with white girls" which trigger behaviors leading to unusually long jail terms or irrational, illegal, and inexplicable actions by administrators in the criminal justice system. There were no studies willing to deal with this problem which underlies most of our attempts at solving social and economic issues. This social and economic emasculation is at the heart of the black prisoners' cries that they are political prisoners.

Police and Arrests

There are many issues involving police that need attention such as the overwhelmingly disproportionate number of police brutality charges brought by blacks against white police, the statistical figures which indicate that on a national average police have recently used fatal force against seven blacks for every one white, or the fact that black applicants in each of the large cities of the nation have had to institute law suits to gain admission to police departments. Numerous studies in the area of police and arrests have been done, a discussion of some of them follows.

Many studies have been done which highlight the unusually high number of blacks arrested and charged with violations compared to their percentage in the national population. In 1951, Dr. Teeters talked about research

reports made even earlier pointing out the discriminatory arrest procedures in the criminal justice system. In his dissertation thesis (Rutgers University, 1965) Dr. Donald Halstead pointed out that police were more likely to make an arrest in discretionary situations with black youths than in similar situations with white youths. This can be easily understood when one considers that a National Crime Commission study in 1966 revealed that over three-fourths of the white officers serving in black precincts in three major cities expressed prejudiced attitudes towards blacks. Piliavin and Briar in their study in 1964 indicated that blacks are more likely to be questioned on the street, when questioned more likely to be arrested, when arrested more likely to be sent to court, and in court more likely than whites to receive a severe disposition.

In a further study done in 1970, Dr. Theodore N. Ferdinand, Northeastern University, and Dr. Elmer G. Luchterhand, Brooklyn College of the City of New York, were able to prove that although black first offender delinquents present less intensive anti-social attitudes and behavior patterns than white first offender delinquents, the blacks receive more severe disposition from the police than do whites accused of the same crime. The sample used in this study consisted of 1,525 teenagers in six inner city neighborhoods. Information was gathered through contacts in the police departments, juvenile courts, and the Central Arrest Bureau. Attitudes and behaviors of the youths were assessed through the use of questionnaires and interviews.

A report in the New York Times of September 28, 1969, entitled "Color Line - A Key Police Problem" discussed the growing hostility between black and white police officers. Cases were mentioned of racial slurs written on locker room doors and fist fights between officers of different ethnic backgrounds. In some cities (San Francisco, Detroit, Chicago, and Washington, D.C.) officers reportedly have drawn guns on each other. Reasons given for this growing friction were: (1) a new type of black officer: younger, more assertive, and more outspoken than the earlier black officer, (2) an increasing number of black officers recruited from the ghetto, (3) a growing number of black officers' organizations, (4) a trend in some departments among white officers to right-wing, anti-black attitudes, and (5) diverse effects of law and order campaigns and civil disorders by outsiders.

Some black officers are beginning to recognize that

they were hired as token blacks to deal with black problems and they are no longer accepting this role. Through the combination of increased complaints of discrimination from blacks applying to police departments, and support from the black community, black police officers are growing in numbers and their organizations are receiving more support. It is heartening to see the national unification of black police officers, hear their vows to remain black even when dressed in blue, and see their commitment to justice for all in the face of intimidation and threats from their police system.

The National Commission Report (1966) conducted by Dr. Albert Reiss, which collected data in Boston, Chicago, and Washington, D.C., revealed that 79% of white policemen in black precincts were prejudiced. 45% were classified as extremely anti-negro. It is interesting to note that 28% of the black officers also expressed negative attitudes towards blacks. Dr. Reiss stated that in none of those areas did they find the extremely militant black officer of today.

A September 30, 1970, article in the New York Times entitled "Race Friction Rising Among Policemen" states that there has been agitation by black officers against discrimination by police forces. This has been led by younger officers who will not be as patient as the older black officers have been. In Omaha relations between black and white officers had deteriorated to the point that a veteran commanding officer of the Omaha Police Department was quoted as saying, "I used to like niggers, but now I hate all of them." He was quick to add that his hatred of niggers did not influence him in his work. Black officers' complaints centered around discrimination in promotions, assignments, and patrols.

Minorities and the Police, a book by David H. Bayley and Harold Mendelsohn (1969) is based on a study of the relationship between the Denver Police Department and Denver's black and Mexican-American communities. It was concluded from statistics obtained in the study that contacts between police and ethnic groups were determined by ethnic group membership and not by class. This statement does not support the viewpoint of those who assert that problems of discrimination are basically a result of class prejudice rather than racial prejudice.

All of these reports and studies seem to support a belief that many blacks have always held, a belief shared

by the late Dean of Criminology at the University of California, Joseph Lohman. He stated that "the police function is to support and enforce the dominant political, social, and economic interests of the town and only incidentally to enforce the law." This conclusion from a person with vast experiences both as a former police officer and academic researcher agrees with my own perceptions of the job.

Most of the research to date on policemen has dealt with (1) the personalities of individual policemen, (2) the stresses and dangers of the job, (3) police chiefs and their departmental leadership and influence, (4) characteristics of the communities served, and (5) subcultures developed by policemen to combat the isolation of their job. However, almost no research has been done on the influence of class struggle and racial factors which dictate the behavior of police officers. It is clear that whenever there is a conflict of interest between the dominant groups in this society and the less powerful groups, the police protect the interests and values of the dominant groups, usually white, and regulate or jail the less powerful, usually blacks and other minorities.

District Attorneys

As a result of a program started by the District Attorney in Philadelphia in August, 1971, the DA's office started to screen out bad arrests in just three of the city's heavily populated black districts. Since then about half of the 9,284 arrests in those districts have been dismissed without prosecution on the advice of the DA's office. The DA suggested that the arrests should not have been made in the first place.

The Courts

There have been several significant studies of the courts over the past few years. Some of them led to the efforts of the so-called "Warren Court." There were more favorable decisions defending the rights of the accused rendered by the Warren Court during this period than any other time in history. Without question, blacks, the poor, and other minorities were the beneficiaries of these efforts. It has been the intent of the appointed Nixon courts to overturn most of these landmark decisions. There are three studies out of a possible dozen that I would like to discuss here.

The first is a study done by Dr. Arnold M. Rose and Arthur E. Prell entitled "Does the Punishment Fit the Crime - A Study in Social Valuation." In this study the authors tested the often stated assumption that the deprivation of freedom is directly related to the seriousness of the crime committed. At least two theories supporting punishment are based on this assumption: deterrence and retribution. The authors further state that acts which are labeled crimes are determined by the culture of the particular society in question. The degree to which laws have been instituted and modified, along with the series of judgemental factors concerning punishment for the offender, are all the end results of the varying influence of cultural discrimination based on class and sex. Rose points out that when all is considered, there is a discrepancy among three things, (1) the punishment specified in the law for a given crime, (2) the punishment actually given for the crime, and (3) the popular judgement as to what punishment should be given for certain crimes. The applicability of these areas to blacks offers an even wider discrepancy. Blacks who normally have had no hand in writing the law view it as yet another instrument of the system used to control them. It is clear that in the exercise of the law blacks and other minorities are the only groups who suffer the "letter of the law" and at times excesses of the law. There have been innumerable studies which point out that blacks receive longer sentences than white for the same crimes. Nothing indicates this clearer than the way sentences for the raping of white women have been meted out, in both the North and South.

Rose goes on to establish that the purpose of this study was to test the hypothesis that: judges want to know what, within the limits of the law, is a fair sentence in the mind of the public or a deterrence in the minds of potential criminals. Subjects were white college students acting as judges. They were presented with a questionnaire outlining the crime, a description of the defendants, all of whom were white, then asked to select a proper punishment. The researchers selected a group of offenses for which the penal code specifies approximately the same minimum and maximum punishments. Most of the offenses chosen are the kinds of crimes which blacks are habitually accused of. Some of the offenses were (1) child beating, (2) bigamy, (3) bribing a witness, (4) assault with a deadly weapon, (5) receiving stolen property, (6) fictitious checks, (7) burning uninsured property, (8) bringing narcotics or liquor into the prison, (9) attempted burglary - 2nd degree, (10) grand theft, (11) driving while intoxicated, (12) damaging telephone lines, and (13) unlawful

manufacture and sale of guns.

The results of the study, when both the subjects acting as judges and the described defendants were white, showed a pattern of determining punishment based on the class of the defendant and the nature of the crime. Subjects with different lifestyles were likely to make different judgements concerning the severity of crimes and punishments that should be given. Actual judges with different backgrounds were seen as likely to reflect similar background biases. Some judicial discriminatory patterns that emerged from the study were the following: Subjects with upper-class backgrounds were inclined to assign longer sentences than those with lower-class backgrounds. This may reflect the upper-class's vested interest in the society they are aligned with. Subjects from rural areas and small towns were inclined to assign both longer prison sentences and higher fines for most crimes than subjects from large and medium sized cities.

The implications of this study reflect the range of discriminatory possibilities against blacks when one considers that the overwhelming majority of judges are white, from middle to upper socio-economic backgrounds, and reflect a sense of values that white America holds necessary for its continuance as a capitalistic society.

The second study concerning the administration of the judicial system was based on data collected by the American Bar Foundation. Using state trial court dockets for 1962, they collected raw data on 11,238 cases from 194 counties in 50 states. The types of crimes used most frequently in the study were (1) larceny, the most frequently reported crime against property, and (2) assault, the most frequently reported crime against persons.

The safeguards of the judicial system, including preliminary hearings, bail, right to counsel, grand jury, and trial by jury, all exhibited irregularities in their application to blacks and the poor:

Preliminary Hearings: Although available in most counties to provide an opportunity for the accused to be freed, 434 out of 1,168 state cases received no preliminary hearings. Of these 434 defendants, 357 waived rights to a preliminary hearing, perhaps suggested by a lawyer, or from their own ignorance of its importance.

Bail: Bail offers the accused a chance to get

out of jail and prepare his case. However, of the 1,552 state cases on which information was available, 44%, or 689, were not released on bail. Of these 689 not released, 562 were ruled guilty and 71 were ruled not guilty. Of the 71 ruled not guilty, 20 stayed in jail for 2 months, 13 remained for more than 3 months, and 5 served jail terms of 6 months or more. No information was available for the other 33. These figures indicate that blacks were economic victims or were deprived of counsel or information which would have allowed them to better prepare their cases, maintain their employment, and provide for and protect their families.

Defense Counsel: Despite the well-known fact that it is nearly impossible to provide an adequate defense while in jail, 183 out of 1,561 had no lawyer at all, although only 13 had waived the right to counsel. In federal court, where all defendants must have counsel, 390 out of 1,151 had no lawyer.

Grand Jury: The protection of the individual's rights through the use of the grand jury appeared to be as much of a failure as the other safeguards. The state could produce no figures on this item because they did not separate those indicted by the grand jury from those who were not. Of the federal cases only 344 out of 915 saw the prosecutor.

As you go down the line of courtroom procedures there is a constant pattern: trial by jury, delays, conviction, and sentencing all showing discriminatory effects when the defendant was poor, black, or both. The report suggested that poverty may be a greater handicap than race in the criminal justice system. For example, Nagel mentioned that a black defendant is more likely to get a preliminary hearing than a poor white defendant, yet he is not as likely to be released on bail as the white defendant. The black defendant is much more likely to have a lawyer than the poor white defendant even though the lawyer is court appointed (with a great percentage of these losing cases).

Some evidence analyzed in the study led Nagel to state, "disparities in sentencing may therefore be double for the black defendant, determined not only by his own color but also the color of his victim." This illustrates the basis to the claims of the black community that white life is worth more than black. If a black kills a white he may get 20 years or death, but if a black kills another black, he will be out in 5 years at the most.

Nagel could find little difference between northern and southern states in discrimination against black defendants. It was, however, more consistent in the South at all stages from pre-trial to sentencing.

We see then in the courts a pattern of institutional racism which serves to keep the black and poor in an unequal position before the bar of justice. Since most blacks are poor, they are doubly handicapped and in many cases triply handicapped when defended by a white lawyer who is biased toward the reinforcement of certain American social norms, and an enemy in the defendant's own camp, hiding behind a legal shield of "I know what's best for you." The study seems to point out clearly that American justice is not nearly as blind as she purports to be, and in spite of the claim of equality before the law, some groups are more equal than others; blacks, the poor, and the ignorant being least equal.

In the third study, Donald L. Barlett and James B. Steele, investigators for the Philadelphia Inquirer (1973) asked the question, "Is there equal justice for all in the Philadelphia Courts?" They made an exhaustive study, collecting data from 1,034 cases for 1971 using 10,000 court documents and 20,000 pages of transcripts from court proceedings. Their analysis of the data revealed a pattern of discrimination in the Philadelphia courts. Barlett and Steele found that the disposition of some cases depended solely upon who the victim was and the biases of the individual judge. The percentage of cases imprisoned was higher for blacks (64%) than for whites (42%). Looking at persons receiving jail sentences of 7 months or longer, blacks represented 69% and whites 49%. It is interesting that persons under 30 years of age were found guilty of serious crimes and sent to jail in 65% of the cases. There is one justice for blacks and another for whites, one for persons under 30 and another for persons over 30, one for people who commit violent crimes in a business establishment and another for people who commit violent crimes on the street.

Black Judges and Attorneys

As a remedy for some of the discriminatory behavior exhibited in our criminal courts, some have forwarded the suggestion of placing more black officials in the court system. An article which appeared in the Wayne State Law Review revealed some interesting information about dis-

crimination in the court system and illustrated some of the experiences of black officials. The article pointed out that when black judges try to right the wrongs of the criminal justice system they are attacked by some organizations which feel that anything less than injustice for minorities makes their jobs tough and society vulnerable.

Judge George W. Crockett, Jr. (Presiding Judge, Recorder's Court, City of Detroit) states in his article Black Judges and the Black Judicial Experience, "It was 76 years after 1776 before the black man was permitted to occupy a judicial post. It was another century before magistrates in any noticeable numbers were allowed to sit in city and state courts." Thus for all but the last decade of our entire national existence, blacks have been virtually excluded from the judicial decision making functions in our society. This same pattern has been true throughout the entire criminal justice system including police, juries, and law schools.

Even when blacks graduated from law school they were not treated on equal terms before the bar of justice. I can still remember as a young policeman seeing an old black lawyer who yes-sired and no-sired the judge while admonishing his black client, and comparing his behavior with that of attorney Cecil Moore, later to become a great leader in the Philadelphia black movement. There were many times that I witnessed Mr. Moore make a legal point which should have freed his client, but the judge, incensed over Mr. Moore's "out of place" arrogance, held the client in high bail for court as a "slap" to Mr. Moore's attempt to receive dignity for both his client and himself. Some courts seem to be saying "you are not going to receive both due respect as a sharp black lawyer and your client's freedom, you must give up one."

The small number of black law school graduates and the virtual nonexistence of black judges has led to a situation of white judges, white lawyers, white juries, white police officers, white complainants; and black offenders with little or no legal support. A quote from an article in a law journal by a black judge states, "The truth is that our court system, state and federal, and our whole machinery of law enforcement remains even to this day the most racially segregated and class oriented institution in our public life." In 1972 there were less than 300 black judges in the entire nation. Only one out of every 60 judges is black, this is less than 2% of all judges. Out of 700 federal judges, 20 are black; and out of 16,000

full-time state judges, 258 are black. There is an uneven distribution of black judges, the major concentrations occurring in these 6 major cities: Washington, D.C., Philadelphia, Detroit, Los Angeles, New York, and Chicago.

Articles based on studies and observations reported in the various law reviews clearly underline the point made here that our criminal justice system is in deep trouble when it comes to administering justice. It is disturbing to hear countless comments and review numerous studies which indicate that courts are unwilling to face the challenge of insuring equality. Political pressures and/or social norms continue to deliver a type of justice that leads the black, the poor, or minority defendant to feel that even when he has been fortunate enough to win his case, he has still spent time in jail (longer than the sentence for the crime in some cases). Further, he has been denied bail, and his family and lifestyle disrupted. This provides more support for the feeling that his "place" in this society is clearly pointed out to him.

It all seems to make Robert Chrisman's statement in the May, 1971, edition of The Black Scholar stronger. He stated, "We must understand that the black offender is not tried and judged by the black community itself, but by the machinery of the white community, which is least affected by his actions and whose interests are served by the systematic subjugation of all black people. Thus the trial or conviction of a black prisoner, regardless of his guilt or innocence, cannot be a democratic judgement of him by his peers, but a political action against him by his oppressors. Grand juries, the state and federal judges of the circuit courts, superior courts, and supreme courts, are appointed, not elected. This fact alone prejudices a fair trial and precludes black representation. Black people do not have a single official in this country who has the power to appoint a judge or grand jury to the bench. Furthermore, judges, grand juries, and other instrumentations of a criminal justice system in a particular area should be reflective of the minority population of that particular area." For example, with Philadelphia having 35% black people in its population, 35% of its judges should be black. The point he is making is that much of the crime in the black community has its roots in the political and economic deprivation forced on the black community by the white American system. This is particularly reflected in the construction of laws which serve to reinforce the norms of a society which is basically racist. Black lawyers and judges today are organizing

to affect changes in the criminal justice system.

Prisons

The crisis of our prisons has been placed before the face of the public practically every day of the week because of recurring riots and disturbances occurring in the prisons. To date the only results I can identify from the massacre that took place at Attica is the highlighting to the public of the struggle going on between the prison officials and the prisoners over the control of the prisoner's mind. The prison authorities have proven that they have total control over the prisoners' bodies and they are struggling to control the prisoners' minds. Rehabilitation has long since been proven to be of minor consideration. Richard G. Singer, Professor of Law at the University of Cincinnati, wrote in his article entitled "Privacy, Autonomy, and Dignity in the Prison" in the University of Cincinnati Law Review, "Indeed it has long been recognized that the entire process of prison is designed to destroy the last remnants of the dignity of the individual."

A lawyer reviewing the outcome of the Heckart vs. Pate civil rights lawsuit described the interplay in court between the prisoner filing the suit and the judge making the ruling. A class suit under the 14th Amendment was brought in the State of Illinois in 1971 by an inmate claiming denial of communication with an attorney and other physical and mental punishments and denials without due process. The reviewer stated, "The Heckart Court voiced the opinion that the case before it was an assault upon the penal system of the State of Illinois, not by one individual, but by all inmates in the State's penal institutions." He goes on to remark that although these may be the expressed reasons for the court's decision, the real reason is that federal courts are reluctant to interfere with prison conditions except in unusual cases. Courts take a "hands off" position, not so much from a legal matter, but more from a behavior pattern of judicial resistance to interfere in the internal operation of correctional institutions. The reviewer also commented, "Legislative powers over prisons have been characterized by unrealized potential. Prison officials and administrators have been given unbridled discretion to conduct the affairs of the prison system."

So we see here lawyers and others involved in the criminal justice system stating that both judges and legis-

tures have been unwilling to exercise their power to control the way people are treated in prisons. Legislatures who have passed the law that sent a man to prison, and judges who sat and mouthed remarks about removing a man from society to restructure his life so he can fit back into society, are so indifferent or politically sensitive that they will not intervene even when such intervention might ensure that prisoner a better chance of not returning to jail.

William Hellerstein and Barbara A. Shapiro, writing in the Buffalo Law Review, talk about the absolute control exercised by the prison authorities even when confronted by the courts. Hellerstein states, "Prison officials can be expected to make every effort to thwart attempts by outsiders to gain entry to the premises, including attorneys." When a request for entry has been turned down, seeking access by court order may be of little help. In the Attica case, a restraining order was issued by the federal courts and 33 attorneys were to be admitted with doctors and nurses, but the prison officials ignored the order and refused entry. Hellerstein suggested that legally there are steps that an inmate can resort to to gain redress for a situation. For example, "class actions can be brought by inmates against widespread and unchecked brutality by prison officials; also the use of corporal punishment, racial segregation, and general prison conditions." Yet in a later article in the same law journal we find a judge making the following statement when confronted by a prisoner attempting to use some of the legal means open to him to redress wrongs inflicted upon him by prison authorities. The judge stated, "For a federal court, however, to place punishment beyond the power of a state to impose on an inmate is a drastic interference with the state's free political and administrative process. For us to say a policy used by the state which they have decided is proper, is improper because we disagree with it, would not be proper because we are not qualified to determine."

It seems clear that the intolerable conditions in the prisons leading to a revolving door type of treatment process with inmates will not be resolved until society is willing to decide the following issues:

Whether we want the prisons to punish former violators of society's norms or rehabilitate them.

Whether we are willing to provide economic, social, and legal means to provide former inmates a real chance for survival in our competitive society. In many cases this means providing him with a better start in life than he had before he violated society's norms.

Whether the society is willing to hire, pay well, and train the type of people to work as prison guards, parole and probation officers, and other workers who will help inmates become contributing members of a health society.

Whether legislators and other elected and responsible persons as well as the public at large will be committed to playing a monitoring role over the way prisoners are treated in institutions.

Parole and Probation

There is little need to say much about the probation and parole system except that remediation in the prison system will undoubtedly affect the former inmates' chances on parole. There are certainly some questions that need to be raised about the practice in most states of hiring former police officers and prison guards to work as parole and probation officers. Parole and probation should be seen as an attempt to give the offender an opportunity to prove that he can make it on the outside, and the supervising agent should see his role as one of providing support and encouragement. As I see it, there are too many indications that probation and parole officers see their role as one of watchdog, and feel that the parolees should be returned to prison as soon as possible. From my own experience this appears to result from both the parole officer not really believing in the possibility of salvation for the individual, and an attempt to avoid bad publicity and criticism of the probation and parole authorities.

Implications for the Future

From all indications to date we can expect little in the way of change in our current "revolving door" type situation with people who have been incarcerated in our

jails. The reasons for this pessimistic stance about the future are many, following is a discussion of some of them.

Because it is difficult to get correctional research funding, researchers continue to study such mundane things as (1) prison staff manpower vs. inmate population, (2) types of hardware and its utility in supervision, managerial deployment, and efficiency of operations, and (3) bare essential needs of prisoners such as food and housing space vs. cost benefits to the taxpayer. These types of studies are readily funded because they do not threaten or offend prison authorities and they do not get at some of the more basic questions underlying our whole concept of incarceration. For example, we need some definitive data on:

Why is it important for an inmate to be housed in a cell, perhaps 6 x 9 feet, devoid of anything remotely resembling a home; a place which is cold, drab, and gray? We have proven that certain styles of interior design are related to shaping the mind to make it receptive to buying more, studying more, and convincing us that we are being well fed just because the eating site is so beautiful. Why not use the same knowledge to help shape the mind of the inmate by surrounding him with a bright and cheerful environment?

Why is it important to give a prisoner a number which becomes his label rather than allow him to use his name which he will use when he returns to society? The detrimental effect his has on the inmate's sense of worthiness is not offset by the convenience of cataloging him like an animal or a box.

Another reason I feel pessimistic is because American society refuses to accept the notion that as long as there is unequal distribution of income among people due to classism, racism, or labelism, those who have the least will do anything necessary to survive. There have been more than a few studies to indicate that a person's interpretation of what he considers a crime is determined by his class and race. If this is true, the current situation of crimes in high places with no recognizable punishment will bolster the poor man's feelings that he is justified in doing what he does in trying to balance the economic scales. He feels he is just getting his "due." If he is

returned to society and not provided a means for getting his just share, he will acquire it any way he can without feelings of guilt. Morality doesn't enter the issue. The point is not to get caught, but if you do, be prepared to buy your way out like the rich people do.

The Attica prison riot illustrates another reason for my feeling that we are not progressing. The point is that communities must be willing to monitor the roles played by prison officials and not leave the proper treatment and handling of inmates to prison administrators alone. Attica proved that the vast majority of Americans were willing to write off the prison population as a bad investment of time, money, and effort. Most people who did not have a relative in the prison seemed to feel that the prison administrators were dealing with a group of wild animals and if control was not possible, then kill them all. These people did not want to be bothered with it, nor did they want to have anything to do with the situation. The problem is, that they do have something to do with it. Elected officials, judges, and the community at large all have a responsibility for seeing that inmates are returned to society with a fresh and healthy approach to living in society, and not as broken, dependent, individuals who feel that society threw them into a "jungle" and forgot about them.

I am also concerned because along with the "law and order" philosophy of late there appears to be a concomitant effort to decrease the possibility of justice by limiting the number of qualified and "gutsy" black and other minority employees in the criminal justice field. Most enlightened persons active in civil rights have long ago given up the idea that being black automatically means a person will be sensitive to and willing to operate in the best interests of minorities. There have been too many cases of blacks and other minorities who have been swallowed up by the establishment point of view and remain black only in pigmentation. Nevertheless, most minorities feel that they would like to see a greater representation of their ethnic groups sitting on the bench, cruising in police cars in their neighborhood, and playing a role in their attempts to navigate through society. Somehow they feel that some of these people may have insights developed from their own experiences which may provide an avenue for them to avoid making mistakes. It is doubtful that any group of occupations has been more resistant to the inclusion of blacks than the criminal justice system. Practically every large police department in the nation has been sued

in court regarding their discriminatory hiring practices. Through the effective use of the political process and racism in selection, black lawyers have been denied opportunities to become judges and thereby exercise some control over the type of justice meted out by the courts.

As long as special interest groups such as the police are able to generate pressures to intimidate black judges and anyone else who tries to render a fair decision, we can expect very little in the way of court reform. The struggle between those few black workers who do make it into the criminal justice system, and those whites already there trying to hold the line on innovative ideas and protect America from the radicals, will continue to be a long, hard conflict. My last point suggests that in order for us to clear up the prison problem we must do an analysis of the American social system. This we do not want to do because it is easier to pretend that there are no problems, or that those who are poor or in jail or both are in that condition because of some personal deficiency rather than because society needs a "bottom group" of poor in order to function in its present structure.

One hope for the future is to do as our illustrious Governor, Lester Maddox of Georgia, suggested in a news conference focusing on Georgia prison reform. He was quoted, "We're doing the best we can, and before we can do much better, we're going to have to get a better grade of prisoners."

CRIME PREVENTION AND THE PROTECTION OF LIVES:
A MECHANISM TO CHANGE POLICE BEHAVIOR IN THE COMMUNITY

by

L. Alex Swan

Introduction

In spite of the increased concern for better police-community relations, and the great number of police-community programs, the relationship which still exists between the police and the community is anomalous, parasitical, and suspicious. The police are viewed, now even more than before, as an outside force which continually invades and occupies the community. This situation persists because of the policemen's perception of the powerlessness of the community to satisfactorily deal with the oppressive nature of the police presence.

The nature of many of the programs related to the question of police-community relations viewed the community as powerless and thus addressed itself to attempts at changing the attitudes, perceptions and ultimately, the behavior of the policeman. There is no doubt that this goal is desirable and should be achieved, nonetheless, it has not been achieved as a result of the existing programs. These programs did not seek to enhance the powerless state of the community to handle the problem. What seems lacking is a mechanism which will force, by its own operation, along with the other programs, the police into a behavior that is accountable to the community.

Not only does the community need protection from those individuals who, for a variety of reasons, commit crimes against the community, but it needs protection from those individuals who are officially defined as its protectors, who, for a number of reasons, commit crimes against the community.

The question to be raised at this point is, what is the nature of a mechanism which deals with the question of crime control, and at the same time offers protection to the community? This question does not intend to suggest that protection is resident in crime control. Much of the police oppression and brutality spoken and written of in the 50's and 60's had very little to do with crime control. The other question which logically follows and

must be addressed is, how can we change the oppressive and negative definitions held by the police of the community which are operationalized at the community level?

Status of the Black Community

Before these questions are addressed, an analysis of the status of the community is necessary.

The status of the black community in the American society is that of a colony. The political and economic controls which operate tend to relegate the community and its members to a powerless position in relation to political and economic institutions external to the community. The means of production are not resident in the community, neither are they owned by members of the community. Moreover, the mode of production is the exploitation of the working people for the profit motive and social well-being of the colonizer-capitalist. Consequently, the circular flow of monies stabilizes powerlessness at the economic level, and renders any political power ineffective. Even in the face of some degree of political control of the community at the local level, the neo-colonial economic stranglehold which has forced an extralegal political subservience upon the community and its members continues to exist. Therefore, the social order is so arranged that the colonized work on behalf of the colonizer-capitalist. The American society is so structured (politically and economically) that the black community encounters severe occupational discrimination, political domination, economic exploitation and legal control.

The subjugation, control, and exploitation of black people and their community is designed to always be an integral part of the institutional infrastructure of the American socio-political order. Therefore, in the context of control, the colonized community is made a focus for the administration and oppressive control by policemen who themselves seek legitimation. It is the adverse effects of this situation on the liberating position of black people and their community which call for the dedication of all progressive groups for change. Therefore the question is not what can policemen do for the community, but rather what must the community do for the police and itself. Any mechanism to correct some of the defects, overcome deficiencies, broaden

perspectives, establish new areas, ask new questions, and provide new answers must offer new paradigms to enhance the power of the community to protect itself.

The communities which are usually occupied by the police are poor, black, or both. They patrol the business and industrial districts, providing protection to the property and capital interest of those persons to whom they feel accountable.

Opinions and Coping Behavior of Community Members

In the black community, residents form patterns of informal and formal interaction with each other to deal with personal and community problems. Such forms of interaction are usually related to emergencies which are difficult to address without united effort. However, these forms are not usually sustained because of the lack of power. Consequently, community projects occur for specific events. Even in cases of emergencies, not all of the residents are involved, so for a variety of reasons a large percentage of the community is inactive. This is not to suggest that they are not concerned for change in the very direction that the few are concerned. In fact, the objectives of the few active are usually the same for the inactive many, even if the techniques to realize the objectives are not shared by the many.

Community members have a view of the nature and rate of crime in their community. In both an absolute and relative sense, community members believe that major and minor crimes occur in their community with a somewhat great degree of regularity. Whether the perpetrators are external to the community or a part of the community, the community members demand that major and minor crimes be controlled.

Noninvolvement is one way of coping with the danger community members sense in the community. This is the case, for the most part, because members of the community are afraid for their lives and property. But more importantly, they know that they are not really protected from danger, except in some instances after-the-fact. If these members - the unconcerned, unfriendly, noninvolved - believed that they were protected from real or imagined danger, there would exist in the community a substantial decrease in the crime rate. Those who commit major or minor crimes in the community know

the community and its members fairly well, and seek to maximize the fear by taking advantage of the powerlessness and immobility of the community members.

For the most part, the nature of the community's problem is perceived in similar ways by the police and community members. However, the etiology of such problems, for the police, is internal in the community and has racial factors.

But the community members see the cause as being external and internal to the community which the police can do little about in terms of consistent control and prevention. Therefore, community members tend to view crime as being functional to the police and to certain individuals external to the community, especially in the case of drugs.

A significant number of community members are victims of crimes. Because they realize the after-the-fact nature of the police function, they take prudent steps to avoid being victimized. The precautions taken include avoiding groups of teenagers, locking car doors, installing extra door locks, limiting activities after dark, avoiding being alone on the street after dark, avoiding the police who are supposed to be their protection. In some sense, these measures to deal with the threat of crime and unfair treatment by police disrupt the free flowing lives of the community. They are not usually drastic, but such measures employed by community members tend to lessen the fear of crime and the possibility of residents being victimized or brutalized by police and/or other community members.

There was a time when residents were not particularly reluctant to intervene when they could assist others who were being victimized. Today, community members may hear victims crying for help, or even see an attempt being made to commit a crime and not intervene. This attitudinal change heightens the fear of crime in the community.

The active perpetrators of crimes in the community are usually young men of the community or of an adjoining community. They are those whose philosophy is what is thine is mine and I will take it. Crimes such as car theft, burglary, assault, robbery, vandalism and purse snatching, etc., must be controlled in the community. Community members express definite views

concerning the etiology of these crimes and what must be done to alleviate them in the community.

There are three categories in which community members place crime causes. Crime in the community is the result of the political and economic oppression of blacks by the external white community. Consequently, the reduction of crime or the alleviation of crime in the community is related to political and economic independence and control of the community by its members. There is some evidence that in those communities where the ethnic group has undercut white domination, apparent crime rates and the perception of crime appears to be low. On the other hand, where white domination is bureaucratically administered in a complete form and ethics are controlled and processes by a variety of agencies, apparent crime rates and the perception of crime appears to be high. Whether it is Chinese, Japanese or the black community, ethnic control seems associated with low crime rate. The crime rates tend to go up in those ethnic communities which are penetrated by white domination.

Another category of causes is that of the economic factors of poverty, resulting from underemployment and unemployment. Although community members do not make the connections between the underemployment, unemployment, and white domination, they tend to express and understanding of the relationship. There is also an understanding that crime may be explained in terms of political and economic domination and control rather than in terms of poverty; poverty being a secondary variable with less explanatory power. The fact is that individuals who are known to have been financially stable have been convicted for crimes such as those which exist in their community. Moreover, they know that there are many poor people who are not criminals. Consequently, for them, poverty as a cause of crime loses much of its explanatory power. The third category is that of inappropriate or inadequate family socialization including poor home environment, illegitimacy, little training and discipline, and the lack of parental control.

Community members know also that there are children who may have come out of such homes yet they are not criminals. Many of them have grown up in homes where a brother or sister had gotten labeled and treated as a criminal, yet the other children did not behave nor were they treated in a like manner. On the other hand,

they know persons from homes not defined as poor home environments, which had all the defined positive ingredients, yet who behaved in defined criminal ways. So while community members may suggest that children be "properly" raised by their parents, they realize that there are limits to this gesture as an effective way to control or prevent crime in the community. They feel that there is a deliberate attempt by many policemen to treat their youth advisedly different.

Those who suggest that poverty is the cause provide as a means of prevention programs related to employment, recreation, and other community action programs for the youth. All of these measures as mechanisms for crime prevention are important and should be operationalized at the community level. However, the question of ethnic control of the community and the agencies which operate within its boundaries is also a very vital mechanism which will enhance the possibility of the other mechanisms operating effectively to protect community members and reduce the incidence of crime.

Depending on the nature of their encounters with the police, community members will have different views concerning the effectiveness of the police in crime control. For the most part, however, they see the police as ineffective because of their inability to work with the community in a cooperative venture to control crime. Community members see this cooperative effort as vital to a successful job. The police pay lip service to the notion and blame the community for not cooperating with them in fighting crime.

The police continue to say that their inability to control crime is related to manpower, poor salaries, and limited police authority and power, while the community suggests that such factors as police consumption, lack of proper police training, etc., are also impeding crime control in the community. What is being suggested is that crime in the community (narcotics, prostitution, etc.) is functional for many police and they would not want to see it controlled, and would seek rather to have it flourish in communities which have little internal power. In this regard, many community members sense that the level of protection they get is being reduced and in some cases is nonexistent. It is therefore not the presence or absence of the police which explains the increase or decrease of crime rates, but rather the nature of the presence of the police in the community

and the power status of the community.

Any mechanism established to change the behavior of the police in the community by forcing them to accountability must incorporate the ability to deliver two functions - that of protection to residents and the community, and the prevention of the occurrence and continuance of crime. These functions carry with them a variety of supportive services which are not really related to crime per se, but are actual indicators to the community residents of police accountability.

The mechanism for change must also have the ability to reduce the threatening or the potentially threatening nature of the contacts between community residents and the police. Moreover, prompt responses of the police to the request for service by residents must be assured. This can be achieved if the proximity of the police to the community is such that it makes it easy for them to respond quickly. What will enhance prompt response is a more personal relationship between the police patrolling the neighborhood and the residents. Therefore, motorized patrol which depersonalizes the interaction between the residents and the police is negative to these goals. There exists with the motorized patrol a mood of detachment on the part of the police and a sense of anxiety on the part of the residents.

The mechanism must also reduce the "downtown" concept of police protection and services, and must also reduce the level of physical danger which the police perceive to be associated with the performance of their duties.

For the most part, community relations programs have not brought results desirable to the community. A majority of community members still view the police as discourteous, brutal, partial, insulting, and irresponsible in performing their duties. This situation must be corrected if community members are to sense a degree of protection as a result of the presence of the police, and from those who define the object in a robbery as being more important than the subject.

The police in the community fear that any community relations program will impede their operations; operations which at times require extralegal methods to arrive at what they believe is the truth concerning alleged crimes. It is for this reason that community support

for the police is not forthcoming. Although there is general ambivalence on the part of the community members concerning the moral state of affairs in the police department, residents are convinced that the police are not present when they are really needed. Moreover, they realize that this is true simply because of the police perception of the community and their irresponsible attitude toward black people and their survival.

Presently, there is no effective formal way to make complaints. Moreover, the complaint review procedure is a "down-town" affair which the community members feel is ineffective and a waste of their time. Therefore, the mechanism must also have the potential to effectively personalize and localize a complaint procedure. Presently, community members believe that many aspects of policing arouse complaints from community members. The mechanism must have the potential also to decrease generalizations as they relate to complaints and the probability of accusing the police falsely. If the mechanism works effectively, fair hearings of complaints against the police will result in appropriate action.

Community Mechanism

During his presidential address in 1946, sociologist Kimball Young made the observation that:

"To set up high sounding unimpeachable goals is not enough. Of great importance are the manner and method of implementing these planned changes. How well do the techniques proposed meet the ends sought? What are the possible by-products of these means? Will the devices used entail in indirect consequences problems worse than those which the planners seek to solve?"

The mechanism to be proposed translates goals and concerns for the reduction of crime, police brutality and the protection of lives into action that seeks to reduce the problems faced by the police and the community.

The concern is to increase the internal control of the community to the point that it is possible for these problems to be solved promptly, effectively, and with a

degree of consistency.

Ethnic control of the community and the community's institutions and their services is a precondition to the solution of many of the problems now facing the community. Those who disagree with this precondition do not always understand the external nature of the problem. Those who suggest better cooperative police-community relations see the police taking the initiative. Evidence does not indicate that this initiative is forthcoming or that it embodies the necessary and sufficient ingredients.

The mechanism should maximize police-citizen interaction to enhance courtesy and respectful behavior toward community members; the willingness and ability to relate and identify with community members; increase knowledge and understanding of the events occurring in the community; and enhance careful and skillful interaction with members of that community that they are serving. The mechanism should be able to identify the areas of deficiencies in police training and provide recommendations for the improvement in the deficient areas of the training program. The mechanism should also be able to indicate in specific ways those police who are involved in illegal activities in the community. Those police involved in gambling, numbers, narcotics, payoffs, and generally backing other criminal activities and misconduct should be dealt with through the community mechanism. The mechanism should also enhance the process of community recruitment for the police department. It must guarantee that the police stay within the bounds of the law, and that the beatings, false arrests and harrassment of citizens cease.

The mechanism proposed in this paper speaks to the demands of citizens for greater participation in legally protecting their lives and property.

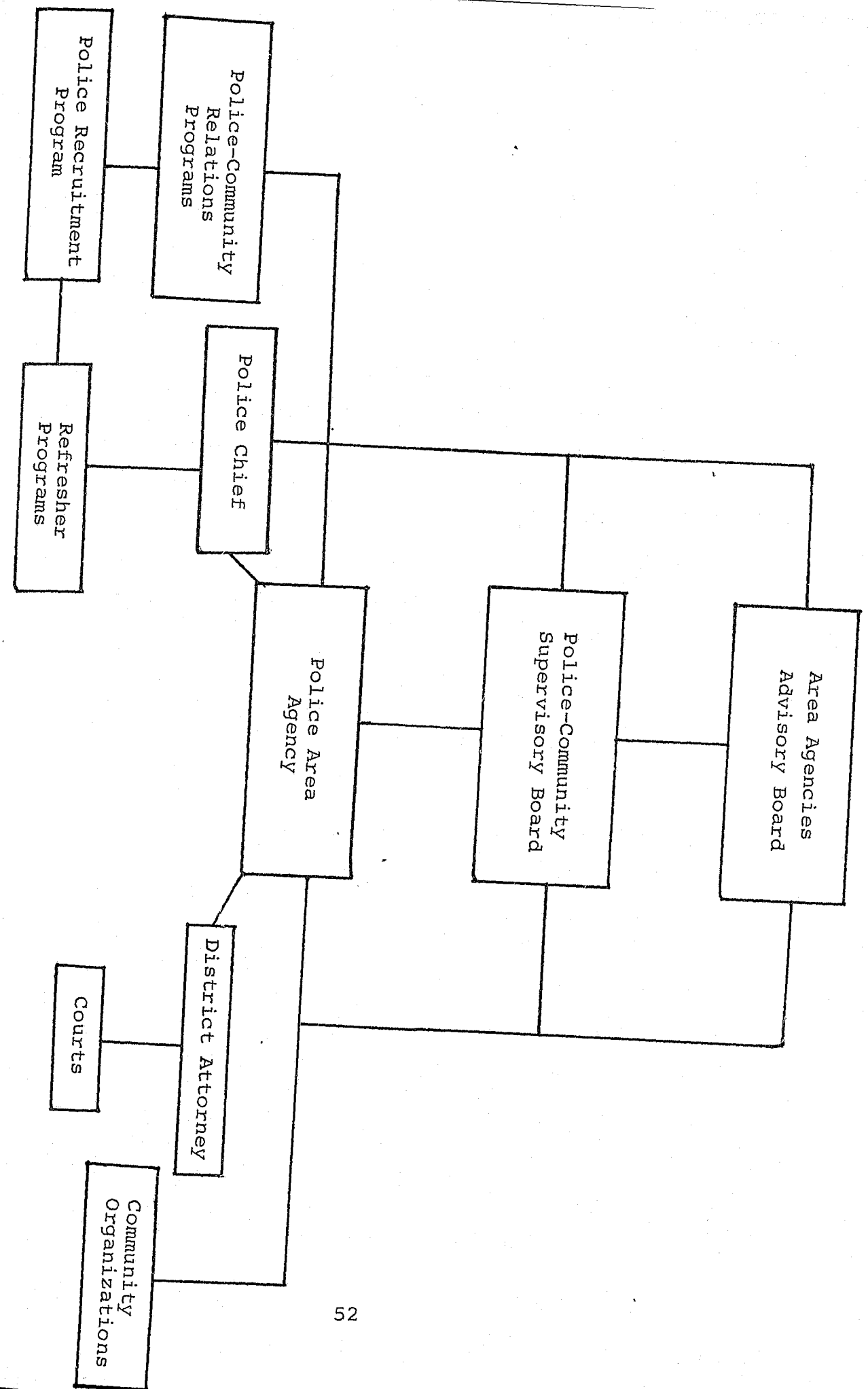
The following five points define the general structure and function of an area agency as a mechanism for solving many of the problems of the community and problems of the police in the community.

1. The area agency should be physically located within the communities where the majority of black people live, and be staffed by black policemen who live in the respective community.

2. The area agency should have several facilitating components which would enhance police-community relations. Out of the area agencies should come components for social relations programs; communication programs, a mechanism for receiving and processing complaints, and disciplinary procedures. The community should have an opportunity to receive and know of each policeman who works in the community at a community meeting, and necessary information about the officer should be communicated to the community at such a meeting.
3. Refresher courses, seminars, and group sessions should be instituted every six months to keep the officers up-to-date on techniques and strategies of policing.
4. New members should be under the supervision of an older member of the area agency.
5. Each officer must submit a written report each month to the board outlining his prevention activities.

The first step in developing the mechanism is to divide the community into districts representing proportionately the distribution of blacks. The representatives must be elected by the members of each district, and community organizations (NAACP, Urban League, SCLC, CORE, etc.) should have one person representing each organization. This community representative, along with three representatives of the police will constitute the official community-police supervisory board. All members of the supervisory board, including police officers, must live in the district of which they are representatives.

The area agencies advisory board will consist of a representative from each district and a representative from the supervisory board and one from each area agency. Its main function is to provide advice to the supervisory board and the larger community concerning the operations of the area agency. This board may meet once per quarter or at any other time on the request of the supervisory board. Each area agency of district agency should develop cooperative efforts to deal with common problems. In this regard each chairperson of each area district may be members of the advisory board. The advisory and



supervisory boards must be directly accountable to his/her district, to the area agency, community organizations, and to the general program for better police-community relations.

The supervisory board will concern itself with the following:

1. Inter-departmental area agency discipline and other problems reported to the board through the area agency in writing or verbally by representatives, and matters concerning police behavior in the area. In order to adequately deal with the problems in the community as they relate to police-community relations, the board should meet at least once per month and at other times during the month as are deemed necessary.
2. Instances of questionable activities of the police will be investigated by the supervisory board.
3. Be responsible for communication to keep the public informed of the board's activities and the police activities in the community.
4. Be responsible for the final acceptance of a police officer to work in the area agency, and for the recruitment of black police officers for the area agency, other area agencies, and the larger downtown agency.
5. Hold meetings with community organizations and with the general community either in committee form or by mass meeting. These meetings will in no way interfere with the reporting of community organization representatives to their organizations. The purpose of this measure is to insure communication and reinforcement of motivation between the community and other service organizations.

The police chief, upon the recommendation of the supervisory board, must execute those requests and demands made by the board on behalf of the community. The chief may disagree with the request and may make it known to the board, but he must carry out the requests or demands. If the chief refused to execute the demands

of the board, the board may request his resignation; take disciplinary actions against the chief, or execute the demands itself. These requests and demands will be confined to technical matters and issues with respect to supplies for the area agency. Supervisory and functional policies are to be made by the supervisory board.

The area agency will be represented by an area agency policeperson on all of the larger police agency (downtown) internal committees with full voting power.

He will make relevant and necessary presentations to these committees on behalf of the community. The district attorney should examine the recommendations by the board and determine the legality and feasibility of the board's requests and demands. After the review of the requests the district attorney should advise the area agency through the supervisory board in writing of the legality and feasibility of the recommendations. It is assumed that the district attorney will sense his accountability to the community and that his decisions will be on its behalf.

The supervisory board may determine what kind of relationship the area agency will have with other institutions, organizations, and programs external and internal to the community and its members.

This program, once followed, can begin to meet the needs of the community relative to the protection of lives and property and the reduction of crime. No reform of the regular police department will address itself to this realization. City councils are usually powerless in this regard, but under this mechanism the distance between police and the community would be reduced and real methods of handling friction would exist.

Neighborhood area agencies would have real power to set policy, resolve disputes, hire and fire police, establish police-community relations programs and enhance community input, conversion and output on its own behalf.

CONFLICTS OF BLACK CORRECTIONAL WORKERS: AN ESSAY

by

Andrew Chishom

The Problem

This essay addresses itself to both the issue of the recruitment of minority employees as well as the factors affecting their retention in the system. The most important source for this paper was a series of 100 interviews I conducted with inmates (50) and correctional workers (50). An equal number of blacks and whites were included in the interviews. These interviews revealed that the black correctional officer is highly susceptible to many conflicts within the system. The following questions served as the basis for the interviews:

How do white correctional administrators and officers view black correctional workers?

How do black correctional officers and administrators view other black and white correctional workers?

How do black inmates view both black and white correctional personnel?

Are there unique pressures placed on black administrators and correctional staff in prison settings?

What are the major factors that prevent the employment of black correctional officers?

Overview

In 1972, Governor William G. Milliken, Governor of Michigan, made the following statement in a special message to the state legislature:

"The key to any program is the staff. Michigan's correctional staff is excellent, on the whole; yet

we have not always been able to recruit the people we want for prison work. Offenders need staff people they can identify with as models. We must recruit more members of minorities as correctional employees."

This attitude has been sounded over and over again by both elected officials and correctional administrators. The U.S. Government has funded many states the necessary monies to recruit, train, and employ minority personnel in various correctional positions. Too many states have failed in these attempts.

The reasons for this failure are many, but one of the essential factors is the unwillingness of managerial decision makers to initiate action or proceed aggressively in this direction. It is not enough for correctional administrators to speak out on this subject; they must be willing to activate constructive plans.

The tendency to "talk about, but do nothing about it" has had serious consequences for both inmates from minority groups and minority workers employed in the various systems. Also, this has affected the successful recruitment of some minority workers.

Too many administrators assume that the problem could be solved by simply employing black workers. However, in some cases the opposite has been true since the black correctional officer is exposed to numerous pressures not generally experienced by the white correctional officer. The failure to hire blacks in correctional settings is indeed a serious problem. Equally as serious are the psychological stresses and strains blacks experience from the time they are hired. We must examine several facets of conflicts confronted by the black correctional worker.

Areas of Conflict

Qualifications and Hiring Procedures

Initially, the black worker discovers that he must go through a series of tests to qualify for his position. He also notices that heavy emphasis is placed on his education and related training. After meeting the qualifications and eventually being hired he then becomes aware

that many of the white employees already hired are poorly educated, not sufficiently prepared, and lack related training to work in corrections. Right away the black worker experiences a feeling of indifference based on the belief that "I was put through unreasonable demands because I am black." The white worker views the black worker as a threat to him because the black is better qualified. Barriers begin to develop that will prevent a full working relationship. Compounded with the problem of his poorly prepared white peers, the black worker will discover that, in many cases, white administrators resemble the poorly trained white correctional officers.

The interviews revealed that when compared to their white counterparts, the majority of black administrators were overqualified for the positions they hold in terms of education and related experiences. (Many of them expressed feelings that the system only gives respect to the overly qualified black.) The black worker therefore becomes the "Super Nigger." They have recognized that they must perform at this superior level while at the same time maintaining their blackness internally and externally.

Cultural and Community Differences

Additionally, the black worker finds that the white worker understands very little about blacks and the black experience, and even views blacks as inferiors who will disrupt the operation of the system if given the opportunity. These feelings are viewed with confusion and suspicion. As one black correctional officer stated, "Many white correctional officers view me as an intruder and will not totally accept me as a fellow worker." As a result, minority workers often band together out of a need for physical and mental survival. The feelings of aloneness and isolation tend to produce a negative self-image for the minority worker. This was most profound when the black worker was the only black on a job assignment.

Much of our society still views segregation as a systematic way of life, and for us to expect any attitudinal differences in the prison (north or south) is unrealistic and means that we are not ready to deal with this problem. The outside community has been the main culprit in perpetuating this segregation, since it is the community which influences the officers. For instance, a common belief

of most administrators and correctional officers is that black people have no desire to work in an institution located in a small rural community because they would be unprotected from racial prejudice.

This may or may not be true. As long as the black officer can feel that he has a support system somewhere he may be willing to work in this setting. If he is accepted by other blacks and fellow guards, perhaps he can function in the prison environment against the demands and allegations of the inmates, and some of his personal feelings.

While part of the problem inherent in hiring black people as correctional officers in rural settings is the physical isolation, the biggest problem may be the lack of a psychological support group both on his job and in the community. If his white co-workers and the prison administration tell him that they can do nothing about the prejudice in the community and that they support the feelings of the community then he has no psychological base from which to perform his job. The society, which includes the rural community that he is in fact trying to protect, denies him this psychological support and rejects him because he is black. Regardless of the degree of his commitment to a black ideology, it could be most difficult for him not to believe some of the stories told to him by black inmates if his own child is being harassed by the local police, discriminated against, and subjected to other similar injustices in the community.

Two conditions which can keep a black person involved in this punishment situation are a belief in what he is doing and a strong support system. The soldiers of World War I and World War II had both; many of the soldiers in Viet Nam had neither. The black correctional worker is more like the Viet Nam soldier. Black correctional officers are, perhaps, subjected to the same feelings that black veterans had when they fought in wars, saw other black soldiers die, side by side with white soldiers, all under the guise of protecting the democratic way of life, only to return to the United States and find that they could not eat in restaurants or sleep in motels. In the final analysis, they were still second class citizens. They probably asked themselves "Why did I risk my life for a system that is unfair to me as a black man?" In much the same way black correctional officers may ask themselves, "Why am I remaining in this punishment situation when this system is unfair to black people?"

Natural Conflict Situation

Correctional institutions produce environments which foster the situation of a natural conflict. Used as society's instruments to punish, these institutions also serve to dichotomize two populations -- the keepers and the kept, the punished and the punishers. For black correctional personnel brought into this natural conflict situation, the dichotomy is more complicated.

Visualize, if you will, a group of American POWs in a prison camp. One of their expectations is that the captors will be those whom they have been fighting. The most inconsistent thing would be to have American captors siding with the designated enemy. Upon seeing an American captor, the initial feeling by the POWs would probably be one of relief and it is likely that they would try to extract favors from the American captor because of their disbelief that one of their own could participate in punishing them. If, however, this effort on the part of the POWs does not bring the desired results, then the American captor is categorized along with the other captors, with one exception -- the POWs will probably hate the American more than the others because in the final analysis, he is perceived to still be like themselves -- American.

Black officers and administrators in correctional settings are perceived similarly by the inmate population. In this natural conflict situation it is very difficult for a black officer to be bombarded with tales of injustices told to them by black inmates without somehow identifying with the inmates. For example, the officer hears convincing stories of innocence, tales of mistreatment, poverty, improper plea bargaining, poor legal representation, and other similar injustices. The black officer sees and hears supporting evidence of whites who were sentenced for the same crimes committed by blacks but for shorter periods of time.

White correctional officers generally can resolve their dissonance (if any exists) by feeling that they are part of a system that has been just to them. In some cases it might even reinforce their feelings about blacks being evil and bad when they see more black incarcerated for longer periods than whites. However, it becomes exceedingly difficult over a long period of time for a black officer in a punishment situation to close out this input.

Prejudice

Prejudice can be defined as behavior on the part of humans which denies or attempts to deny equality of opportunity or status to certain racial, religious or ethnic groups. Once in our history prejudice was not a contested factor because the Negro "knew his place." The new black has emerged and discovered a "new place." This change is in conflict with white society's perception of blacks in general. The more a society is unable to accommodate mutual expectations and relationships among substantial numbers of its members, then the more it has an active social problem which threatens its functioning as an effective social order.

Although white officers do not readily admit to this social phenomenon, it is reality and it shows in many disguised forms. A progressive warden, for example, felt that he could enhance his efforts threefold if there were blacks employed in his system. He further stated that the lack of blacks in his system was not merely a social problem, but is was also a political problem. He felt that local politicians were influencing correctional staff to exclude blacks from employment because it was feared that blacks would not keep black inmates in their place. A white correctional officer at another institution stated it differently. He said "sometimes the black officers become too friendly with black inmates."

In other words, blacks are incapable of differentiating between correctional responsibilities and black brotherhood. Again this brings us back to the same old prejudice -- because of their color they are inadequate.

Not all white officers are prejudiced. Some officers stated that they are profoundly happy with their relationship with black officers. Others indicated that they have close friendships with blacks. However to ignore that prejudice may exist is to ignore the problem. Many white workers and administrators have recognized a need for more black workers and openly encourage such an attempt to hire blacks.

Black vs. Blacks

On the other extreme, strong negative feelings are held by some black workers about other black workers. There are indications that the more integrated a black

became the more he assimilated the white officer's value systems and the more conservative he became. One black officer stated, "These young guys think they know it all, I had the same opportunities as the black locked-up but he didn't take his and I did. I am not going to feel sorry for him like some of the younger black officers." The younger black officer feels that the older black does not want to rock the boat because he is satisfied where he is and with his job. It appears that once in the system, many black workers will not do anything that may threaten his job. As stated by a black minister, "Once in the system blacks will mask their heritage of blackness covertly, they will have feeling for black problems but will do nothing overtly to help rid the problem. They in effect become part of the problem."

Inmate Perception

Inmates are quite perceptive of their environment and can readily distinguish attitudinal differences among the correctional staff. Some black officers, for example, related that everything was fine and that they were enjoying warm relationships with their white counterparts. This may be true. However, black inmates view these officers as sell-outs for acceptance. Thus, the officer is placed in a "damned if you do, damned if you don't" situation. The minority worker can find himself caught in the middle, with possible psychological strains that may restrict him from being an effective person on his job. Black inmates have established a systematic labeling process by which correctional staff are classified. For instance, their classification of guards consists of three types: White guards, Negro guards, and Black guards.

White guards consist of all white correctional officers; they are viewed with suspicion and as part of the system that works against black society. It is felt that white officers are only interested in keeping them down. Although this may not be true for many white officers, it is still part of the black inmates' code of beliefs and it is expected that all black inmates will honor this code.

The Negro officer is seen somewhat in the same context as the white officer. However, there are reasons for this label. The Negro officer is seen as being more interested in acceptance by his white counterparts. He will do almost anything for this acceptance. He sees nothing wrong

with coming down on black inmates, he sees no wrong in informing on officers who show too much concern for inmates. He feels that blacks cannot promote him, nor will they give him a paycheck. Black inmates see this officer as being used by the system as a "Straw Boss," to keep the niggers in their place. This officer's reward will come in the form of good job assignments and pats on the back. It is through those rewards that the "Negro" officer feels he is accepted.

On the other hand, the Black officer is seen as a "Brotherman" who is concerned about the plight of black people and black prisoners. He is the officer that will have the greatest difficulties in his working environment. Black inmates feel that this healthy black ideology, under prison conditions, will force the officer to become an introvert. This introversion is a result of the officer's attempt to relate to black inmates in a positive way while concurrently receiving negative criticism from other officers, black and white. The refusal to compromise his stance with other officers will mean a continuous struggle to survive mentally. It is this type of officer that will experience a rapid turnover in the correctional system. He enters the system with the desire to change an offender's lifestyle and the system but only experiences internal frustration and external hostility from his fellow workers. "The more relevant he becomes, the less relevant he is."

If the black worker makes the decision that there is nothing he can do to change the system, he will quit. Black inmates view his departure as that straw of hope taken from them by the system. In turn they become more hostile and less susceptible to rehabilitation. The development of more hostility prevents the greater hope of removing the drawn line between the inmates and the correctional system. This attitude of "if I am going to make it, it is me against them," is precisely the one that contributes to prison riots and needless deaths of both inmates and correctional officers.

From the walls of Attica the American society witnessed the physical struggle between the keepers and the kept. We heard men speak of what caused the struggle and essentially it was a struggle for identity. We heard both inmate and officer state that if the American prison system is going to advance toward their goals, we must invite the minority American to help reach this destiny. But until the system recognizes that this involvement must take place at all levels from the officer to the employment personnel,

and up to the administrative level, the prisons will continue to fail.

A Blueprint for Action

In summary, this is not the end of this important topic, it is the beginning. There are numerous areas of conflict for the black employed in the correctional system. These conflicts will have to be reduced in some cases and eliminated in other cases in order for the black correctional worker to remain in the situation and be effective.

More information and research on this subject needs to be presented and discussed at conferences such as this one here in Alabama. Additionally, more research by blacks in the criminal justice system must take place. There has been too much armchair research on blacks. It is time for blacks to produce research on blacks.

To overlook any of the areas that have been discussed in this paper will be an unwillingness on the part of the correctional systems to honestly involve more blacks at all levels in the system in order to have a more positive impact on those blacks deemed as social deviants in our culture. Presently, many correctional systems are in direct conflict with their goal of rehabilitation, and the prescribed manner of reaching these goals. On the one hand blacks are needed in the system and on the other, little is being done to accommodate their working survival.

Finding a solution to the problems and conflicts of correctional workers is not easy. The blueprint for action offered here calls for changes in the recruitment, promotions and acceptance of minority personnel. The complexity of change is acknowledged as a difficult but possible task.

Recruitment

The need and importance of recruiting more minority representatives in corrections is substantial. The disproportionate number of minority inmates in the various correctional systems seems to demand that the same minority groups should be represented at all levels in the correctional systems. No matter how much emphasis is placed on need, if the recruitment effort fails, so does the system. Corrections must implement new policies and pro-

cedures that will accommodate the entrance of minorities. Minority recruiters should be employed to insure greater competency in the recruitment and selection process.

It has been pointed out that white administrators believe that minorities will not move to remote rural areas where many correctional facilities are located. This may not be true, as many minorities and whites are now beginning to migrate back to the rural south and if a relevant recruitment and retention program was in effect, sufficient numbers of minorities might be willing to relocate. In addition, a community relations program that would assist the community in providing the type of psychological support that minorities will need in these remote areas would assist the correctional worker in reducing some of his conflicts.

Promotion

Once hired, the minority worker will aspire to move up the occupational ladder. One incentive he needs is to realize that it is possible to move up this ladder. Blacks must be hired as wardens and directors. Lateral entry may be the only way to overcome the deficiencies in this area. Minorities with comparable skills must be sought out and recruited and laterally placed in the various systems and administrations.

A white state director stated that he "desires his system to have blacks working throughout, but you cannot just place people without experience." The response has validity but if we are going to deal with the uniqueness of this problem, the answer must be unique. It is my belief that there are many blacks that are qualified and able to become a prison warden or superintendent. If the present attitude of "work your way up" continues it is doubtful if we will see many black wardens across this country. Nationally, there are many blacks working in community organizations that deal constantly with the redirection and rehabilitation process of people. If we view inmates as people, then I see no basic difference in the process of redirection. Additionally, if the professionals have identified lack of understanding as a barrier between white correctional workers and black inmates, toward the rehabilitation solution; then I submit, that it matters not whether a qualified black has the chronological correctional background, but more importantly a desire to work in corrections.

Acceptance

Once in the system, corrections must accept the minority worker in without conditions. Training programs must be initiated that will assist both the white and black correctional workers cope with each other. An all out effort to overcome differences in the rules and regulations that may apply to the minority worker must be made. This is not tokenism, it is not bending rules, it is simply doing away with archaic patterns that have prevented minorities from entering and remaining as a career employee in the area of corrections.

We must frankly begin to remake, remodel, recreate, and re-evaluate the image of the black correctional worker. This need calls for mirrors (black workers), that will magnify the abilities of blacks and enable black workers to stand fore-square before themselves and others, clearly and reflectively. This cannot be just a legal mirror, but a profound social and moral one before it will be possible for the system to transform. This is not an easy task, but change is never easy.

SECTION II

RESPONSE TO A CHALLENGE: THE ESTABLISHMENT OF THE NATIONAL ASSOCIATION OF BLACKS IN CRIMINAL JUSTICE

One of the results of the conference that we recorded in the proceedings of the conference was the attempt by those in attendance to respond to the challenge posed by Bennett Cooper to establish an on-going national organization that would be responsive to the needs of blacks in the criminal justice system. This section contains information on both the process and the results of such an effort.

Lawrence Tolliver captures the mood of the people who attended the conference and offered a rationale for the success of this initial effort.

Andrew Chishom outlines the procedures and the process in the establishment of the organization.

The committee members, the constitution, and the tentative goals and suggestions that were an outgrowth of the committee's efforts are the last documents included.

MEMORANDUM

TO: Interested Persons

FROM: L.J. Toliver, South Carolina Council for Human Rights and
South Carolina Association for Improved Justice

DATE: March 19, 1974

RE: The February 24-27, 1974, University of Alabama Conference
on BLACKS IN THE CRIMINAL JUSTICE SYSTEM

Brother Charles Owens, psychology professor at one of the nation's foremost symbols of racial oppression, the University of Alabama, was able to coordinate an historic conference on criminal justice which some conferees compared to W.E.B. DuBois' Atlanta conferences of yesteryear.

Indeed, the elements Brother Owens orchestrated did interact in a significant fashion to initiate the organization of the National Association of Blacks in Criminal Justice. There was:

..Our presence in Alabama which inspired the participants to do much more than simply attend.

..Representation from more than 25 states and the District of Columbia.

..Presence of the entire range of functions and careers in criminal justice: 225 judges, lawyers, police officers, teachers, juvenile and adult probation and parole supervisors, drug counselors, parole board members, prison administrators, and ex-prisoners intermingled and dialogued.

..Detroit Judge Crockett and State of Ohio Corrections Director Bennett Cooper combined, to lend the participants direction and inspiration.

At 12:30 p.m. on Monday, February 25, following Bennett Cooper's keynote address and Judge Crockett's inspirational comments, Andrew Chishom and myself were able to meet with 75 or more participants to discuss organizational directions and possibilities. Brother Cooper presented a short historical overview of black efforts to organize within the administration of justice and urged us not to falter as others had before. He nominated Chishom as chairman and we proceeded to endorse that nomination. At 5:00 p.m. we met to choose a planning committee and met until 8:00 p.m. to discuss the projectory of our efforts. Two subcommittees were chosen: one on purposes and goals, the other on structure and communication.

By 5:00 p.m. Tuesday, multiple copies of a statement on purpose and goals and a constitution were ready for consideration. With Chishom presiding, the papers were presented to more than 200 conferees. Sometime between 5:45 and 6:00 p.m. the planning

committee's efforts were endorsed unanimously. A communications committee was chosen with Carol Poe of Birmingham as chairperson and Brother Owens as facilitator.

On Wednesday morning at 10:00 a.m., the planning committee met to choose a name, finalize communications channels, and set a target, April or May, for the next conference. Numerous persons donated personal and corporate services free of charge and the newly formed National Association of Blacks in Criminal Justice was off the ground.

No one person dominated the organizational effort and no divisive issues were enjoined. It was the smoothest, most sincere, most unifying effort I have ever participated in. The defeatists among us were mystifying with their silence, the integrationists among us accomodated our racial assertiveness, and everyone exercised revolutionary patience.

All of this may sound unreal, simplistic, uncritical and therefore, optimistic. However, it is what an experienced critic and community organizer observed. After analyzing the events I believe I have a reasonable explanation for the ease of our effort and its success.

1. Perhaps primary among the reasons was that the participants, particularly the planning committee members, knew little about each other except our common work environments.

2. We were from too many different places to get hung up on local political, cultural, social, and economic advantages each might individually gain from the effort.

3. An element of crisis prevailed among the participants which was rather unique. The black criminal justice professional and nonprofessional is in a natural conflict position and perpetually faces professional and personal crises when asked to oppress other black people. Perhaps it was crisis organization which took place since each participant wanted to resolve his own crisis.

4. Not only does misery love company but the black criminal justice worker wants economic stability and is willing to do something about it when he or she is not at home.

5. Undoubtedly, the overwhelming majority of persons either were (a) professionally trained to handle petty differences without externalizing them or (b) had prior organizational experience which prepared them to ignore B.S. and rhetoric.

6. Finally, many people wanted to help Brother Owens have a successful conference in Alabama.

FEASIBILITY COMMITTEE
of
NATIONAL ASSOCIATION OF BLACKS IN CRIMINAL JUSTICE

Jeanette M. Allen
Cook County Juvenile
Court-Community Resource
Chicago, Illinois

Linton Ardoin
Juvenile Probation and
Parole Officer
Lafayette, Louisiana

Donald R. Armfield
Virginia State College
Petersburg, Virginia

Rev. Fred L. Banks
Delaware Council on
Crime and Justice
Wilmington, Delaware

Grover Bell (Zulu)
Asklepieion Foundation
Minneapolis, Minnesota

Jimmy Bell
Jackson State College
Jackson, Mississippi

Donald M. Camper
Missouri Department of
Corrections
Jefferson City, Missouri

Walter L. Conwell
Birmingham, Alabama

Regina A. Davis
Coalition of Concerned
Black Americans
New York, New York

Joanne Dismuke
Chesapeake Drug Abuse
Program
Chesapeake, Virginia

Evelyn Henderson
Chicago, Illinois

Jack L. Highsmith
National Urban League
New York, New York

Donald W. Humphries
Department of Mental Health
and Mental Retardation
Richmond, Virginia

Frank Jasmine
ABA Corrections Commission
Washington, D.C.

Cornell J. Leigh
Criminal Justice Center
Dayton, Ohio

Mafundi
Afrikan Peoples Survival
Committee
Birmingham, Alabama

Richard B. Lyles
Bureau of Prisons
Washington, D.C.

LeRoy Mason
AID-SIR
Richmond, Virginia

Walter Mitchell
University of Alabama in
Birmingham
Birmingham, Alabama

Charles E. Owens
University of Alabama
Tuscaloosa, Alabama

Willie G. Parker, Jr.
Alabama State University
Montgomery, Alabama

FEASIBILITY COMMITTEE (Continued)

Edwinah Price
Department of Mental Health
St. Anne, Illinois

Carol Poe
T.A.S.C. Project
Birmingham, Alabama

Rose Strong
Race Relations Consulting, Inc.
Columbus, Georgia

Richard C. Tapscott
U.S. Department of Justice
Washington, D.C.

Karyn E. Trader
Mayor's Safe Streets Act
Advisory Committee
Boston, Massachusetts

Fred B. Watson
Berrien County Youth Service
Bureau
Benton Harbor, Michigan

Robert L. Wilson
C-PACT
Indianapolis, Indiana

TENTATIVE CONSTITUTION
NATIONAL ASSOCIATION OF BLACKS IN THE CRIMINAL JUSTICE SYSTEM

ARTICLE I

Section 1 The name of this organization shall be the National Association of Blacks in the Criminal Justice System.

ARTICLE II

Section 1 The purpose of this organization shall be: to focus on the needs of blacks.

ARTICLE III
Membership

Section 1 Members of the association shall be members and associate members. Membership shall be limited to those people that are involved in the criminal justice system.

Section 2 Associate members shall consist of anyone with an interest in the criminal justice system. Associate members shall be nonvoting members.

Section 3 Members must be in good standing in order to vote.

ARTICLE IV

Section 1 The officers of this organization shall be composed of the following: Board of Directors, Board of Regents, Executive Director, and the Executive Committee.

Section 2 The Board of Directors shall consist of members from various disciplines in the criminal justice system and geographic locations. If the Board of Directors shall remain nine, no more than three people from any one geographic location.

Section 3 The Board of Regents shall consist of three members from each geographic region. No state shall have more than one regional representative. The member must come from the region represented.

Section 4 The Executive Director shall be the chief administrative officer. Shall conduct day to day business of the organization. The director shall serve for a two year term.

Section 5 The executive committee shall consist of nine people. It shall include a chairman, vice-chairman, secretary, treasurer and members at large.

ARTICLE V
Committees

Section 1 The standing committees of the association shall be:
A. The Committee on Communications
B. The Committee on Membership
C. The Committee on Legislation and Reforms
D. The Committee on Finance
E. The Committee on the Constitution, which shall also serve as the Nominations Committee

ARTICLE VI
Meetings

Section 1 Meetings shall be held annually in a specified month. Notice of meetings shall be given in writing at least thirty days prior to said meeting. Special meetings shall be called by the Executive Director as he deems necessary. Notice shall be given thirty days prior to meeting date.

ARTICLE VII
Bylaws

Section 1 The association shall adopt such rules and bylaws for governing of the association as it may deem necessary and expedient.

ARTICLE VIII
Amendments

Section 1 Amendments to this constitution shall require consenting vote of two-thirds of the members present and voting at an annual meeting.

ARTICLE IX

Section 1 Ratification of this constitution shall require the affirmative vote of two-thirds of the members present and voting at an annual meeting.

Section 2 This constitution shall be put into effect for the governing of the association on the first day of the fiscal year following its ratification.

Section 3 Officers of the association at the time of ratification shall continue in office until the end of the term of office for which elected. During such period, the duties performed by each officer shall be those duties specified in Article IV. The Board of Directors is empowered to resolve any conflict which may arise in the determination of such duties.

TENTATIVE GOALS AND OBJECTIVES OF THE
NATIONAL ASSOCIATION OF BLACKS IN THE CRIMINAL JUSTICE SYSTEM

This national membership organization is designed to examine and act upon the needs of blacks, their concerns and contributions as related to the administration of equal justice in the United States. This includes relevant legislation, law enforcement, prosecutorial-defense, judiciary, corrections and the prevention of crime. Among its concerns will be the promotion of the general welfare and increased overall influence of blacks on this system. It will coordinate efforts of all organizations that are concerned with the elimination of injustice with the justice system.

The National Association of Blacks in Criminal Justice will serve the needs of blacks from all levels and areas including nonprofessionals, paraprofessionals and professionals who will participate on an equitable basis throughout the organization.

The objectives include but are not limited to examination and action in the following areas:

- A. Minority representation and participation as policy makers within the administration of justice nationally, regionally, and locally.
- B. The recruitment of blacks and minorities in all areas and levels of the justice system to further enhance our priorities.
- C. To serve as a vehicle for input into legislation and social policy formulations in all areas.
- D. Program Development
 1. To improve the quality and effectiveness of resources and programs designed to strengthen our many peoples individually and collectively.
 2. The development of preventive as well as curative program models and the dissemination of new and existing models.
 3. To develop a comprehensive response capability to crucial issues that arise nationally, regionally, and locally.
 4. To provide consultative services.
- E. Communication
 1. To facilitate communication and establish liaison among interested groups and individuals.
 2. To inform people of employment opportunities at all levels.

3. To develop information on existing programs which affect minorities at all levels.

4. To develop institutes, formats, conferences, symposiums, etc., to enhance our capabilities.

5. Sensitize the general public to the plight of blacks in the justice system in order to promote community involvement in the resolution of these problems.

F. Research

1. To effectively utilize black professionals to provide research, information and facts about black people that are involved in the criminal justice system.

2. To provide significant data on blacks and minority offenders detained and processed by the system.

3. To serve as a forum for the dissemination of research relevant to our programs and broader concerns

MEMORANDUM

TO: Members, National Association of Blacks in Criminal Justice

FROM: Andy Chishom, Chairman, Feasibility Committee

RE: National Feasibility Committee, National Association of Blacks in Criminal Justice.

On February 24-27, 1974, an important event occurred in the criminal justice system. The University of Alabama sponsored a conference entitled "Blacks in the Criminal Justice System", which was designed to increase awareness from a black perspective.

Although it was ironic that such a conference was held at a University that only ten years ago would not accept black students, significant events emerged that brought forth a consensus that the efforts of the conference should not be terminated, but ongoing. Dr. Bennett Cooper, Director of the Department of Corrections for the State of Ohio, was the keynote speaker and he personally charged the conference participants to elect a committee to study the feasibility of an ongoing organization that will concern itself directly with blacks held within the criminal justice system and those blacks working in the criminal justice system. The rationale for such an organization was based on a feeling that too much "arm chair" research was taking place on blacks in the criminal justice system. Blacks should bring forth research on blacks and thereby increase realism and facts to the various organizations in the system with hopes that more realistic programs would be developed.

I was selected as Chairman of the Feasibility Committee along with 27 others that have a great deal of expertise in the area. Although many of the committee members did not personally know each other and time for development was short, we did develop two important documents. One was the goals and objectives for such an organization. The second was a constitution. Although these two documents are tentative they are serving as a base for organizational development. I may add that these two documents were voted by the majority of conference participants as tentative guidelines for organizational development. All committee members should be applauded for their perseverance and dedication for these efforts.

Attached you will find copies of the goals and objectives. I am asking that you contact various organizations in the criminal justice system that will endorse our efforts in the form of a written letter. We will use these endorsements as aids in seeking funds for the organization. If we are to realize this organization, we all must be willing to involve our resources, energies, and ourselves in its pursuit.

I am aware that Rome was not built in a day, but I am also aware that it didn't take forever. I am setting the latter part of May as a target date in which, hopefully, all necessary information will be compiled and ready for committee approval. All committee members should prepare themselves for meeting at this time. A specific date will come forth shortly.

We are on our way, we will have an organization. What type organization depends on you and your support.

Grover Bell, Asst. Chairman, NABCJ
3201 24th St.
Northport, Alabama

Andy Chishom, Chairman, NABCJ
Dept. of Rehabilitation Counseling
Aderhold Hall, Room 413
University of Georgia
Athens, Georgia 30602

Carol Poe, Chairperson, Communications Committee
Birmingham TASC Project
329 B Omega St.
Birmingham, Alabama 35205

Karen Trader, Secretary
Mayor's Safe Skill Act
80 Boylston St., Room 1230
Boston, Massachusetts 02129

CONTINUED

1 OF 2

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80 Boylston St., Room 1230
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SECTION III

CONFERENCE PROGRAM

CONFERENCE PARTICIPATION

CONFERENCE SYNOPSIS

"BLACKS AND THE CRIMINAL JUSTICE SYSTEM"

Center for Correctional Psychology
University of Alabama
February 24-27, 1974

Focus

The black offender and his relationship with the criminal justice system.

Participants

Former offenders, community leaders, public officials, and professionals involved in the various components of the correctional system.

Format

One day of pre-conference workshops followed by two days of interest groups, speakers, and workshops geared toward making specific recommendations.

Dates

February 24 (pre-conference workshops) through February 27, 1974.

Location

Continuing Education Center, Martha Parham Hall, University of Alabama, Tuscaloosa, Alabama

Conference Objectives

1. To present a national picture of the black experience and the criminal justice system from an historical and contemporary perspective.
2. To probe, study, and evaluate the criminal justice system as it relates to black Americans.
3. To assist participants in the criminal justice system to focus on change for the offender through improved programs.
4. To provide alternative methods for problem solving.
5. To make specific recommendations for change.
6. To record and publish proceedings of the conference.

SUNDAY
February 24, 1974

Pre-conference Workshops

GRANTSMANSHIP
Art Leabman
C.A. Wasson

VALUES CLARIFICATION
Ronald S. Klein

MONDAY
February 25, 1974

9:00 - 10:00

Opening Session

Welcome:
Dr. David Mathews, President
University of Alabama

Introduction of Speaker:
Charles E. Owens
Conference Coordinator

Speaker:
Bennett Cooper
JUSTICE AND INJUSTICE: A HISTORICAL LOOK
AT BLACKS IN THE CRIMINAL JUSTICE SYSTEM

10:30 - 12:00

Panel Discussion

Introduction:
Carl Clements

THE BLACK EXPERIENCE AND THE CRIMINAL
JUSTICE SYSTEM: A NATIONAL PERSPECTIVE

CORRECTIONAL INSTITUTIONS
Hobart Banks

COMMUNITY BASED PROGRAMS
Jerome Miller

LAW ENFORCEMENT
Jack Highsmith

Panel Discussion (Continued)

LEGAL AND LEGISLATIVE
Daniel Skoler

PROBATION AND PAROLE
Mamie Reese

A VIEW FROM THE BENCH
Judge George W. Crockett, Jr.

1:00 - 3:45

Interest Groups

LEGISLATIVE REFORM: MAKING THE LAW
RESPONSIVE TO THE BLACK POPULATION
Judge George W. Crockett, Jr.
Daniel Skoler

BLACK FEMALE OFFENDER: DOUBLE
JEOPARDY?
Angelina Bell
Mike Seay
Jeannette Walton

RECRUITING AND HIRING OF BLACK
LAW ENFORCEMENT OFFICERS
Jack Highsmith

THE BLACK POTENTIAL IN THE CITY
JAIL: ACADEMIC ACCELERATION IN
CORRECTIONAL VEHICLES
Jack Solomon

TRAINING OF BLACK STAFF WITHIN
THE CRIMINAL JUSTICE SYSTEM
George Ashford
Richard B. Lyles

4:00 - 5:00

Discussion Papers

CURRENT RESEARCH ON BLACKS:
IMPLICATIONS FOR THE FUTURE
Samuel Barnett

ABOLISHING PRISONS: ITS EFFECTS
ON COMMUNITIES
Jerome Miller

IS RACIAL OR SEXUAL DISCRIMINATION
SUPPORTIVE OF CRIME?
Bertram Perry

SENTENCING PRACTICES OF SOUTH
CAROLINA JUDGES
Lawrence J. Tolliver

Discussion Papers (Continued)

ORGANIZATIONAL ROLE OF BLACKS IN
EFFECTIVE PENAL CHANGE
Regina Davis

TUESDAY
February 26, 1974

10:30 - 12:00

Panel Discussion

TREATMENT PROGRAMS WITH BLACKS
(Behavior Modification and Transactional Analysis)

Lloyd Baccus
Grover Bell
William O. Jenkins
John McKee
Ralph Wetzell

1:00 - 3:45

Interest Groups

PSYCHOLOGY AND ITS RELATIONSHIP TO BLACKS
Stanley Brodsky

COMMUNITY INVOLVEMENT: A MODEL
Alex Swan

MENTALLY RETARDED BLACK OFFENDER:
AN EXCEPTIONAL KIND OF DISCRIMINATION
Joe Gallagher

REINTEGRATION INTO THE BLACK COMMUNITY:
A MODEL FOR EX-OFFENDERS
Walter A. Jackson
Bill Thompson

VOICES FROM WITHIN SPEAKING OUT:
EX-OFFENDER PANEL
Ferris Lawrence
Mafundi

DOES RELIGION HAVE A ROLE IN THE
CRIMINAL JUSTICE SYSTEM?
Rev. Dorsey Blake
Sister Patricia

IMPLICATIONS OF PRE-TRIAL COMMUNITY BASED
PROGRAMS FOR THE CORRECTIONAL PROCESS
Eugene Rhoden

4:00 - 5:00

Discussion Papers

CONFLICTS OF THE BLACK CORRECTIONAL WORKER
Andrew Chishom

ECOLOGY OF PRISON LIFE
Alvis Adair

INDETERMINATE SENTENCING: TOWARD REHABILITATION
FOR SOME OR INJUSTICE FOR ALL (PROS AND CONS)
Lloyd Baccus
Hobart Banks
Stanley Brodsky

THE DYNAMICS OF THE PROBATION AND PAROLE SYSTEM
George Felkenes

SHOULD THE PROFESSIONAL HAVE A ROLE IN CITIZENS
GROUPS?
Dorothy Williams

WEDNESDAY
February 27, 1974

9:00 - 11:00

Workshops

PROBATION AND PAROLE
Douglas McElvy

CORRECTIONAL INSTITUTIONS (Programs and Staffing)
Hobart Banks

LAW ENFORCEMENT
Howard Saffold

LEGAL AND JUDICIAL

11:00 - 12:00

Workshop Recommendations and
Closing Announcements

SPEAKERS AND PANEL MEMBERS

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