Law & Justice

A FORD FOUNDATION REPORT

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THROUGH NEARLY TWO CENTURIES of severe trial and complex development, the American system of justice still hews to the Constitutional ideal of balancing the individual's right to freedom and his responsibilities to society. The system is widely admired, but even some of its warmest admirers acknowledge that it requires constant reexamination to meet new conditions and to correct shortcomings. Only within the last twenty years, for example, have strong efforts been made to provide quality legal representation of poor persons accused of crime. That demands for other improvements in the administration of justice are more insistent than ever does not bespeak extensive disaffection from the rule of law. Rather, it suggests a desire to preserve the principles of American justice and perfect its practice.

Major national concern for reforms in the courts, law enforcement agencies, and prisons and other correctional institutions was signaled by the President's Commission on Law Enforcement and Administration of Justice. The commission report, *The Challenge of Crime in a Free Society,** published in 1967, detailed the rise in crime, obsolescence in society's machinery for handling growing caseloads, underfinancing of criminal justice agencies, inadequate crime prevention, and ineffective efforts to rehabilitate offenders.

The justice system directly affects millions of men and women—victims of crimes, accused persons and their families, the police, the legal and judicial professions, and correctional personnel. Indirectly, of course, society at large has a vital stake in how well the system functions. On the most elemental level personal safety, no less than material well being, is a measure of the quality of life.

In addition, all citizens pay for defects in the justice system. When victims of crime—often the poor—are forced out of work by injuries or have no insurance to replace stolen property, the welfare burden is increased. When an average of $11,000 is spent to keep a married man in prison for a year compared to about $8,000 to provide him a job and rehabilitation in the community, the taxpayer loses. When police make unnecessary appearances in court because cases are continued, the loss

**The Challenge of Crime in a Free Society*, a report by the President's Commission on Law Enforcement and Administration of Justice (hereafter referred to as the President's Crime Commission), Government Printing Office (February 1967), p. 128.

is double: the overtime paid to the police and their absence from the streets to prevent crime and apprehend criminals.*

The Ford Foundation has assisted efforts to expand knowledge of the justice system and to modernize and otherwise improve the administration of justice. Its activities have focused on the following areas:

1. *Law enforcement.* Grants have been made for experiments testing new strategies to prevent crime and apprehend criminals, improved methods of selecting and training police, and more effective techniques to build police-community relations.

2. *The courts.* Organizations assisted by the Foundation have been in the vanguard of reforms to make legal services available to the poor and minorities; to substitute work, counseling, and therapy in the community for some accused persons instead of trial or incarceration while pending trial, and to ensure the efficacy and fairness of pre-trial, trial, and sentencing procedures.

3. *Corrections.* Support has been given for the conduct and evaluation of experiments in community-based rehabilitation, provision of volunteer and legal services to inmates and parolees, and analyses of prison and jail conditions.

4. *Legal education, criminal justice research, and citizen participation.* The Foundation has assisted:

—clinical programs in law schools to develop students' first-hand knowledge and interest in criminal justice;

—development of model codes by professional organizations;

– public interest law groups, to represent collective and class interests that might otherwise go unrepresented;

—university-based criminal justice institutes that address broad and specific issues of law, procedure, practice, and ethics;

—citizen groups working on criminal justice problems in their communities.

A total of approximately $112 million has been granted to these efforts over the last two decades. What follows is a report on a cross-section of such programs since the mid-1960s.†

*The city of Tacoma, Washington, estimated it saved $30,000 annually in police overtime pay for unnecessary appearances just in traffic court cases. New York City saved more than $550,000 in seventeen months through elimination of unnecessary court appearances for police. See Court section for details.

†For a description of earlier assistance in this field, see . . . *and Justice for All* (Ford Foundation, 1967). Out of print but available in many libraries.

Police

THE NATION'S FIRST REACTION to rising crime rates and fears about crime during the 1960s was to hire more police. Municipal police expenditures rose from $2.1 billion in 1967 to $3.5 billion in 1971, an increase of 70 per cent. The $6.2 billion spent on police at all levels of government represented about 60 per cent of total government expenditures on the criminal justice system, including courts and corrections. More than 80 per cent of the cost of police protection is for manpower. Yet police officials have few objective data to guide them in choosing the most effective uses of manpower to fight crime.

To help meet the need and to test both traditional assumptions and new methods of policing, the Police Foundation was established in 1970 under a five-year, $30 million commitment from the Ford Foundation. Based in Washington, D.C., and governed by a board of directors drawn from municipal management, police administration, and higher education, the Police Foundation conducts or sponsors research and supports experiments in partnership with local police departments. Nineteen departments across the country have received some $12 million to date to test and evaluate conventional methods and innovations in police work.* Because crime and police protection are so susceptible to folklore, emotion, and political slogans, the Police Foundation stresses careful experimental design and strong elements of control and evaluation in the projects it supports.

Allocating Police Resources

In Kansas City, for example, it has supported the first attempt to determine through scientific evaluation whether the time, effort, and money spent in routine preventive patrol might be more effectively used in alternative crime prevention strategies.

In looking for more effective methods to prevent crime through better use of manpower, the Kansas City department discovered that a major obstacle to starting new activities was the time consumed by routine preventive patrol—police cars cruising a given area. This traditional police activity has used about 35 per cent of the available time of the patrol force (the remainder was devoted to such self-initiated activity as checking cars, buildings, and suspicious pedestrians, or to responding to calls, bringing cars in for servicing, and attending roll calls). Only 2 or 3 per cent of the time on preventive patrol was found

*Chattanooga, Cincinnati, Norwalk (Connecticut), Dade County (Florida), Dayton, Detroit, Kansas City, Los Angeles, Madison (Wisconsin), New York City, Rochester, Sacramento, San Diego, Simi Valley (California) and Wilmington (Delaware).

to be devoted to incidents involving crime or potential criminal activity. Despite such analyses, the assumption that a visible patrol prevents crimes remains strong among police and in the community at large.

The Kansas City experiment was designed to test traditional practice by varying patrol intensities within a 39-square mile area of the city for one year (October 1972-October 1973). In five patrol beats within the area, routine patrol—cruising of the streets by police cars—was suspended, although cars from outside these beats continued to respond to calls or reports of crime coming from citizens in the test beats. In five other beats within the test area, routine patrol was raised to three to four times the usual intensity by adding cars. In the third group of five beats, routine patrol was maintained at normal levels.

The crime rate, citizen reaction, and police performance in all three groups of beats were carefully monitored. The evaluation employed such techniques as victimization surveys to record the actual level of crime experienced by citizens and businessmen (rather than just measuring those crimes reported to police), interviews about how satisfied citizens were with police service and how safe they felt, and the recording of changes in the time it took police to respond to calls for service. Data from the experiment are still being studied, but fears that crime might skyrocket in the beats where police visibility was reduced were unfounded.

Patrick Murphy, former commissioner of the New York Police Department and now president of the Police Foundation, said that if the Kansas City experiment disproves the assumption that "more patrol means less crime," invaluable guidance would be provided about how to better allocate police resources. "Perhaps instead of constantly driving around in their cars, patrolmen should spend most of their time gathering intelligence, talking to people, advising businesses how to prevent crimes before they occur, and investigating," Murphy said.

The Kansas City patrol experiment has attracted nationwide attention among police departments and the media. The National Institute on Law Enforcement and Criminal Justice (the Justice Department's research arm) is considering supporting similar experiments in two other cities.

One alternative to routine preventive patrol is being tested in Kansas City with Police Foundation support. Called "interactive patrol," it seeks to establish closer police ties with the community by such techniques as having citizens ride in patrol cars and using arbitration rather than arrest in disputes between family members or neighbors.

Organizational Innovation

Decentralization is also being tested in conjunction with alternative strategies in Kansas City. For example, responsibility for devising and selecting crime-fighting strategies is being moved down the organizational ladder from headquarters to the city's three divisions and fifteen patrol sectors. The aim is to make fuller use of the patrolman's day-to-day knowledge about shifting crime patterns in his sector and beat. All patrol divisions now have informal sit-down roll calls in which each patrol sector—usually about seven or eight men per shift—meets separately with its sergeant. Previously all sectors in a division stood together in military-style formation. The small-group atmosphere of the patrol sector tends to foster more exchange of information between the line commanders and their men and among the patrol officers. This exchange facilitates use of the patrol officer's knowledge about shifting crime patterns in devising daily patrol strategies, and may result, for example, in the use of unmarked cars or increased coverage on beats experiencing a crime increase.

For the police commander, decentralization raises new challenges. "The old line, 'it's company policy,' doesn't wash here," explained Operations Bureau Commander Norman Caron. "We've got to be able to tell our men why we're making a change. On the other hand, we need to be receptive to ideas from the men."

In Cincinnati, the Police Foundation is supporting a major evaluation of team policing, another form of decentralization that has been tried in a number of police departments. In one of Cincinnati's six police districts, teams of from eleven to forty-seven officers have been given all police responsibilities except homicide investigation. Citizens receive service from the same officers for patrol and for traffic, vice, liquor law enforcement, and other functions previously performed by special headquarters divisions. The arrangement is designed to help police officers develop greater familiarity with residents and local crime patterns. The team policing project is being evaluated to determine its effect on crime and on citizen satisfaction. The test district covers a 3.7 square mile area encompassing a mixture of black, poor, and high crime areas; white, middle-class neighborhoods, and the city's central business district.

Police Personnel and Training

Spurred by national legislation for equal employment opportunity and the need for a wider range of skills to meet the challenges of modern policing, police departments gradually have been modifying their recruitment patterns and entrance requirements. The Police Foundation has supported a number of personnel projects involving the recruitment of minorities, the use of policewomen on patrol, and the training of officers as crisis counselors, mediators, arbitrators, and problem solvers.

The Dallas Police Department has one of the most comprehensive personnel reform efforts. It includes developing tests to predict more accurately how recruits will perform on the job, revamping the curriculum for recruit training, and increasing the percentage of minority employees. The department also is experimenting with new disciplinary procedures. In the past, there were few alternatives to removal from the force or suspension if an officer was guilty of misconduct. Now he can be referred for psychological testing or counseling.

In searching for more personnel and in seeking to comply with the 1972 amendments to the Civil Rights Act of 1964 banning discrimination by state or local agencies by sex, race, or other protected categories, a number of departments have expanded their use of policewomen in patrol and other non-traditional roles. Formerly policewomen were assigned almost exclusively to traffic control, desk work, or handling juvenile offenders. Recently the Washington, D. C., and New York departments have tried substantial numbers of women on patrol.

The Police Foundation supported an extensive evaluation of the Washington effort, in which, beginning in 1972, eighty-six women were placed on patrol duty. The policewomen were concentrated in two districts where they constituted about 13 per cent of the patrol force. The evaluation compared their performance with that of a group of new male recruits who had similar training and assignments. The evaluation of the year-long experiment concludes that ". . . sex is not a legitimate occupational qualification for patrol work."* While the women were judged to be less aggressive in making arrests and stopping cars for traffic violations, their superiors gave them higher ratings in 1973 than in 1972 (after they had been on the streets performing patrol work), and their ratings on general competence were similar to those of comparable male recruits. None of the data collected indicated any difference in their ability to deal with potential or actual violent situations. However, male police administrators and officers continued to believe that the women were less capable of handling violence. The study cautioned that attitudes of male officers can make it difficult to use women in police work and suggest that it might affect their performance on patrol:

**Policewomen on Patrol: Final Report* (Washington, D. C.: The Urban Institute, May 1974).

Many men do not believe that women can perform as well as men and they tend to be protective toward women. Unless management develops countermeasures, they may . . . find that some men will insist that women remain in a police car while they handle traffic stops. . . . If the protectiveness of male officers is not counteracted, women will not have a full opportunity to demonstrate their capability.

In the last two years the number of women assigned to patrol throughout the country has grown from seven to over 900.

Community Assistance

The considerable police work having nothing to do with crime—mediating a family dispute, helping neighborhood kids form a basketball league, or finding a lost dog—builds links to the community that often help police departments in their crime-related work. However, police recruits traditionally have received little systematic training in handling some of their more difficult encounters with citizens that can easily turn into violence or other infractions of the law. In Simi Valley, an expanding community of 80,000 adjoining Los Angeles, the Police Foundation is assisting in specialized training to enable police officers to function as mediators and arbitrators. It has long been known that how police approach a street fight, a family quarrel, or a suspicious person can lead to either greater violence or to resolution of the situation without an arrest. Police officials hope the skills taught the newly trained officers will reduce the incidence of arrests for matters that can be settled on the scene to everyone's satisfaction.

In another approach to diversion from criminal prosecution, Sacramento police channeled selected drug offenders taken into custody to work, therapy, treatment, and other nonpunitive alternatives. Following the experiment, which was conducted under the sponsorship of the Police Foundation, the police department adopted diversion as standard practice.

Guidelines for Police on the Street

Coupled with its assistance to field experimentation and evaluation, the Police Foundation has supported the formulation of guidelines for police action in sensitive and controversial areas of law enforcement, including search and seizure, stop-and-frisk and field interrogations, and the use of summons in lieu of arrest for minor offenses.

Commenting on the need for such guidelines, the President's Crime Commission report said:

. . . it is curious that police administrators have seldom attempted to develop and articulate clear policies aimed at guiding or governing the way policemen exercise their discretion on the street.

With Police Foundation assistance, the Arizona State University College of Law and a number of cooperating police departments* are developing draft regulations designed to balance law enforcement needs and respect for civil rights in such situations as eyewitness identification, searches and seizures, and release of arrest and conviction records.

Similar problems are addressed in work on a model pre-arraignment code, supported by the Ford Foundation at the American Law Institute. Covering arrests, searches, and seizures, the first section of the code has been completed and portions have already been incorporated in legislation in Arkansas, Florida, Indiana, and Nevada. Remaining sections on interrogation and police lineups are in preparation.

Professional and Career Development

Some police personnel practices have discouraged career-oriented persons from entering or staying in local law enforcement work. Early retirement benefits, for instance, have the effect of making way for younger officers. However, the prospect of retirement at 35 or 40 also tends to discourage a policeman from developing the skills and qualifications required for higher managerial positions. His aim is often to get out (possibly in order to start a second career) rather than to get ahead.

A new service to provide incentives to longer police careers has been launched by the International Association of Chiefs of Police with the help of a $500,000 Foundation grant. Known as the Professional Police Registry and Assessment Service, it provides the first nationwide accredited pool of police officers, commanders, and executives interested in placement with another department. To be listed on the registry, a candidate must pass tests and an assessment panel interview. The panels put candidates through simulated job situations to determine their suitability for the type of work and level of responsibility they seek. Skills in oral and written communication, problem analysis, and decision-making are assessed along with emotional stability. The first certifications to the registry are being made this year from more than 500 applicants from throughout the country.

In addition to developing the registry, the IACP has also helped a

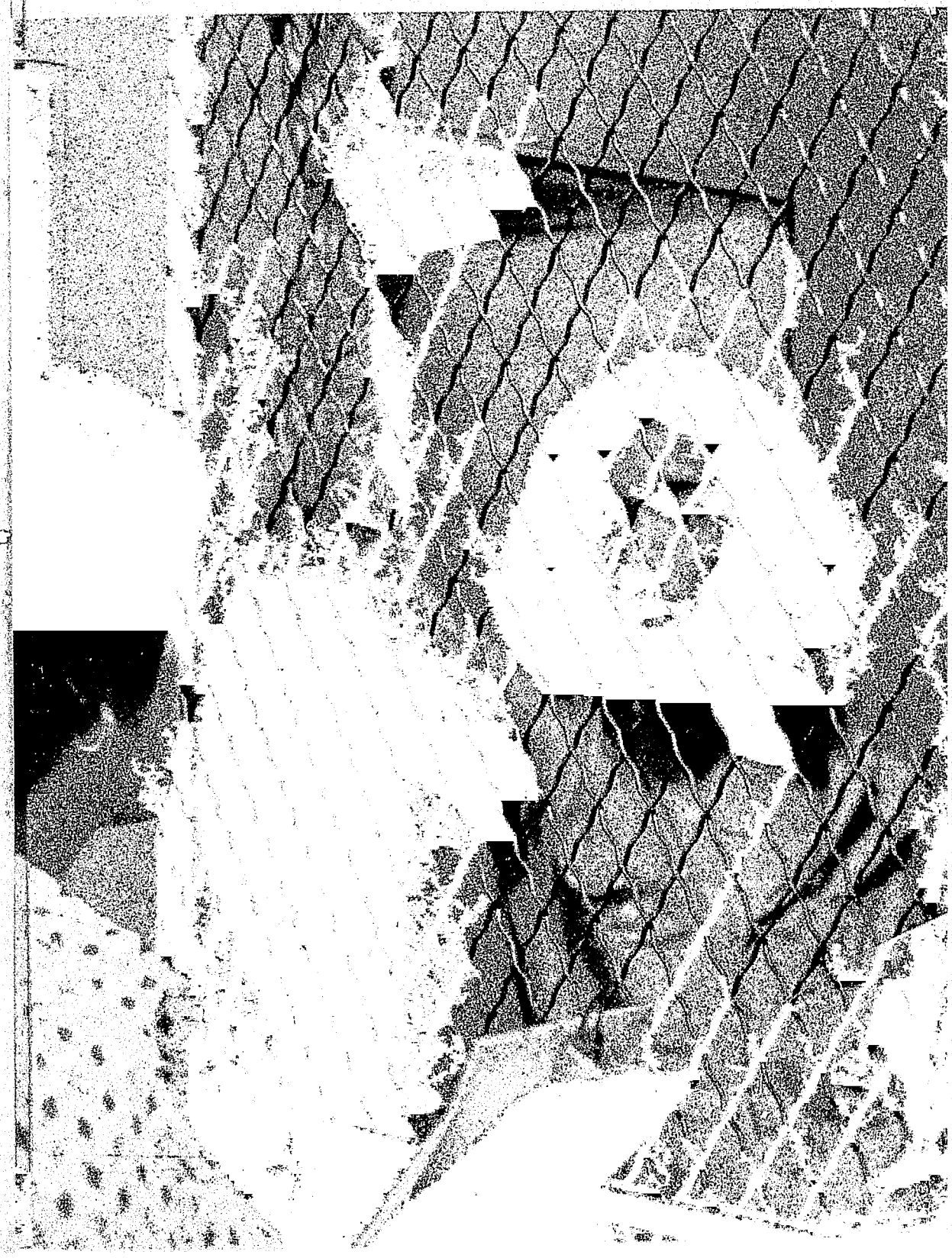
*Dallas, Cincinnati, Kansas City, Oakland, San Diego, Washington, D. C., Dayton, Phoenix, San Antonio, Dade County (Florida), and San Jose, California.

number of cities, including Portland, Oregon, and Chicago, to screen candidates for the position of police chief.

A career development training project at the Southern Police Institute at the University of Louisville has also been assisted by the Foundation. About 4,000 policemen from all parts of the country attended special 12-week college credit courses and 10-day seminars at the institute from 1960 to 1973. During this period the institute relied on the Foundation for its major support.* Since then, it has become self-financing through tuition fees.

*Additional details, . . . *and Justice for All,* pp. 45-46.

Courts



> The Commission has been shocked by what it has seen in some lower courts. In has seen cramped and noisy courtrooms, undignified and perfunctory procedures . . . dedicated people frustrated by large caseloads, by lack of opportunity to examine cases carefully . . . it has seen assembly line justice.—President's Crime Commission
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> Participation in the criminal justice process, whether by a witness, juror, or defendant, often is a confusing and traumatic experience. —Leonard Downie, *Justice Denied*

THESE CRITICISMS of the nation's criminal courts vary little from what Roscoe Pound in 1906 found to be "the causes of popular dissatisfaction with the administration of justice." A major cause of dissatisfaction throughout the years has been the bail-bond system, which the 1967 Presidential Crime Commission said not only is ineffective but

> . . . discriminates against poor defendants, thus running directly counter to the law's avowed purpose of treating all defendants equally.

Pre-trial Release

One way to mitigate this injustice is to release defendants without bail if their records indicate they are good risks to show up for trial. Judges have been reluctant to do this, partly out of fear the accused might commit another crime. In most cases, however, judicial reluctance results from lack of information to determine whether someone is a good risk.

A pioneer in the technique of developing the data required to justify releasing large numbers of accused persons without bail has been the Vera Institute of Justice. Founded by the late Louis Schweitzer, a wealthy businessman, it has received major support from the Ford Foundation. Schweitzer, shocked by the high proportion of accused persons crowding New York City's jails because they could not post bond, began to dig out the data necessary to persuade the courts that hundreds of persons awaiting trial were unlikely to flee if released from jail. This judgment was based on the accused's family status, job, other community ties, and previous court record. From this beginning, the Manhattan Bail Project was founded in 1961. It consisted of interviewing defendants, verifying the information, and recommending to the judge whether they should be released on their own recognizance—that is, without bail.

During a three-year test period, 3,500 defendants were released on their own recognizance as a result of Vera staff recommendations, out of a total of about 10,000 interviewed. Only fifty-six of those released,

or 1.6 per cent, willfully failed to appear in court for trial. This compared to 3 per cent for defendants released on bail.

The success of the Vera project and of subsequent bail reform projects in other cities led to the calling of a National Conference on Bail and Criminal Justice in 1964. The conference prompted widespread moves toward bail reform, including Congressional passage of the Bail Reform Act of 1966.

The pre-trial release program was taken over by New York City and extended during 1966 and 1967, with funds from the Office of Economic Opportunity, to detainees who lacked the usual qualifying ties to the community but who might have other qualifications for release, for example, a record free of previous convictions. Pre-trial release saved the city an estimated $400,000 in detention costs during the two years.

The success of the Vera bail reform movement has stimulated a substantial nationwide increase in the use of pre-trial release, according to a University of California (Davis) evaluation of the impact of Vera's work nearing completion. Yet in New York City, for instance, nearly 40 per cent of defendants were still not benefiting from interviews before appearances.

Part of the problem in releasing detainees into the community is lack of agencies to assume responsibility for their appearance at trials. An attempt to fill this gap is the pre-trial agency launched in 1972 by Vera in Brooklyn's magistrate court. Funded by the federal Law Enforcement Assistance Administration, Vera interviewers work virtually around the clock next to prisoner detention pens. They obtain the necessary information to make timely recommendations to a judge on arrested persons who are good risks for release on recognizance. When freed, defendants are told to report within twenty-four hours to the agency office three blocks from the court building. "Some of them arrive at the office before the papers notifying us they are coming," commented Les Scall, director of the agency. Close supervision and assistance is given to the defendants by 130 community service agencies that accept responsibility for one or more defendants.

Summons in Lieu of Arraignment

Vera's bail reform activities led to another effort to lighten the burden on the police and courts. Police commonly issue summonses to traffic violators without bringing them to a court for arraignment, and in the Manhattan Summons Project, launched in 1964, Vera tested whether

this procedure could be used for such minor criminal charges as disturbing the peace, simple assaults, and shoplifting. The project has gradually been taken over by the city and expanded to other types of offenses. The number of summonses used for minor crimes doubled during the first four years. Only about 5 per cent of those receiving summonses during this period failed to appear in court on the return date. Some $6.7 million in police time that would have been spent in accompanying the accused to detention cells and to court for arraignment was saved.*

From keeping the defendant out of detention prior to trial, Vera began exploring the potential for diverting selected persons entirely out of the criminal court process after their arrests.

An Alternative to Jail for Alcoholics

The Bowery Project, planned with a grant from the Foundation, opened in late 1967. Instead of being arrested or simply being left to lie in streets and doorways, skid row alcoholics are sent to a detoxification center and infirmary. Treatment is provided for the many medical problems they usually suffer. After "drying out," they are offered counseling, help in finding jobs, and, in some cases, psychotherapy. During its first three and one-half years of operation, the project admitted about 3,500 patients for an average of three times each. The Bowery Project makes no claims of full rehabilitation of men who have been drinking excessively for ten to twenty years. However, many are getting desperately needed medical attention, and about two-thirds are now seeking aftercare help. Other benefits include improved court functioning and compliance with the growing body of law stating that imprisonment for public intoxication is unconstitutional. The New York criminal justice system is relieved of thousands of cases annually. Other cities that have adopted the Bowery Project include Boston, San Francisco, Syracuse, Minneapolis, and Rochester.

Aside from its own projects in the New York area, Vera is assisting other jurisdictions to adopt some of its ideas for improving criminal justice programs. Among the cities it has helped are Cincinnati, with

*Since then the rate of no-shows at trials has risen somewhat. The reason, Vera believes, is that the summons procedure is now being applied to practically all cases less than felonies. Because of the large numbers and cost involved, no records have been kept on the history of summons cases. A number of police agencies have adopted the citation in lieu of arrest procedure. It was recommended by the American Bar Association Project on Minimum Standards for Criminal Justice (1968), with some exceptions, for all offenses carrying maximum prison sentences of six months or less.

programs for issuing summonses in lieu of arrest, pre-trial release, and alcoholic detoxification; Tucson, Arizona, and Davenport, Iowa, with adult offender diversion programs; and Portland, Oregon, with adult diversion programs and the development of alternatives to incarceration for juveniles.

Supported Work

The Vera Institute's court employment project enables an unemployed defendant to earn dismissal of charges in exchange for accepting a job.

A relatively small proportion of the 1,000 accused persons coming before the Manhattan Criminal Court each day (about 1 to 2 per cent) are referred for possible employment. However, at its peak, the project carried about 2,500 persons, or approximately 27 per cent of the court's probation caseload. They are screened through interviews conducted by ex-prisoners. Those accused of such serious crimes as murder, arson, and forceable rape are excluded, along with psychotics, hard drug addicts, and ex-prisoners who have served more than one continuous year in a penal institution. The aim is to show other offenders—young ones especially—an alternative to the street-life models of success: the gambler, the numbers runner, and the narcotics pusher. Decent employment offers an offender a chance to convert arrest from a losing to a winning experience. In 1971, 61 per cent of the defendants taken into the project were gainfully employed and had their charges dismissed. Almost all of the participants remained on the job after dismissal of charges, and rearrest rates were well below that for the general court population. Similar court employment projects are now operating in about twenty-five cities.*

Many participants were discovered to be narcotics users, although they had been arrested on other charges. Because they did not do as well in the experiment as other offenders, Vera began in 1972, in cooperation with three federal agencies and New York City, a project called "Wildcat"† to put addicts to work in groups on such city jobs as water-blasting dirt off municipal buildings, restoring old housing, and staffing libraries during night and weekend hours. In the group setting they benefit from peer support and graduated performance requirements,

*The U.S. Department of Labor funded six projects based on the Vera model in Atlanta, Baltimore, Boston, Cleveland, Minnesota, San Antonio, and San Jose, Santa Rosa, and Hayward, California. Vera helped set up projects in Tucson and Kansas City.

†Since Project Wildcat began, 75 per cent of those accepted have stayed on the job or moved to other jobs. The recidivism rate is about 16 per cent, or less than one-fourth the national average.

explains Herbert Sturz, director of Vera. Known, therefore, as "supported work," the concept may be applicable to other hard-to-employ groups, such as ex-offenders and poorly educated youth. It costs only about $8,000 annually to give an addict a public job as opposed to at least $11,000 if he is put behind bars. In addition to the savings from not processing him through the criminal justice system, society recoups a large portion of his wages through reduced welfare payments and the taxes he pays.

Planning for a major national experiment in supported work began in 1973 by the Foundation and several federal agencies—the U.S. Departments of Labor and Health, Education and Welfare, the Law Enforcement Assistance Administration, the National Institute for Drug Abuse, and the Department of Housing and Urban Development. Under planning grants awarded by the Foundation and the Labor Department in 1974, nineteen communities are preparing programs to test the concept with hard-to-reach and dependent groups, including ex-addicts, ex-offenders, unemployed youth, and female heads of households receiving welfare assistance. The programs range from a project for ex-offenders and welfare mothers in Newark, New Jersey, to a State of Washington plan for ex-offenders in the Puget Sound area. Concurrently, a design for evaluation and controlled research by an independent agency is being formulated. Following the planning phase, larger scale three-year grants will be made late this year or early in 1975 for actual operation of selected programs in a cross-section of communities.

Court Procedure

The right of every person to a fair trial before his peers is seldom exercised. The reason, as noted in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals, is:

> In many courts, more than 90 per cent of criminal convictions are not obtained by the verdict of a jury or the decision of a judge (but) . . . upon the defendant's own plea of guilty.

Many of the guilty pleas, obtained to avoid trial, result from plea bargaining—negotiations between prosecutor and defense attorneys. Typically, plea bargaining takes place behind closed doors or in whispers before the bench. The accused is offered a lesser charge, carrying lighter penalties than the one lodged at the time of arrest, if he agrees to plead guilty.

In many cases the incentive for the accused to forego trial and plead guilty is:

> . . . the understanding—or threat—that if the defendant goes to trial and is convicted he will be dealt with more harshly than would be the case had he pleaded guilty.

Indiscriminate plea negotiation not only increases the risk of convicting innocent persons, especially inexperienced or youthful defendants, but also disrupts court scheduling and creates cynicism about the fairness of the criminal justice system as a whole, the National Advisory Commission notes.

An early attempt to bring backstage plea bargaining processes out into the open was the American Bar Association publication, "Standards Relating to Pleas of Guilty" in 1968. The standards have been cited in hundreds of appeal cases. Instead of acquiescing in hurried recording of pleas, judges now are advised by the standards to conduct careful questioning in open court to ensure that the accused understands the consequences of pleading guilty, that there is evidence to support the charge, and that no coercion was involved in the plea bargaining.

Another landmark was the ABA "Standards Relating to the Prosecution Function and the Defense Function," published in 1971. These standards were partly based on the practices developed by the Offender Rehabilitation Project (ORP), which was evaluated by the Georgetown University Institute of Criminal Law and Procedure.* For example, the ORP model for using para-legal staff to develop pre-trial information on defendants (to be used in designing a community rehabilitation program) was adopted by the ABA as a standard for every defender office. Samuel Dash, director of the Georgetown Institute, was special consultant to the ABA project. He explained the connection between this standard and the plea bargaining process as follows:

> What this does is enable the defenders to go to the prosecutor about a client who has committed crime "X" and is out of a job and tell him that the defendant can be entered into a training program or put in touch with a social service agency. Perhaps the prosecutor may decide it's not in the best interest to have the accused prosecuted right away, to hold back and see if he can make it. If the prosecutor does not want to divert the defender [from trial] perhaps he will consider the man less dangerous and agree on a recommendation of probation after a guilty plea.

*For a fuller description of ORP and other work of the Foundation-supported institute, see pages 26 and 47.

Armed with information about his client, Dash adds, the defender has more negotiating leverage in the plea bargaining.

The work of the ABA committee that prepared both sets of standards was supported by the Foundation.

Administration of the Courts

When legal reformers try to improve the quality of justice in the courts, they usually encounter the practical limitations imposed by antiquated court machinery. As the backlog of cases increases, judges have less time to oversee the administrative functioning of their courts. In many jurisdictions, management of the courts has remained unchanged for half a century or more. Deploring this as one of the main causes for delays in the administration of justice, Chief Justice Warren Burger said in 1970:

> We have at least fifty-eight astronauts capable of flying to the moon but not that many authentic court administrators available to serve all the courts in the state and federal systems.

The Chief Justice's concern was a motivating force behind the establishment in 1970 of the Institute for Court Management, with the assistance of a $750,000 Foundation grant.

As a result of the growing number of graduates from the institute's courses and workshops, trained court administrators now outnumber astronauts.* The administrators have applied management techniques to help judges handle non-judicial functions that often cause delays if performed inefficiently. The administrators have helped reduce delays by establishing controls over case scheduling, determining the correct number of jurors to call for standby duty, advising the court on the best way to use computer technology, helping to administer court personnel, and cutting back on unnecessary legal printing. The institute's graduates have taken positions at all levels of the court system, from municipal and county courts to the U.S. Supreme Court. An information system for cases reaching the Supreme Court, developed under the direction of ICM graduate Julian Garza, a deputy clerk, is expected to provide the court with "a great amount of information for planning and policy making," according to Mark Cannon, administrative assistant to the Chief Justice.

*By the end of 1974, the institute expects to have graduated about 270 administrators. Nearly 600 applications were received for 80 openings in mid-1973. A number of universities have established graduate level programs in judicial administration since the institute opened.

In the Second Circuit of the U.S. Court of Appeals, which includes New York, another ICM graduate, Robert Lipscher, has instituted a new monitoring system for criminal cases. A sampling of cases in the first year indicates that the time required to process a case from disposition by the lower District Court through the Court of Appeals has been reduced by 28 per cent without any increase in personnel.

The courses at the institute stress understanding of the judicial process and the roles of the various participants, the characteristics of court operations, financial management, automatic data processing, personnel management, and relations with the community.

As courts have discovered the value of trained administrators, managerial positions have been growing. "Our first graduating class took six months to get good jobs," says institute director Ernest Friesen. "Now we have thirty or forty jobs going begging."

Training of Judges

When a lawyer becomes a judge, a major career change occurs "involving significantly different functions and requiring different skills and knowledge," as it was put in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals. The Foundation has assisted several efforts to orient newly minted judges to their changed careers and to provide for the continuing education of judges already on the bench.

Since 1964, with assistance from the Max C. Fleischmann and W. K. Kellogg Foundations, a National College of State Trial Judges has provided four-week training for a few new judges from each state. The program, however, cannot accommodate the large influx of judges, especially from large states such as California, which in 1967 was getting some fifty new judges a year. With the aid of a three-year Ford Foundation grant, California jurists and legal educators established the first state-based orientation program for new judges, the College of California Trial Judges. With law faculty and experienced judges serving as faculty, the courses emphasize court administration peculiar to California practice in areas where most lawyers elevated to the bench have little background—criminal, matrimonial, and juvenile law, and the sentencing, rehabilitation, and psychiatric treatment of offenders. The program has included field trips to San Quentin State Penitentiary and the Adult Authority to provide first-hand insight into the problems of institutionalization.

Classes are held at the law school of the University of California

(Berkeley). The college has prepared a series of basic reading materials called "bench books" on such topics as search warrants, misdemeanor procedures, and small claims. A film produced by the college has sequences showing a judge advising defendants of their rights and illustrating how the same words of a judge's instructions to a jury delivered in a different manner can substantially alter meaning. Some 210 judges attended during the grant period, and the program has continued with funds from the Omnibus Crime Control and Safe Streets Act.

Since the California program began, some twenty-six states have started to provide some in-state training for general trial court judges. Several programs have been modeled after the California college. A similar program for training and continuing education of judges in New York City was conducted from February 1968 to September 1970 under a Foundation grant to the Institute of Judicial Administration.

The major national agency working in the area of court improvement, the National Center for State Courts, was established in 1971 with the aid of a grant from the Ford Foundation, and has received continuing aid from other private foundations, state court systems, the National Science Foundation, several corporations, and the Law Enforcement Assistance Administration.* Headquartered in Denver, the center has regional offices in Atlanta, Boston, St. Paul, Minnesota, San Francisco, and Washington, D. C. Its staff includes attorneys, court administrators, legal educators, social scientists, management analysts, systems experts, and skilled researchers. The center has provided research staff to assist judges in reducing appellate backlogs, sponsored orientation of newly appointed judges and continuing education for other judges. It has also assisted state courts to improve bar discipline, install computer-based information systems, revise court rules, establish standards for court research facilities, and promote improved procedures for judicial selection, tenure, discipline, and retirement. The center helps administer LEAA-funded court training and evaluation of training programs for judges and other court staff. It also held the first national conference for judicial educators, attended by 150. It made a major study of the use of videotaping equipment in courtrooms, and evaluated computer-aided transcription for court reporters' stenographic notes.

*Six major national organizations are engaged in training judicial branch personnel: the National College of the State Judiciary, the National Council of Juvenile Court Judges, the Institute of Judicial Administration, the American Academy of Judicial Administration, Louisiana State University at Baton Rouge (training agency of the National Conference of Appellate Judges), and the Institute for Court Management.

Among the nation's 12,500 judges, there are about 325 black state and federal judges. An organization of black judges—the Judicial Council of the National Bar Association—was established in 1971, assisted in part by a Foundation grant to the association. The purposes of the council are to eradicate racial and class bias from judicial and law enforcement practices, improve public confidence in the courts, analyze and improve judicial managerial and administrative systems to eliminate backlogs, facilitate and hasten racial integration of the judiciary, train and counsel members, and provide continuing education of black judges. George Crockett, the first chairman of the council, said that new black judges face such unique conditions as their prior isolation from the judicial process and the special function they can fulfill in restoring the confidence of the poor and underprivileged in the fairness of our judicial system.

Unnecessary Court Appearances

Not only offenders but witnesses and policemen experience frustrations in delayed justice. The practice of granting repeated continuances frequently leads to the loss of a witness who decides that it is not worth losing another day's pay waiting in a courtroom only to hear the judge order a fifth or sixth continuance because some other party to the case did not appear.

One of the main causes of delay in court proceedings—the production of prosecution witnesses—was attacked in an Appearance Control Project conducted in New York City jointly by the Vera Institute of Justice and the District Attorney's Office in cooperation with the Criminal Court and Police Department. Convenient dates when the two key witnesses—the arresting officer and the complainant—can appear in court are determined by an assistant district attorney when the complaint against the defendant is prepared. The officer and the complainant are not required to appear for such preliminary proceedings as discussions between the prosecutor and defense counsel on possible early disposition of the case. If the next scheduled court session requires the key witnesses to be present, they are told either to appear in court on the date specified or remain on telephone alert during the morning of that date.

During the first year of operations (1970), the Appearance Control Project averted nearly 6,000 unnecessary appearances by witnesses. Over the first seventeen months, the police department saved more than $550,000 because policemen were on their regular jobs instead of wait-

ing around courtrooms. A similar project in Chicago grew out of a study of continuances in the Cook County Criminal Courts by researchers at the University of Chicago's Center for Studies in Criminal Justice.*

Sentencing

Few areas of the criminal justice system remain so removed from public view yet harbor so much inequity as the final step of the judicial process: sentencing. None has a more profound effect on the fate of the individual offender or the public image of the system.

An ABA report observed:

> An enlightened sentencing decision today calls for a sophisticated and informed judgment which takes into account a vast range of additional factors, from the likelihood that the defendant will commit other crimes to the types of programs and facilities which may induce a change in the pattern of activity which led to the offense.

However, judges themselves often know little about the person they are sentencing. Ronald Goldfarb, in his study, *After Conviction*† (prepared under a Foundation grant) states:

> A judge sentencing a defendant who has pleaded guilty to a minor charge generally knows nothing about the defendant except the charge to which he pleaded and, in most cases, his criminal record.
>
> Criminal records are often incomplete. They often fail to show that an arrest was dismissed. In these circumstances, a judge knows little more about defendants than their behavior during court appearances or unverified testimonials (good or bad) about their prior record.

The first systematic effort to develop reliable information about defendants and to establish a rehabilitation program prior to sentencing for indigent clients was the Offender Rehabilitation Project (ORP) in the District of Columbia. Run by the District's legal aid office, the ORP program assured a job, training, or community social and rehabilitation services for selected defendants if the judge decided on probation or a suspended sentence rather than a prison term.

The Foundation provided funds for launching ORP in the mid-1960s, and the Office of Economic Opportunity added support for two years beginning in 1967. Then, with the help of evaluation data prepared by the Georgetown institute, the project was incorporated in the District government budget.

*For a fuller description of Foundation-supported work at the center, see page 47.

†Ronald L. Goldfarb and Linda R. Singer, *After Conviction* (New York: Simon and Schuster, 1973), p. 146.

The evaluation showed that judges were much more inclined to give non-prison sentences (probation or a suspended sentence) to an experimental group of convicted persons for whom background information and community rehabilitation plans were developed than to a control group for whom no such data or plans were made available. The rate of non-prison sentences was significantly higher (54 per cent) in the experimental group compared to the control group (35 per cent). In addition, the community saved about $360,000 annually in cost of incarceration above the cost of operating the project itself.

From the pioneering work of Vera in New York and projects such as ORP in the District of Columbia, diversion from prison has become a familiar concept and an expanding reality. Since early 1973, for instance, the Foundation-assisted American Bar Association Commission on Correctional Facilities and Services has been operating a National Pre-Trial Intervention Service Center which encourages diversion.* In the first year of operation the center has assisted six communities† in setting up programs to refer suitable defendants to job training, employment, remedial education, therapy, and other channels of rehabilitation.

Despite the range of efforts designed to relieve the burden on the courts and provide more effective rehabilitation than prison, only a small rivulet of diversion has been established from the flood of offenders filling the courts. As experience builds public confidence in community treatment, and cost savings and improved rehabilitation prospects are demonstrated, the pressure on those courts which produce assembly line justice should be eased.

*The center is run in cooperation with the National District Attorneys Association and supported by a $153,430 grant from the Department of Labor's Manpower Administration and $37,000 from the National Science Foundation for developing a model plan for communities to evaluate their diversion programs.

†Minneapolis-St. Paul; Rochester, New York; St. Louis, Missouri; Carbondale, Illinois; Tacoma, Washington; and Nashville, Tennessee.

Corrections

EVER SO SLOWLY, the walls between offenders and society are coming down. Many studies have suggested that a greater proportion of those sentenced for crimes could be more effectively rehabilitated in the community if properly supervised rather than behind walls. "Rehabilitation" in prison, as described by one ex-convict, consisted of learning

> . . . how to pick locks, open safes, sort junk from real jewelry, fence stolen goods, put in a fix with the local politician and draw up a writ . . .

Little has been done to classify the prison population and to provide corrections suited to the person rather than the crime, either within or outside institutions. In too many prisons the violent criminals are mixed indiscriminately with the general prison population. The result is that correction facilities tend to retain the fortress psychology, and in many cases the physical facilities, of the past. As late as 1971, for instance, there were still twenty-three maximum security state prisons in use which had opened their doors before 1870. Six of these predated 1830.

New Designs for Corrections

Seeking to encourage alternatives to what the President's Crime Commission said are "corrections which do not correct," the Foundation has assisted a number of studies on prison reform.

Among these is Goldfarb's comprehensive book on corrections, *After Conviction*. He concludes that mere improvement of the amenities offered those who are incarcerated, or the simple hiring of more or better trained corrections personnel, would be "superficial and cosmetic" reforms. What is required, he suggests, is

> diversion from the system altogether, creative exploitation of convicts and ex-convicts in the rehabilitation of other convicts, pervasive victim-compensation programs and other related attempts at reconciliation between offenders and victims, contracting for services in the private sector where possible, a greater use of community resources, earned clemency, a totally open system always available to public scrutiny, and the drastic redesign of decent facilities for use in the small minority of cases where security is essential for community self-protection.

The movement for community-based correction, however, has often met fierce resistance from legislators and the public who fear the proximity of criminals. The lack of carefully mobilized community resources, such as job opportunities, psychiatric counseling, and half-way houses, is the other main inhibiting factor.

One model of a community-based corrections program is the American Justice Institute's (AJI) "non-prison" for young offenders between

the ages of eighteen and twenty-six who have not committed serious crimes such as murder and rape and who want help from an intensive treatment program. The study envisions a community correctional center in the heart of the population from which its clientèle is drawn. During their first thirty days after intake, the clients would be confined at the center, which would resemble a motel or apartment building rather than a jail. They would gradually be phased back into the community over the next ninety days to two years or more, returning to the center weekly or more often for group meetings and specialized services such as job or psychological counseling. Residents of the community would be drawn into the center's program, increasing their awareness of the clients' needs and acceptance of community rehabilitation. The clients would be involved in setting the rules for the center and making decisions on menus and allocation of space for activities. The goal would be to make the clients self-supporting as early as possible.

While the models for correctional facilities specified in the Goldfarb and AJI studies have not been adopted in any single existing setting, the concept of community-oriented programs has gained wide acceptance. The National Advisory Commission adopted the standard that state and local correction systems should begin immediately to develop "a systematic plan . . . for implementing a range of alternatives to institutionalization."*

One of the largest prison diversion programs to date, California's probation subsidy program, is undergoing an extensive evaluation by the Foundation-supported Center on Administration of Criminal Justice at the University of California (Davis). Since 1966, the state has been subsidizing counties to treat offenders in the local community rather than committing them to prison. Credited with keeping over 20,000 offenders out of prison at a saving to the state of more than $150 million, the program nevertheless has become highly controversial. The evaluation seeks to determine the basic facts about what the program has and has not accomplished.

The experience gained in such experiments is not shared adequately with others around the country working toward correctional reform, according to many corrections administrators, university experts, and civic groups. A survey by the Foundation in eight states in 1972 confirmed the lack of reporting of current developments to meet the practical needs of those charged with making day-to-day policy for and

*Some states have begun this process, but none had been completed by mid-1974.

administering prisons, probation and parole programs, and other correctional departments and institutions. The Foundation therefore established a Correctional Information Service, which is now, under a Foundation grant, affiliated with the American Bar Association Commission on Correctional Facilities and Services.

The CIS publishes *Corrections Magazine*. The first issue appeared in September, 1974. With an initial circulation of 7,000-10,000, *Corrections Magazine* will appear six to eight times annually. If additional funds are obtained, publication will be monthly. Among the articles planned for the first few issues are reports on the Delancey Street Foundation, a rehabilitation program for ex-addicts in San Francisco; the Associated Marine Institutes, a program for youthful offenders in Florida; sex offender programs in Washington State and New Jersey, and The Bridge, Inc., an inmate-run upholstery business in Walla Walla, Washington. Also planned are profiles of the state corrections systems in California, Florida, Alaska, New Jersey, and Washington.

Jail Reform

However deficient the conditions in federal and state prisons, they are superior to the grossly inadequate facilities in most of the 4,000 locally administered jails. The conditions are especially onerous because over half of the men, women, and juveniles they contain are awaiting trial or sentencing. Of 3,319 municipal and county jails surveyed in 1970, half had no medical facilities; 85 per cent, no recreational facilities; 90 per cent, no educational facilities; three fourths, no place for handling visitors, and forty-seven jails lacked flush toilets.

A majority of the states, furthermore, do not have jail inspection and standards systems. A beginning in this direction has been made by the Commission on Correctional Facilities and Services of the American Bar Association, set up with a $250,000 Foundation grant in 1971. Among its projects to improve the correction system, the commission provides information and draft standards. Two states, Arkansas and Oregon, with assistance from the commission, have passed legislation establishing jail inspections and standards.

Rights of Prisoners and Ex-Offenders

The virtually absolute power of guards, wardens, and other corrections administrators is being increasingly challenged by litigation. The fine line between prisoner rights and the maintenance of order and discipline is often difficult to determine. Recognizing the widespread lack of

guides and standards on the rights of inmates, the ABA commission, in conjunction with the American Correctional Association, has prepared a handbook for correctional officers.* It provides the correctional officer with information on how court decisions have affected such issues as liabilities of officers for neglect and misconduct, prisoners' rights to attend religious services and have access to adequate medical care, and the categories of punishment which may be ruled to be "cruel and unusual."†

Once released, the inmate still encounters major restrictions to his rights. The commission has sought to combat barriers to voting and employment. It presented a "friend of the court" brief, for instance, in the case of an ex-prisoner denied the right to vote in California, arguing that it is unconstitutional to do so after he has served his sentence.‡

Although nothing is more important in the rehabilitation of ex-prisoners than a job, there are hundreds of occupations and professions from which they are barred by state licensing statutes. An ABA commission study in 1973 found, for instance, that twenty-four states barred ex-offenders from becoming a barber, although many correctional institutions offer barber training for inmates. Other occupations barred or severely restricted included cosmetologist/beautician, practical nurse and, in New York, waiters, waitresses, bartenders and all other employment in establishments that sell alcohol. Five jurisdictions even prevent an offender convicted of a felony or crime involving moral turpitude (or who cannot prove good moral character) from becoming a junk dealer. In the professions, good moral character is a common requirement for obtaining a license to be certified as a doctor, dentist, accountant, teacher, or lawyer. Many professional schools automatically deny entry to ex-offenders.

In recent years, however, a number of states have eliminated or modified such restrictions. The ABA commission provided background

**Legal Responsibility and Authority of Correctional Officers* (Washington, D. C.: American Bar Association Resource Center on Correctional Law and Legal Services and American Correctional Association, January 1974).

†The commission, in addition to disseminating information on correctional law and procedure, has helped to advance the cause of prisoner rights in the courts. It filed a brief in *Morrissey* v. *Brewer* (408 U.S. 471) in which the Supreme Court upheld the right to due process in parole revocation proceedings including the right of prisoners to hearings at which they can call, cross-examine, and confront witnesses.

‡However, the U.S. Supreme Court of the United States ruled (6 to 3) on June 24, 1974 *(Richardson* v. *Ramirez)* against the ex-prisoner, holding that provisions of the California law barring voting rights to certain offenders were not a denial of the equal protection clause of the 14th Amendment.

material and model legislation which twelve states have adopted.* These measures call for removing unwarranted restrictions on job opportunities for ex-offenders.

In New York City, which has a disproportionately high share of the nation's ex-offender and ex-addict population, the Foundation in 1973 assisted the establishment of a Legal Action Center to combat employment discrimination against these groups. Most organizations working with former prison inmates have no legal staffs. The center engages in litigation and negotiation on regulations and practices by government agencies, employers, and unions that disqualify certain classes of ex-offenders from employment or licenses. For example, the center has brought actions challenging blanket prohibitions against employment of ex-addicts by the Transit Authority and the U.S. Postal Service. In one case it challenged the legality of a civil service list permanently disqualifying ex-offenders from city employment under which a garbage collector was dismissed because of a ten-year-old petty larceny offense. The center also seeks to strengthen prison programs for training and placing offenders and assists public and private agencies to develop new job placement programs for former inmates.

Rehabilitation

However much the detention experience is made more humane, the key element in corrections is whether or not the offender receives the kind of help that provides the motivation, skills, and contacts to succeed on the outside. Yet few of the nation's correctional resources are used to help the offender stay out of prison once he is released. Norval Morris of the University of Chicago and Gordon Hawkins of the University of Sydney have noted that two-thirds of offenders in the correctional system are on probation or paroled in the community, yet four-fifths of the correctional budget and nine-tenths of correctional employees are devoted to penal institutions.

Under current caseloads, supervision of persons on probation and parole "typically consists of a ten- or fifteen-minute interview once or twice a month during which the officer questions and admonishes his charge, refers him to an employment agency or public health clinic, and

*Arkansas, California, Colorado, Connecticut, Florida, Indiana, Illinois, Maine, Maryland, New Mexico, Oregon, and Washington. At this writing, the New York Assembly had acted on similar legislation. Other states considering bills are Hawaii, Iowa, Kentucky, Maine, Minnesota, Montana, New Jersey, Pennsylvania, Vermont, Wisconsin, and Wyoming.

makes notations for the report he must file," the President's Crime Commission reported.* To provide closer contact with the offender in the community, the President's Commission recommended the use of volunteers and paraprofessional aides. Both of these resources have been tapped in projects assisted by the Foundation.

Inner-City Probation Aides

In Chicago, for instance, inner-city residents, including some ex-offenders, have been successfully used as part-time aides in the U.S. probation office for the federal district court in nothern Illinois. This project was launched by the University of Chicago's Center for Studies in Criminal Justice† in 1968 with assistance from the Foundation and National Institute of Mental Health. It was designed to test whether case aides with no professional training but similar backgrounds to the probationers could perform as effectively as regular probation officers. Most of the forty aides selected were black and lived in the lower-income neighborhoods of Chicago. Those who lacked writing skills were allowed to file verbal reports on their clients.

The case aides proved to have certain advantages over the predominantly middle-class, college-educated white probation officers in establishing rapport with parolees.‡ One of the case aides who grew up in Chicago, stayed out of trouble, and worked his way up from a laborer to an accounting job said, however, that acceptance of his new role was not easy at first. The first reaction of some offenders was to call him "the white man's flunky." To overcome this barrier and increase his availability to his clients, the aide made many of his calls at night and maintained a desk first at a Model Cities office and then at a police station rather than at the probation office outside his clients' neighborhood. He also visited clients in their homes, at bars, and at sports events to put them at ease.

Finding work for an ex-offender requires more from the aide than calling an employer and setting up an appointment. "A lot of guys find it very difficult to talk to employers. Sometimes you have to pick them

*From two-thirds to three-quarters of persons on probation on parole are being attended by officers with caseloads of 100 or more, about three times the recommended standard of 35, according to the President's Crime Commission, pp. 165 and 167-9.

†One of four such centers established by Ford at university law schools. Further description of projects at the University of Chicago and other centers is contained in the Research section of this report.

‡Although about 40 per cent of the caseload in the northern Illinois district probation office were blacks, only 16 per cent of the probation officers were blacks.

up and take them in tow," said one aide. One client lost three janitorial jobs in three weeks. That might have been enough for an overworked probation officer to revoke the offender's probation and return him to prison. However, the aide discovered that the man wanted to train for a better job than pushing a broom and arranged for him to enter a vocational training course.

The rate of rearrests of offenders assigned to the case aides showed virtually no difference from that of a control group supervised only by the regular probation officers, according to an independent evaluation of the Chicago project. The offenders supervised by the case aides apparently benefited from the closer supervision. In comparison with the control group, for instance, those who were arrested a second or third time while on probation showed a significantly lower rate of conviction —about half. This may have occurred because the case aides more often accompanied their clients to court to make sure they had adequate representation and to verify that the parolees were showing signs of rehabilitation in job performance or by establishing ties to the community. The case aide clients who were rearrested also experienced considerably fewer revocations of probation. About one in five of them were sent back to prison, compared to about half of those in the charge of the regular probation officers.

Within two years after completion of the eighteen-month project, the position of full-time probation officer aide was established for the first time in the U.S. Probation Service. As of this writing, twenty aides have been hired and are working in six federal court jurisdictions.* District Court Judge William Campbell called attention to this unusually rapid implementation of experimental results:

> . . . All too often research efforts are conducted, completed, and the reports filed, only to gather dust in some academic ivory tower. Not so with this research, which . . . has resulted in concrete action by the United States Judicial Conference at a rate of dispatch I have seldom observed in my thirty-three years of participation in the administration of our federal courts.

Volunteer Lawyer Parole Aides

The ABA's correctional commission has brought the volunteer efforts of young lawyers to bear on state parole systems through its National Volunteer Parole Aide Program. Since its inception in 1971, the program has involved more than 2,500 young lawyers in twenty participating states.*

*District of Columbia, New York, Chicago, San Francisco and Los Angeles, and Sioux Falls, South Dakota.

Each volunteer signs up for a year, pledging six to eight hours a month working in a one-to-one relationship with a parolee under the supervision of a parole officer. The young lawyers bring a sophisticated knowledge of the community and its resources to their parole work. The services provided vary according to the needs of each parolee. A New Jersey attorney, for instance, was able to help his client overcome barriers to college admission caused by his prison record. A woman parolee in Florida was convinced by her volunteer parole aide to become a nurse's aide and was helped to enroll in a training program. A volunteer's intervention helped a Maryland parolee cut through the bureaucracy to obtain the necessary certification to become a truck driver.

Preliminary figures collected from project states indicate that fewer than 5 per cent of the parolees assigned to volunteers have been rearrested or gone back to prison for a parole violation. In assessing the benefits of the parole aide program, ABA officials stress the limited reliability of recidivism ratios. However, there is a strong presumption that the willingness of the lawyers to vouch for their clients may be critical in preventing reincarceration of parolees for minor violations.

That the volunteers are lawyers enhances their ability to help the parolees. They are prohibited, however, from representing them as attorneys. Many of the volunteers have had little or no contact with the criminal justice system in their law practices. They often react to their exposure to the system by becoming activists for changing it. One volunteer set up a community residential drug addict diversion program. Others, talking about their parole aide experience, said:

> It has given me insight (into) the futility of incarceration as a solution to anti-social behavior.
>
> I was shocked by the fact that so many employers will not even interview a parolee; they consider him branded as either no good, lazy, or a security risk without even an investigation.
>
> The experience got me into correctional volunteer work of other kinds and eventually resulted in my taking full-time employment in the correctional field.

*Alabama, California, Connecticut, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, Tennessee, Vermont, Virginia, and Washington. The Federal Bar Association and the ABA Young Lawyers Section are co-sponsors of the program with the commission, which receives general support from the Foundation. The program itself is financed by the LEAA.

Measured against the enormous need, current programs to enlist paraprofessional and volunteer case aides are barely making a dent in the national case-load of offenders out in the community.* However, the impact of the aides may be greater than their numbers suggest. One parole officer said of the volunteer lawyer working with him, "he has been [the assigned parolee's] friend and . . . shown him that he is still a worthwhile human being."

*The President's Crime Commission estimated, for instance, the need for tripling the number of probation and parole officers for juveniles from approximately 7,700 employed in 1967 to 23,000 in 1975. *The Challenge of Crime in a Free Society, op. cit.*, p. 167.

Professional Responsibility: The Lawyer's Role

OVER FIFTY YEARS AGO, one critic cited "the failure of the modern American law school to make any adequate provision in its curriculum for practical training."* Little occurred in the next four decades to change the situation. In the last few years, however, most law schools have included clinical training—supervised practice experience with clients—in their curricula. Central to this development has been the work of the Council on Legal Education for Professional Responsibility (CLEPR).

Students, Clients, and Professionals

Work to extend the reach of legal education beyond the classroom and library began in 1959 by the National Council on Legal Clinics of the National Legal Aid and Defender Association and continued from 1966 to 1968 under the aegis of the Association of American Law Schools. These programs, supported by the Foundation, assisted law school projects that gave law students field experience. In 1968 these efforts were succeeded by the newly created Council on Legal Education for Professional Responsibility, an independent agency that concentrates on encouraging law schools to teach law students in a clinical setting.† Because of the clinical experiments launched since 1968 with CLEPR's encouragement and financial assistance, almost all of the 157 ABA-approved law schools have incorporated opportunities for clinical experience in their curricula.

As CLEPR conceives "professional responsibility," a lawyer is required to be capable, ethical, and public-spirited. The three elements of professional responsibility and the specific role of the law school clinic relating to each are:

—To be as well-trained as possible for entrance into the profession. "The law school clinic," says William Pincus, president of CLEPR, "provides the best place to give the neophyte lawyer the first exposure to high standards of practice, because it enables the student to begin making the transition from theory to practice and from student to lawyer in an educational institution instead of in the marketplace."

—To behave ethically with clients and with others directly affected by the practice of law. Acting with responsibility in the clinic helps to develop in the law student a sensitivity to ethical issues and the proper responses to them.

*Alfred Z. Reed, Training for the Public Profession of the Law, 281, Carnegie Foundation for the Advancement of Teaching, Bulletin No. 15, 1921.

†CLEPR's original grant was $6 million for five years.

—To improve the machinery of justice and to make counsel available to all. Clinical experience with the disadvantaged and in the practice of law deepens the prospective lawyer's awareness about shortcomings of the existing machinery and of the delivery system for legal services.

The basic concept of clinical law training is simple: provide the law student an opportunity to perform legal services for real clients for academic credit. The student is supervised by a former practicing attorney on the faculty or by an outside law office. Supervision is designed to ensure that the client does not in effect pay for the continuing education of the student, as happens in some representation provided by inexperienced law school graduates. Clinical experience has proved popular with students and is generally well received by the professionals in the courts and administrative agencies.

District Attorney Gene M. Olander of Shawnee County, Kansas, said his interns undergo a baptism by fire. If an intern loses a case (the cases are prosecutions for minor offenses), he can sit down and discuss it with experienced prosecutors at length to find out where the holes were.

Peter Farabi, director of Legal Services for Prisoners, Inc., in Kansas, said, "Our program wouldn't be possible without the interns. For the students, the opportunity to hear a convicted felon give his candid views about disparate sentencing practices and the quality of legal defense available to most offenders is an education in itself."

Clients find it more difficult to assess the quality of service being rendered by students in clinical law programs. Most of the clients served are from minority groups and low-income families. They have had little or no previous contact with a lawyer and therefore no standard of comparison. However, judges before whom the law students practice give them high marks for competence and sensitivity. Judge Bill Honeyman, a Kansas probate and juvenile court judge, said:

"They are doing a fantastic job. I wish we had more of them. The trouble is the people who deal with those arrested day in and day out treat them as routine. We need competent people who are also sensitive. The students learn not only due process but the need for improving the system."

When in *Argersinger* v. *Hamlin,* the U.S. Supreme Court in 1972 recognized the role for student practice, Associate Justice William Brennan wrote:

. . . I think it plain that law students can be expected to make a significant contribution, quantitatively and qualitatively, to the representation of the poor in many areas . . .

The law schools that run CLEPR-funded programs stress the importance of supervision. In all cases, clients are informed that their cases are being handled by a legal intern, not a practicing lawyer. At critical points in the case, such as a decision to appeal or to plead to a lesser charge, the student discusses the matter with his supervisor.

While the law student lacks the breadth of experience or knowledge of a good practicing lawyer, the students often make up for their lack of experience by extraordinary effort. Students typically spend more time interviewing clients and researching cases than most hired counsel, their professors say. Don Rye of the Menninger Clinic, who also teaches at the Washburn Law School, points out, "Clients rate evidence of concern much higher than knowledge of the law."

In addition to a generally favorable reception of the law school intern by the justice system, practice by students has encountered little resistance from members of the bar on the grounds that it is unauthorized practice. Since 1968 the number of states specifically authorizing and setting ground rules for student practice has increased from sixteen to forty-two of the forty-four states in which law schools are located. In each state the promulgation of the rule has had support from the bar. In addition, several federal circuit courts now have student practice rules.

CLEPR grants to each law school average a total of about $35,000 for two years, with a larger payment in the first year and reduced funding in the second. CLEPR ran a study of its law school grantees through 1971 to see what happened after its contributions ended. Almost all the schools were found to be maintaining, and in most cases exceeding, the previous level of funding for clinical programs.

For the future, the Foundation has provided a terminal grant of $5 million, running through November 1978. CLEPR will concentrate its grants on fewer schools with more extensive clinical programs. It will also explore possibilities for extending clinical law school services beyond representation for the poor, for helping to train legal paraprofessionals to assist lawyers, for injecting the clinical experience into the earlier years of the law school curriculum (most schools confine it to the third year), and for integrating clinical and academic work more closely.

Public Interest Law

The quality and availability of legal representation for the poor and minority groups have advanced considerably since the mid-1950s.

More recently a type of practice has arisen to represent the public interest at large. Public interest practice has widened to include the representation of individuals and groups who, though neither indigent nor handicapped in the usual sense, have substantial collective and class interests that otherwise would go unrepresented.

Since 1970, $9.2 million has been provided by the Foundation to eleven public interest firms.* Their actions, which include not only suits but also research and discussions and negotiations with government agencies without recourse to suits, have been grouped around five central purposes:

1) to insure that actions of public agencies and individuals conform to legislative intent;

2) to assist agencies in conceiving and carrying out their programs in accordance with legislative intent;

3) to open up public access to information and administrative procedures;

4) to secure rights and benefits for individuals and classes of individuals otherwise unable to assert those rights or claim those benefits; and

5) to strengthen the field of public interest law.

The right of groups advocating a public interest to be represented in quasi-judicial proceedings by government agencies was recognized by then U.S. Circuit Judge Warren E. Burger, now Chief Justice, in a 1966 decision asserting the right of a church group to participate in a Federal Communications Commission proceeding. The Internal Revenue Service in 1970, after first withdrawing tax-exempt status for public interest law firms, recognized their entitlement after a wave of protests from Congressmen, administration spokesmen, leaders of the bar, the press, and citizen and voluntary organizations.

Illustrative results of actions taken by public-interest law centers assisted by the Foundation are:

—hastening the Food and Drug Administration's removal of hazardous and ineffective drugs from the market;

—a delay in the construction of the Trans-Alaskan Pipeline until legislatively mandated environmental requirements were met;

*Center for Law in the Public Interest, Los Angeles; Center for Law and Social Policy, Washington, D. C.; Citizens Communications Center, Washington, D. C.; Education Law Center, Newark, New Jersey; Environmental Defense Fund, East Setauket, New York; Institute for Public Interest Representation (Georgetown University Law Center), Washington, D. C.; League of Women Voters, Washington, D. C.; Natural Resources Defense Council, New York; Project International (Center for Law and Social Policy), Washington, D. C.; Public Advocates, Inc., San Francisco; Sierra Club Legal Defense Fund, San Francisco.

—the establishment of criteria for water treatment plants designed to protect water supplies;

—the extension of the "fairness doctrine" on product advertising to require television stations to broadcast information outlining adverse effects; and

—the improvement of care to the indigent at Washington, D.C., General Hospital following a suit to compel the District government to raise the standards of service at its own hospital (based on such questions as whether a city is denying its poor the equal protection of law by providing medical care below standards enforced in private hospitals).

The Foundation's main interest in assisting the development of public interest law is to constructively advance necessary social change. It seeks to demonstrate that representation of those otherwise unrepresented in legal actions not only advances specific class or general public interests but also strengthens public confidence in the process of law. This subject is reviewed in greater detail in the report, *The Public Interest Law Firm: New Voices for New Constituencies* (Ford Foundation, February 1973).

Research

UNTIL THE LATE 1950s, there was little research on the operations of the nation's criminal justice institutions. Seeking to fill this void, the Foundation has supported a wide spectrum of studies of the administration of justice. Examples include works noted earlier such as the American Bar Foundation's series of books about policies and practices in criminal cases from arrest through appeals, and Goldfarb and Singer's *After Conviction*. The latter, a 735-page work, covers sentencing, probation, prison history, architecture and institutions, community programs, convicts' rights, parole, and clemency. "Aside from its value as a coherently organized, carefully documented compendium of facts," *The Saturday Review* said, "the book supports a massive indictment . . . of the [American correction] system."

Such studies, however, are designed for highly specialized audiences —law faculties, criminologists, correction officials, lawyers, and the like. To provide a wider audience as well as these specialists with a systematic analysis and survey of the effects of crime in the United States, how courts, the police, prisons, and other institutions deal with it, and the kinds of reforms that might reduce crime and improve the quality of justice, the Foundation in 1972 commissioned a study of law and justice under the direction of Charles Silberman, an author whose earlier studies of racial problems and education have received widespread public attention and acclaim.* Among areas being investigated by Silberman and his staff are the nature of street crime and its relation to organized crime and other varieties of antisocial behavior such as white-collar crime and corruption in government; the relations between criminal behavior and social class, ethnicity and race; the role of the police; the nature of the adversary system, especially the problem of high-quality legal representation for indigent defendants; the operation of the juvenile justice system, including the appropriate grounds for judicial intervention, the reasons for failure of most juvenile rehabilitation efforts, and criteria for more effective rehabilitation, and the problem of prison reform.

Besides reviewing the professional and scholarly literature, the research group is doing field work in police cars, on foot beats, and in station houses; in courtrooms, judges' chambers, and prosecutors' and defense attorneys' offices; and in prisons, jails, group homes, and detention centers. They are interviewing scholars, practitioners, and others

**Crisis in Black and White* (New York: Random House, 1964), written with the aid of a grant from the Foundation, and *Crisis in the Classroom* (Random House, 1970), the result of a study sponsored by Carnegie Corporation.

familiar with crime and the criminal justice system. The progress of their study is being reviewed by an advisory commission of prominent judges, police officials, lawyers, and academic authorities headed by Judge Shirley Hufstedler of the U.S. Court of Appeals, Ninth Circuit. A book reporting the results of the Silberman study is scheduled for publication in 1976.

University Criminal Justice Centers

The bulk of the Foundation-assisted research has been concentrated in five criminal justice centers at Chicago, Georgetown and Harvard Universities and the University of California's Berkeley and Davis units.* These are closely tied to the law schools of the universities but draw upon other university resources and disciplines. Their activities include design and evaluation of experiments and other attempts to reform the criminal justice system, publication of findings, studies of critical operational issues, fellowships for criminal justice experts and practitioners, and sponsorship of seminars and other public education functions.† The centers have participated in such model-setting experiments as the Probation Case Aide Project in Chicago, the Offender Rehabilitation Project in the District of Columbia,‡ the Sacramento 601 Diversion Project for juveniles, and the deinstitutionalization of Massachusetts' juvenile corrections.

The centers do not confine themselves to monitoring projects already under way. In some cases they have stimulated the justice system to adopt reforms. At the Chicago Criminal Justice Center, for instance, a study was made of some of society's most forgotten men and women: offenders found incompetent to stand trial. Often they receive what amounts to life imprisonment in state mental hospitals. The Chicago researchers found eighteen such persons at an Illinois institution who had been confined for twenty-five years each. "None could be described

*Other centers assisted by the Foundation are: American Justice Institute, Sacramento, California; Southeastern Research Center in Corrections and Criminology, Florida State University; International Centre for Comparative Criminology, University of Montreal; CLEAR Center, New York University; Center for Studies in Criminology and Criminal Law, University of Pennsylvania; Centre of Criminology, University of Toronto; Law & Justice Study Center, Battelle Memorial Institute; and the School of Law Criminal Justice Project, University of Texas.

†The centers at Chicago and Georgetown were started in 1965 with five-year commitments of $1 million each from the Ford Foundation. The University of California (Davis) received a like commitment in 1967. The University of California (Berkeley) center, which opened in 1961, was granted $735,000 for five years beginning in 1967. Harvard's center opened in 1969 with a grant of $1 million for five years.

‡See pages 35 and 21, respectively.

as a menace to society," explained Professor Norval Morris. The research was consulted by legislative draftsmen working on changes in the Illinois code. Adopting the basic assumption that a rehabilitation program, community supervision, or dismissal of charges is preferable to life confinement for charges not proven, these code changes provide for referral of "incompetency to plead" cases to a hospital ward in Chicago rather than to the psychiatric division of Menard State Prison far downstate. Furthermore, the new code, adopted in 1972, guards against prolonged hospitalization by requiring that the defendant be reevaluated by the court not more than ninety days after the court's original finding of unfitness, and each twelve months thereafter.

A series of other protections are written in. An initial hearing must be conducted using the regular mental hospital commitment procedures. If the Department of Mental Health does not want the accused hospitalized, it must petition the trial court to release him on bail or recognizance. Now, instead of twenty-five years of static confinement, the incompetency cases can be referred for treatment and evaluation and be released within two weeks if the authorities do not consider them a present danger to society. They remain liable to prosecution for the offenses with which they are charged, but they do not need to suffer confinement while their competency is determined.

Not all studies lead to such quick implementation. The research centers continue to illuminate and sort out fact from fancy about some of the dark and controversial areas of administration of justice.

Discretion Confers Power

The Georgetown University center, for instance, found extensive police exercise of discretion in narcotics arrests and investigations in Washington, D.C., despite departmental orders to investigate all violations of drug laws. A center study showed that the department concentrated the bulk of its narcotics enforcement on heroin while working less agressively on violations involving other drugs. The study also detailed such policy practices as discretion in arrest and payoff in exchange for information—for example, holding off arresting a pusher or giving him a light charge if this led to someone higher up in the drug traffic. Such an approach might be justified pragmatically. In the case of payoffs, however, the study found that the police could not pay the lower ranking pushers more than a few hundred dollars, not enough to buy information about people at the top. Reliance on payment to informers was therefore found "one of the major limitations on drug law enforcement."

Another discretionary area—administrative adjustment of sentences and paroles—was examined in a project at the University of California (Berkeley) center. The focus was on California's Adult Authority, which has the usual powers exercised by a parole board but also determines the actual period an inmate serves behind bars and on parole as opposed to the minimum and maximum sentences for his crime set by the legislature. One of the purposes of this centralized administrative determination of sentences was to apply formal standards and policies to sentencing, which traditionally has varied from bench to bench according to personal inclinations and other factors affecting judges. However, the Berkeley study, conducted by Professors Caleb Foote and Sheldon L. Messinger, concludes from preliminary findings: "That expectation has certainly not been borne out by experience." The same pressures which make judicial sentencing uneven—politics, inadequate data, overcrowded hearing schedules, lack of representation for the prisoner or parolee—were found to operate on the Authority. Furthermore, the predominance of corrections-oriented personnel in the Authority, and its complete dependence on prison staff to bring forward relevant evidence, "makes the normal defendant-inmate a lonely and almost forgotten actor possessing neither substantive legal rights nor political muscle . . . the pawn in an interest conflict that he can influence only by chance and which he seldom understands."

Justice for Juveniles

Prison riots and increasing litigation on behalf of prisoners have attracted public attention to the adult offender. However, the juvenile offender—apart from being the subject of voluminous statistics—remains largely neglected.* He or she may be without parents, knowledge of the law, or anyone interested in his or her development as an individual.

Ostensibly the juvenile courts established at the turn of the century removed adolescents who had violated, or were considered likely to violate, the law from the criminal courts and corrections system. However, many states failed to provide alternative services and facilities. As a result, observes Herbert S. Miller, criminologist, "The courts

*The National Commission on the Causes and Prevention of Violence reported arrest rates for four major violent crimes (murder, forcible rape, robbery, and aggravated assault) increased from a third to nearly twice as fast from 1964 to 1967 as the increase for these crimes among all offenders. In 1971, persons under 18 accounted for 25.8 per cent of all arrests and 50.8 per cent of all arrests for crimes against property. Figures cited in *National Advisory Commission on Criminal Justice Standards and Goals*, Report, Task Force on Corrections (1973), p. 237.

continued to commit many juveniles to institutions which were little more than jails." Furthermore, the Supreme Court decision *in re Gault* struck down the informality which was supposed to characterize juvenile courts. Many juvenile cases now require formal proceedings with counsel. Thus, the current moves toward diverting young offenders from jail and prison show reform having come full circle in little more than seventy years.

Two projects at Foundation-supported university centers have focused on the concept of non-judicial, rehabilitative treatment for the juvenile offender.

The University of California (Davis) center has helped develop the Sacramento 601 Project to direct juveniles charged with being runaways or incorrigibles to short-term crisis-therapy rather than to the traditional juvenile court remedies that often end in institutionalization. These youths, who come under the jurisdiction of the juvenile court by Section 601 of the California Welfare and Institutions Code, are felt by many probation officers to be the least appropriate for handling through the juvenile court because they have committed no crime.* Yet they constitute one-third of the court's case load.

The Sacramento project has demonstrated that for such cases probation officers can be trained to conduct short-term family therapy. It has served as a model for similar programs elsewhere† and was recently selected by the Law Enforcement Assistance Administration for its Exemplary Project program, which provides technical assistance to communities that want to adopt new criminal justice approaches.

At the Harvard University Law School Criminal Justice Center, a team of researchers has been monitoring the operations of the Massachusetts Department of Youth Services, which has closed most traditional training institutions in favor of temporary intensive therapy or care at mental hospitals, group and foster homes, Neighborhood Youth Corps programs, and other community-based services. Because Massachusetts alone is operating an almost totally deinstitutionalized system for youthful offenders, there has been widespread interest in the data the center has been collecting on recidivism, organizational problems, and other effects of the deinstitutionalization program. Data developed

*Furthermore, a study cited by the National Advisory Commission Task Force on Corrections suggests that because most youngsters grow out of delinquent behavior on their own and because present intervention programs are admittedly inadequate, it may be more effective to leave first offenders alone.

†To date, in Alameda and Contra Costa counties, California, and Virginia Beach, Virginia.

by the Harvard center are being sought by other states that are considering similar changes.*

Criminal justice research has long been dominated by what some critics have termed sterile debates that avoided the harsher political and operational problems of the system. The centers have sought to fill this gap by taking up such challenges as the basic rationales for how society seeks to deter crime through penal sanctions.

A University of Chicago study, for example, avoided generalities about whether the threat of punishment prevents crime and sought instead to measure the effect in specific areas, ranging from fines and jail terms for violating speed limits, to penalties in the prohibition of liquor. One of the chief conclusions of the study is that adequate data are lacking to form judgments about deterrence in many areas of crime. The authors formulated a series of subjects for future research, including social control of the drunken driver, intensive enforcement and urban street crime, and countermeasures to "folk crime"—such widespread and socially costly crimes as shoplifting, tax evasion, and pilfering.

Confidence in the Justice System

In the wake of mass arrests at demonstrations in the late 1960s and criticisms of police brutality, especially from black and other minority communities, the Foundation provided nearly $1 million to five organizations to support research of their choosing about public confidence in the fairness of the law and administration of justice.

Two of the organizations—the Lawyer's Committee for Civil Rights under Law and the National Association for the Advancement of Colored People Special Contribution Fund—provided support for the private Commission of Inquiry into the police shootings of Black Panthers Fred Hampton and Mark Clark in Chicago on December 4, 1969.

The NAACP Legal Defense and Educational Fund (LDF) used its grant to bolster litigation in support of prisoner rights. As part of this effort, LDF sponsored a survey of popular attitudes toward capital punishment. The survey found sentiment for invoking the death penalty was significantly weaker than indicated by previous surveys because many respondents who generally favored capital punishment did not support it in specific cases presented to them in the survey.† The survey

*Started initially with funds from the Foundation, the research is now supported heavily by the National Institute of Law Enforcement and Criminal Justice and LEAA.

†For example, when a 17-year-old youth in the course of a robbery kills a grocer who pulled a pistol.

Citizen Participation

CITIZEN INVOLVEMENT in criminal justice reform usually is short-lived.

"The characteristic recurrent pattern over the past fifty years," says Professor Dash of the Georgetown Institute, "has been, first, public alarm over crime and the state of administration of justice; then, the establishment of a commission to conduct a crime study; publication of the findings and recommendations; the failure to implement the recommendations in any significant way; the burial of the crime reports deep in the stacks of the libraries, then, a new cycle, beginning with aroused public alarm and appointment of a new body to conduct a crime study. One could print many of the recommendations made in the 1920s and they would be just as fresh now."

Crime commission reports have not been wholly futile. They have provided the basis for meaningful reforms. However, they also have generally been the work of select groups of national or local leaders, with politicians, lawyers, judges, and other experts from the criminal justice system predominating in their membership. These distinguished panels are often articulate and provocative in presenting their findings, but they rarely succeed in attracting broad-based community or national support for implementation.

The usual pattern has been for these groups to disband after filing their reports.* In the past decade, however, citizens have become involved on a longer-term basis in efforts to improve the quality of justice, police services, and correctional facilities in the communities. The Foundation has assisted several citizens groups at the national and local levels to organize and begin these efforts.

National Council on Crime and Delinquency

One of the most extensive attempts to promote more lasting citizen support for reform of the criminal justice system is the program of the National Council on Crime and Delinquency (NCCD), successor to the National Probation and Parole Association. The organization has been a pioneer in bringing citizens into active roles for prison and jail reform. NCCD and its predecessor agency have been assisted by the Foundation since 1954.

*The Foundation itself contributed to a major citizens' study of criminal justice in San Francisco in 1968, financed also by the Department of Justice and the city. While some of the committee's recommendations were subsequently implemented, the committee expressed disappointment that some of the proposals it considered fundamental were not enacted. The committee went out of existence in 1971, but since then, according to its chairman, Moses Lasky, ". . . quietly and without publicity, very large amounts of our recommendations have been put into effect in the various agencies of the criminal justice system in San Francisco."

Since 1955, when NCCD established the first citizen action council in the state of Washington, twenty-one more have been organized. They have worked on criminal justice problems ranging from the creation of probation and parole systems to the upgrading of courts and the education of the business community in protecting itself against organized crime.*

With the growth of national and governmental agencies in the criminal justice field, NCCD, beginning in the late 1960s, shifted its emphasis from fostering new citizen councils to working with service organizations, labor unions, and church groups. At the same time it provided technical assistance to states and communities from five regional service centers.

NCCD has continued to use both its citizen network and its professional services division to upgrade criminal justice through the development of model legislation, surveys of criminal justice agencies, research, public education, and a number of demonstration projects designed to expand the use of non-institutional corrections. Illustrative of its work in low-income communities is a project in Sacramento's inner city for creating better criminal justice services for the poor by linking official agencies with indigenous leadership.

Citizens and Professionals

Another approach to citizen-initiated change was taken by a group of community leaders in Hartford, Connecticut, who decided over a lunch table in 1969 that nothing would get done to improve the city's racial and crime problems unless a citizens group coordinated and focused community programs in these areas. Using the Greater Hartford Community Council and the Chamber of Commerce as their umbrella, the citizens set up the Hartford Criminal and Social Justice Coordinating Committee, with representation from criminal justice and social agencies, poverty programs, and various community groups. With a budget of only $58,000 in its first year (supported by a grant from the Foundation and local private contributions), the committee engaged a small professional staff, known as the Hartford Institute of Criminal and Social Justice.† The institute's projects have ranged from providing a bilingual receptionist for a lower court with a heavy case load of

*These activities are described in . . . *and Justice for All.*

†The institute has attracted additional funds for specific projects, including $224,000 from the National Institute of Mental Health for expansion of a methadone maintenance program and $32,160 annually from LEAA in fiscal 1972 and 1973.

Puerto Rican and other Spanish-speaking residents to helping set up treatment facilities for alcoholics and narcotic addicts.

The usefulness of engaging community leadership in reform efforts is illustrated by a methadone maintenance program that the committee helped establish. When the project had difficulty obtaining space for clinics, a senior real estate official at a local insurance company, who serves on the board of the methadone dispensary, provided expert guidance. When the project required data processing on some 3,200 addict cases in circuit court, another company donated some $25,000 of computer time. In all, the methadone program has been able to attract local and outside resources of nearly $500,000 annually from such diverse sources as a local medical institution's endowment, the State of Connecticut, and the National Institute of Mental Health.

Citizens and Corrections

In Fairfax County, Virginia, a suburb of Washington, citizens about three years ago began a program of one-to-one counseling with local jail inmates to help prepare them for release back to the community. Herbert S. Miller of the Georgetown Institute of Criminal Law and Procedure has been working with the group, known as Offender Aid and Restoration (OAR). The project, Miller notes, "has had an impact on the jail and the criminal justice system in ways not originally foreseen," specifically in the attitudes of the more than 250 volunteers who have seen the inner workings of that system. These results include, according to Miller:

—an awareness of disparities in the sentencing practices of some judges, which has led OAR representatives to join a statewide citizens' group backing legislation to establish merit criteria for and citizens' participation in the selection of judges.

—the heightened knowledge of offenders' problems in readjusting to the community has led to a citizens' coalition to back creation of a halfway house in northern Virginia, where there are no transitional facilities for inmates released from jail.

—awareness that provisions for pre-trial release are not being used, so that a large portion of jail inmates are just awaiting trial, has led to a formal proposal for an LEAA-funded release-on-recognizance program in Fairfax County. The proposal is backed by a new citizens' coalition and churches in the county.

The reform movement by the Fairfax volunteers contrasts with the traditional crime commission or advisory board approach because the citizens have already gained entry into the system. The advantage, Miller feels, is that "once judges, lawyers, and jailers see that effective work is being done by citizens, the groundwork is established for cooperative effort to change the system." The service by the volunteers has gained acceptance by lawyers, judges, correctional officials, and the County Board of Supervisors. An Offender Aid and Restoration representative is on the County Criminal Justice Coordinating Council, the official planning agency for criminal justice programs and allocations of federal LEAA funds.

From 300,000 to 400,000 citizens across the nation are working as volunteers in programs similar to OAR, Miller estimates. They represent a potentially powerful force for reform, although the extent of their influence remains to be seen.

Police-Community Relations

One of the earliest Foundation-supported efforts to improve relations between police agencies and the community, especially minority groups, was a program of the National League of Cities/U.S. Conference of Mayors. It was established after the outbreak of urban rioting and disturbances in the late 1960s. The program involved exchanging information and providing guidance to cities and towns about establishing more citizen contacts with the police and facilitating community input to police policy. It has since been absorbed into a broader scale effort to help communities plan and meet other requirements for receiving federal crime-fighting funds, which includes participation by citizens on local criminal justice planning councils.*

More recently, the Dayton (Ohio) Police Department, under a grant from the Police Foundation, has been consulting with citizens to develop guidelines on such issues as high-speed auto chases and police handling of family disturbances. The purpose is to make the police department more responsive to the community and the community more aware of the complexities of police work. Initially, the local police fraternal order opposed the project, fearing that it marked the beginning of a civilian review board. By late 1973, however, the policemen endorsed the project without reservation. Increased citizen participation in crime reduction is also being studied in Los Angeles and Chattanooga with assistance from the Police Foundation.

*Starting in 1971, this program was expanded to include the National Association of County Officials and International City Managers Association. It has received $1.8 million in support from the Law Enforcement Assistance Administration.

In supporting the projects and activities described in this report, the Foundation has sought to help move the criminal justice system closer to the ideals set down by the nation's founders two centuries ago.

By marshalling the thought and effort of citizens, public officials, and scholars to explore alternative methods, strategies, institutions, and practices, activities assisted by the Foundation encourage a system that will be fair to all—that protects society by supporting those responsible for enforcement of the criminal law and the custody and rehabilitation of the offender, and that preserves traditional liberties by safeguarding the rights of the accused. This goal is still distant enough that the search for answers must continue. Crime, of course, cannot be considered in isolation from the social fabric of the times. Broader issues of community and individual welfare, on which the Foundation and other private and public institutions work, also affect respect for the law and the prevention and reduction of crime.

END