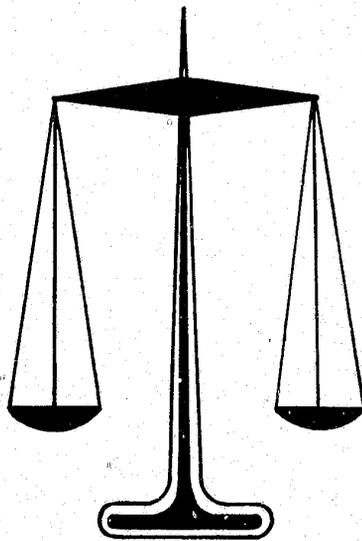


Iowa
Criminal Justice
Standards and Goals

CORRECTIONS



Iowa Crime Commission

54478

Iowa
Criminal Justice
Standards and Goals

CORRECTIONS

Adopted By the Iowa Crime Commission

May, 1977

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ROBERT D. RAY
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Office of the Governor

STATE CAPITOL
DES MOINES, IOWA 50319

My Fellow Iowans:

A major concern of our people is the rising incidence of criminal activity. Although this is a nationwide phenomenon, there are initiatives we can take in our state to seek the solutions needed to reduce the social and economic damage caused by crime. One means of achieving this objective is through an efficient and effective criminal justice system.

To insure that Iowa has the best possible criminal justice system, a comprehensive analysis of our existing system was commenced almost three years ago. This effort, the Iowa Standards and Goals Project, was far-reaching in scope and depth and involved more than 350 knowledgeable persons. Their recommendations for system improvement are presented in these *Iowa Criminal Justice Standards and Goals* volumes. Recognizing the sacrifices in time and effort made by those participating in this study, I extend my deepest appreciation and thanks.

It is now our responsibility to put the Project's recommendations into action. The standards and goals provide us with the guidance necessary to modify our present system so that we can better combat crime. Clearly, the realization of a more effective and efficient criminal justice system demands a lengthy, dedicated effort by all of us. For this reason, we must begin implementing the Project's recommendations now. Your participation can make a difference.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Ray".

Robert D. Ray
Governor

RDR:sd

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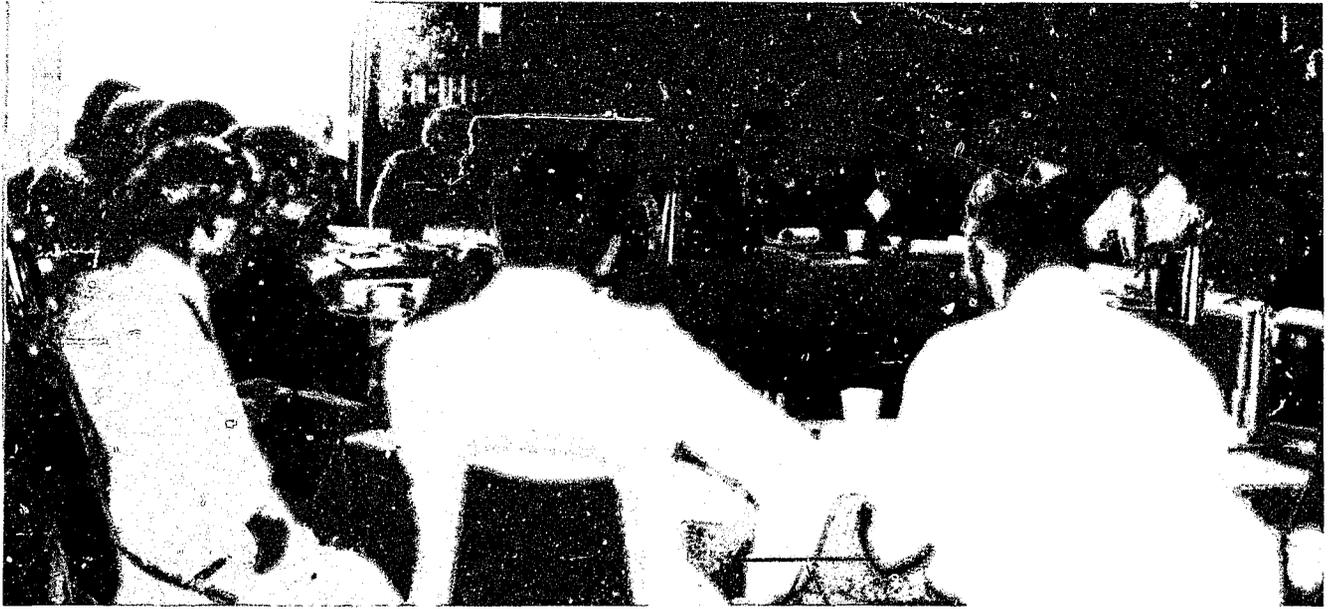
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Standards and Goals Corrections Conference Photo Credit: Sandor D. Fein

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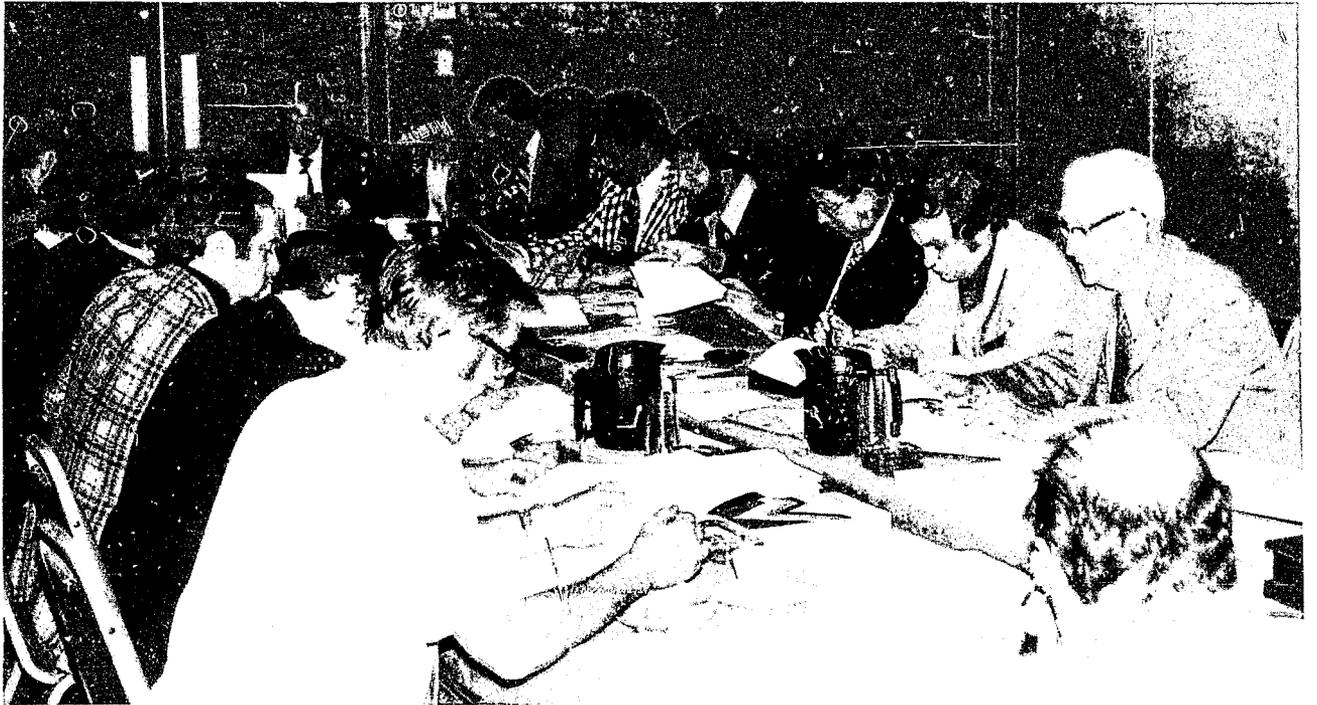
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Standards and Goals Corrections Conferences Photo Credit: Sandor D. Fein

INTRODUCTION

As in the rest of the nation, the rate of criminal activity has been increasing in Iowa. The response to criminal activity is the Iowa criminal justice system. This system is designed to deter potential offenders, apprehend those who have broken the laws, quickly and fairly determine guilt or innocence, and protect the community from further criminal actions while assisting the offender to become a law-abiding and productive citizen. Because the specific causes of crime are not known, there are no simple or immediate solutions to the current crime problem. However, steps can be taken to upgrade the operation of the criminal justice system. This in itself may reduce the incidence of crime. The Iowa Criminal Justice Standards and Goals Project represents an effort to improve the administration of Iowa's system of criminal justice.

The administration of criminal justice is a complex task. For example, the Iowa criminal justice system consists of three separate components—law enforcement, courts, and corrections. Within each component, there are numerous entities which interact when the system responds to criminal activity. In addition, social, political, and economic forces combine to affect the operation of the criminal justice system. Any study undertaken to improve the administration of criminal justice not only must recognize the influence of these outside forces but also must consider the interrelationship among the various components of the system.

The Standards and Goals Project relied on advisory groups to deal with the complexities of analyzing and revising the Iowa criminal justice system. Advisory groups are particularly appropriate for such a task. They permit serious and controversial issues to be examined and analyzed, and a consensus to be reached in a democratic manner. Functionaries, experts, and lay persons can study and deliberate new concepts that will encourage policy, procedural, and legislative changes. Individuals with divergent views can openly discuss ideas outside the confines of official formal relationships. The Project's reliance on advisory groups, composed of criminal justice practitioners and individuals from related occupations, helps to assure that the recommendations for improving Iowa's criminal justice system are comprehensive and realistic.

The Iowa criminal justice standards and goals are set forth in three reports: law enforcement, courts and corrections. The premise of the standards and goals is that the administration of criminal justice can be improved and the existing inequities of the criminal justice system can be diminished if criminal justice agencies and the general public reach consensus on the goals of the system and establish standards for the achievement of these goals. To facilitate understanding of the Iowa standards and goals, the following definitions are suggested:

GOAL: Changes in the criminal justice system that may or may not be achievable, but are something for which the State should continue to strive.

STANDARD: A statement that describes the conditions that should exist when a goal has been achieved.

The origins of the Iowa standards and goals program lie in the work of the National Advisory Commission on Criminal Justice Standards and Goals (NAC). The Law Enforcement Assistance Administration appointed the NAC in 1971 to formulate national standards and goals for crime reduction and prevention at the State and local levels. In 1973, the NAC's work was published in six volumes: **Report on Police, Report on Courts, Report on Corrections, Report on Community Crime Prevention, Report on the Criminal Justice System, and A National Strategy to Reduce Crime**. The NAC recommended that each State evaluate its own criminal justice system in terms of the national reports and formulate State criminal justice standards and goals.

Development of the Iowa standards and goals began in 1973 when the Iowa Crime Commission convened the Governor's Conference on Criminal Justice Standards and Goals. The Governor's Conference introduced the standards and goals concept in Iowa. In 1974, the Crime Commission initiated the Iowa Standards and Goals Project. The first phase of the project was to carefully compare the Iowa criminal justice system to the system proposed by the NAC. During the evaluation phase, project staff prepared three volumes comparing the similarities and differences of the two systems. The comparative analyses are contained in this report.

The development of realistic standards and goals required Statewide input from criminal justice practitioners and concerned citizens. To obtain this input, local practitioners and interested individuals were invited to attend Area Standards and Goals Meetings. The participants considered selected topics from the NAC Reports and recorded their views on the advisability of adopting the national standards in Iowa.

Actual formulation of the Iowa standards and goals took place at a series of Standards and Goals Conferences. Over three hundred persons participated in the twenty-six conferences. Conference participants were drawn from numerous sources; including, State and local criminal justice agencies, State government, the judiciary, public interest groups, the Legislature, and persons currently serving sentences. Conferees reviewed the NAC Reports, the standards and goals comparative analyses, and the input from the area meetings. In addition, the Iowa Criminal Code Revision, the Governor's Conference Report, and the American Bar Association Standards for Criminal Justice were considered. Ultimately, conference participants established forty-six goals for Iowa law enforcement, courts and

corrections and formulated approximately three hundred standards to reach these goals.

The 111 standards and 14 goals contained in this report seek to define the role of corrections in the Iowa criminal justice system from the point of initial contact to return to the community. Their primary thrust is to develop an integrated and coordinated process for the delivery of correctional services that meets the needs of the offender, correctional practitioners and the community. Thus, the report emphasizes coordination of corrections with other components of the criminal justice system, expansion of community-based corrections programs, and citizen participation in the correctional process.

A major focus of this report concerns development and expansion of community corrections and minimization of the use of correctional institutions to the extent that is consistent with public safety. This philosophy necessitates that the Legislature, the judiciary, corrections officials, the parole board, and the community focus attention to diverting and transferring as many persons as possible into community corrections rather than imprisoning them in correctional institutions in the traditional manner. The rationale for this position stems from the recognition that the benefits from imprisonment are minimal at best and that the damage inflicted upon individuals may be substantial. The alienation and dehumanization caused in jails, reformatories, and prisons should be avoided wherever possible.

If community corrections programs are to be effectively expanded, they should be systematically planned and organized. Chapter 8 calls for total system planning to coordinate development of community corrections. Along with planning efforts, measures should be taken to inform the general public about correctional issues and to involve them in correctional programs. Citizen participation should facilitate acceptance of community corrections and ultimately, should hasten implementation. Planning for community corrections must also include effective utilization of community resources. Community programs and services provide the necessary opportunities and experiences for successful reintegration of the offender.

Chapter 6 recommends that all correctional agencies reorganize classification systems to achieve the following objectives: assess risk and efficiently manage offenders. This is premised on the knowledge that the causes of crime are unknown and therefore, the offender should not be subjected to more security than he/she requires or should not be coerced into participating in "treatment". Consistent with the principle of assessing risk, Chapter 8 proposes to allow incarcerated offenders progressively more individual responsibility and community contact to assess release readiness.

Chapter 1, Rights of Offenders and Legal Framework, addresses the establishment of a sound administrative and legal framework that preserves and protects offender rights. It refers to rights of offenders in community-based and institutional programs.

Chapter 2, Statutory Basis of Corrections, includes recommendations to increase the coordination of delivery of correctional services. It proposes development of a separate Department of Corrections to unify supervision of correctional facilities and programs. Such an administrative framework helps to assure equitable handling of offenders and uniform provision of correctional programs and services across the State. This model does not preclude local administration but provides direction for more efficient and effective operation of correctional programs.

In accordance with the emphasis on diverting offenders into community corrections, the report supports provision of non-criminal diversion alternatives in lieu of formal prosecution. For appropriate offenders who do not present a serious threat to others, the standards recommend that formal diversion programs should be developed from the time an illegal act occurs to adjudication. Diversion is to be utilized when it is deemed more beneficial or effective than formal criminal processing.

One of the areas appropriate for community corrections is the pretrial period. The pretrial standards in this report concentrate on the entire pretrial process and ways to improve it. Many factors affect the pretrial stage of a criminal prosecution. The standards consider the problems of the defendant awaiting trial from many perspectives. They include recommendations for alternatives to arrest, bail, pretrial release programs and services, detention facilities, detainee rights, and speedy trial rules. Consistent with the pervasive philosophy throughout this report, the standards stress that detention has an adverse effect and should be avoided where feasible. For example, detention before trial may have a dramatic effect on conviction and sentencing.

Sentencing may determine whether a defendant is incarcerated or remains in the community. Sentencing may also set the limitations for correctional supervision. Chapter 5 recommends that sentencing provisions be restructured consistent with the focus on community corrections. The standards set forth the roles of the Legislature, the court, correctional officials, and the parole board in sentencing. To improve sentencing effectiveness and equality, the standards recommend development of a wide range of sentencing options and of criteria to determine the type of sentence to be imposed. A qualified version of indeterminate sentencing is proposed with the thrust that probation should become the standard sentence in criminal cases. Shorter sentences (up to five years) are suggested for less serious offenders. This would make sentencing

provisions more consistent with actual practice. For repetitive or dangerous offenders, extended prison terms (up to 25 years except where the penalty is life imprisonment) are provided.

For those persons who must be incarcerated, the standards recommend that institutions and jails be modified in terms of the physical facility and programming to provide a more humane environment. Activities and programs should be oriented toward the offender's reintegration into the community. Particular attention is devoted to correctional institutional programming in the areas of educational and vocational training, prison labor and industries, recreation, religion, programs for women, and handling of special offender types. The standards call for provision of a secure medical facility that emphasizes treatment of mentally ill and special offender types.

The report proposes that a new jail or correctional institution should not be built unless substantiated by review and study of the total resource area or criminal justice system. Comprehensive planning is a necessary requirement before consideration is given to construction of new facilities.

To insure a wide range and uniform provision of correctional services, the report recommends State administration and operation of local detention facilities, including local jails. The standards suggest that a full range of direct service programs be developed within local jails or detention facilities and that resources existing in the community be utilized.

The movement to community oriented correctional programs requires the increased use of probation and parole. Chapter 10, Probation and Parole, proposes that a probation-parole officer should function as a community resource facilitator under a team approach to promote the delivery of a wide range of services to the probationer or parolee. In conjunction with delivery of services, the standards endorse development of comprehensive programs to recruit, train, and utilize a range of probation and parole personnel. The extension of probation services to misdemeanants is strongly supported. Providing services to misdemeanants should act as a deterrent mechanism to prevent the commission of more serious offenses in the future.

In addition to the delivery of parole services, the probation-parole chapter addresses the parole decision making authority. It suggests that the parole board be part time and be administratively independent of correctional institutions. This chapter also defines procedures for parole granting and revocation and guidelines for the establishment of parole conditions.

Two important but many times neglected aspects of corrections are administration and personnel. Upgrading management practices and the qualifications and capabilities of correctional personnel will increase the opportunity for

correctional effectiveness. The chapters dealing with administration and personnel contemplate an administrative organization that allows staff and offender participation in program and agency management. To meet manpower needs, the report recommends that correctional agencies affirmatively recruit and retain a variety of qualified staff including minorities, women, ex-offenders and volunteers. Also, correctional agencies should develop education and training programs for personnel.

To facilitate correctional decision making, the last chapter in this report recommends development and maintenance of a comprehensive correctional information system. Adequate and reliable information is necessary for correctional planning, daily decision making and research. Objective statistical information insures validity and enables comparisons to be made.

The Iowa standards and goals are not requirements. They are recommendations for action. During their development, emphasis was placed not only on what was desirable but also on what was workable. The reports place major emphasis on the need to develop greater coordination among the elements of the Iowa criminal justice system. Thus, the standards and goals should enable practitioners and the public to know where the system is heading, what it is trying to achieve, and what in fact it is achieving. However, the reports also recognize that the criminal justice system is designed to some extent to be decentralized and fragmented, and that preserving these characteristics in many instances is essential to basic concepts of justice. This realistic approach to criminal justice revision should enable the Iowa Legislature, the courts, and State and local criminal justice practitioners to use the reports as a guide for improving the Iowa criminal justice system. Consequently, the ultimate impact of the standards and goals reports depends upon their acceptance by the political, judicial, and administrative decision makers of the State.

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Chapter One

Rights of Offenders and Legal Framework

Goal: To preserve and protect the rights of offenders who are subject to correctional control through the development of an administrative and legal framework that is consistent with concepts of fundamental legal rights, sound correctional practices, and humane treatment of offenders.

STANDARD 1.1

Access To Courts

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of persons under correctional supervision to have access to courts to present any issue cognizable therein, including (1) challenging the legality of their conviction or confinement; (2) seeking redress for illegal conditions or treatment while incarcerated or under correctional control; (3) pursuing remedies in connection with civil legal problems; (4) asserting against correctional or other governmental authority any other rights protected by constitutional or statutory provision or common law.

1. The State should make available to persons under correctional authority for each of the purposes enumerated herein adequate remedies that permit, and are administered to provide, prompt resolution of suits, claims, and petitions. Where adequate remedies already exist, they should be available to offenders, including pretrial detainees, on the same basis as to citizens generally.
2. There should be no necessity for an inmate to wait until termination of confinement for access to the courts.
3. Where complaints are filed against conditions of correctional control or against the administrative actions or treatment by correctional or other governmental authorities, offenders may be required first to seek recourse under established administrative procedures and appeals and to exhaust their administrative remedies. Administrative remedies should commence within 30 days and not in a way that would unduly delay or hamper their use by aggrieved offenders. The final decision should be rendered and filed in written form within 90 days where appropriate or requested. Where no reasonable administrative means is available for presenting and resolving disputes or where past practice demonstrates the futility of such means, the doctrine of exhaustion should not apply.
4. Offenders should not be prevented by correctional authority administrative policies or actions from filing timely appeals of convictions or other judgments; from transmitting pleadings and engaging in correspondence with judges, other court officials, and attorneys; or from instituting suits and actions. Nor should they be penalized for so doing.
5. Access to legal services and materials appropriate to the kind of action or remedy being pursued should be provided as an integral element of the offender's right to access to the courts.

6. Officials of a penal institution should deny an inmate possession of legal materials and writing instruments when such access shall present a hazard to another individual, himself/herself or others. Such decision should be reviewable as any other administrative decision. In such cases, penal authorities should provide substitute legal access.
7. Transportation to and attendance at court proceedings may be subject to reasonable requirements of correctional security and scheduling. Courts dealing with offender matters and suits should cooperate in formulating arrangements to accommodate both offenders and correctional management.

COMMENTARY

Increasingly, the courts have intervened in the correctional system by reexamining the legal rights of offenders. Offenders have been granted all rights and benefits of the law until conviction. Until recently, however, many legal benefits, privileges, and rights have been denied after conviction. In maintaining a "hands off policy", the courts have believed that, at conviction, the requirements of due process are satisfied and that correctional administration is a technical matter best left to the experts.

Eventually, the courts "...began to redefine the legal framework of corrections and place restrictions on previously unfettered discretion of correctional administrators.... By agreeing to hear offenders' complaints, the courts were forced to evaluate correctional practices against three fundamental constitutional commands: (1) State action may not deprive citizens of life, liberty, or property without due process of law; (2) State action may not deprive citizens of their right to equal protection of the law; and (3) the State may not inflict cruel and unusual punishment." NAC, *Corrections*, 18, 19 (1973).

"Applying criminal sanctions is the most dramatic exercise of the power of the state over individual liberties. Although necessary for maintaining social order, administering sanctions does not require general suspension of the freedom to exercise basic rights." (NAC, *Corrections*, 18 (1973).)

Implementation of offenders' rights requires participation not only by the courts but also by correctional administrators, the legislature and the public. Community support and legislation are necessary to influence public understanding of offenders' problems and of correctional processes. However, correctional administrators have a crucial position in implementing the rights of offenders. "No statutory mandate or judicial declaration of

rights can be effectively realized and broadly obtained without the understanding, cooperation, and commitment of correctional personnel." (NAC, **Corrections**, 20 (1973).) Lack of resources is the main barrier in the implementation of many of these desired changes in corrections. Court rulings requiring change should help make available the necessary funds.

A sound legal framework in corrections is necessary to provide a proper human setting and to preserve and protect offender rights. The justification for the existence of the corrections system is to protect the public and to assist the offender in becoming a responsible citizen. A positive environment is necessary for offender reintegration. Humanization of the environment is not in conflict with the public's demands that confinement take place within boundaries amenable to public safety. Correctional theories demonstrate the need to make available to offenders constructive rehabilitation programs. Discriminatory practices and inconsistent philosophies serve only to reinforce the offender's negative self-concept and alienation from the community.

The Rights of Offenders and Legal Framework standards address access to the courts; first amendment rights; protections and remedies; living conditions; restoration of rights; and regulations for conduct, disciplinary procedures, and changes in status. Although the standards rely heavily on case law and precedent, many go beyond present requirements and practices. Unless specifically qualified, the standards are meant to apply to all adult offenders and all adult correctional programs and facilities.

The standard, Access to Courts, addresses the right of offenders to have reasonable access to the courts. The standard relates to implementation of the correctional agency's obligation to provide offenders access to the courts. Conference participants accept the National Advisory Commission on Criminal Justice Standards and Goals (NAC) position that access to the courts should be complete and that correctional agencies should make every reasonable effort to insure that inmates are able to communicate with the court.

Conference participants endorse the NAC position that offenders should be allowed, while confined, to file civil suits unrelated to their personal liberty. Participants reason that if offenders must wait until release to initiate civil action, it severely handicaps their ability to effectively present their case.

Conferees recommend that offenders should have adequate legal remedies in the areas defined in the standard and access to the courts to secure these remedies. However, the standard contemplates that offenders should first exhaust administrative remedies. Conference participants believe that administrative remedies should serve as screening mechanisms to prevent inundation of the courts with frivolous suits. To insure that

administrative restrictions do not infringe on the right of access to the courts, the standard defines the minimum and maximum time limitations for administrative remedies. Also, the standard recommends that the exhaustion principle should not apply where no reasonable administrative remedy exists.

The standard provides that, under certain circumstances, offenders should be prohibited from having actual possession of writing instruments and materials. Conference participants conclude that materials required for preparation of appeals and complaints can be used as dangerous weapons in the hands of certain individuals. Therefore, in these instances where the propensity of violence is likely, materials should be withheld. The standard provides that in such cases, substitute access to materials should be provided in lieu of personal possession.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.1.

STANDARD 1.2

Access To Legal Services

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of offenders to have access to legal assistance, through counsel or counsel substitute, with problems or proceedings relating to their custody, control, management, or legal affairs while under correctional authority. Correctional authorities should facilitate access to such assistance and assist offenders affirmatively in pursuing their legal rights.

The proceedings or matters to which this standard applies include the following:

- 1. Postconviction proceedings testing the legality of conviction or confinement.**
- 2. Proceedings challenging conditions or treatment under confinement or other correctional supervision.**
- 3. Probation revocation and parole grant and revocation proceedings.**
- 4. Disciplinary proceedings in a correctional facility that impose major penalties and deprivations.**
- 5. Proceedings or consultation in connection with civil legal problems relating to debts, marital status, property, or other personal affairs of the offender.**

In the exercise of the foregoing rights:

1. Attorney representation should be required for all proceedings or matters related to the foregoing items 1 to 3, except that law students, if approved by rule of court or other proper authority, may provide consultation, advice, and initial representation to offenders in presentation of pro se post-conviction petitions.
2. In all proceedings or matters described herein, counsel substitutes (law students, correctional staff, inmate paraprofessionals, or other trained paralegal persons) may be used to provide assistance to attorneys of record or supervising attorneys.
3. Counsel substitutes may provide representation in proceedings or matters described in foregoing items 4 and 5, provided the counsel substitute has been oriented and trained by qualified attorneys or educational institutions and receives continuing supervision from qualified attorneys.
4. The right to counsel should not include counsel present at disciplinary proceedings in a correctional facility that imposes major penalties and deprivations except in transfer to another institution or transfer to higher security or custody status.
5. Major deprivations or penalties should include loss of "good time", assignment to isolation status, transfer to another institution, transfer to higher security or custody status, and fine or forfeiture of inmate earnings. Such proceedings should be deemed to include administrative classification or reclassification actions essentially disciplinary in nature; that is, in response to specific acts of misconduct by the offender.
6. Assistance from other inmates should be prohibited only if legal counsel is reasonably available in the institution.
7. Correctional authorities should assist inmates in making confidential contact with attorneys and lay counsel. This assistance includes visits during normal institutional hours, uncensored correspondence, telephone communication, and special consideration for after-hour visits where requested on the basis of special circumstances.

STANDARD 1.3

Public Representation of Convicted Offenders

- A. Counsel should be available at any correctional facility to advise any inmate desiring to appeal or collaterally attack his/her conviction.
- B. An attorney should be provided to represent an indigent inmate of any detention facility at any proceeding affecting his/her detention or early release.
- C. An attorney should be provided to represent an indigent parolee at any parole revocation hearing and an indigent probationer at any proceeding affecting his/her probationary status.

COMMENTARY

The standard, Access to Legal Services, speaks to the right to and availability of counsel for offenders under correctional control. In the first section of Standard 1.2, the types of proceedings in which an offender should have legal assistance are defined. The second section of the standard qualifies the right to counsel.

In *Wolff v. McDonnell*, 94 S. Ct. 2963 (1974), the Supreme Court held that offenders have no right to counsel in prison disciplinary proceedings but may have counsel substitute if the inmate is illiterate or the issues complex. The Iowa standard reflects this judicial decision. Conference participants conclude that an inmate should not have an unfettered right to representation by counsel at disciplinary hearings. However, participants agree that inmates should have access to counsel to discuss problems or to assist in preparation of their case. The standard makes an exception for transfer hearings, thus permitting the presence of counsel. Currently, although not required, counsel is allowed to be present at transfer hearings. *White v. Gillman*, 360 F. Supp. 64 (D.C. 1973) established that a due process hearing is essential before transfer from reformatory to state prison.

The standard endorses access to legal assistance in connection with civil legal problems. Iowa R.C.P. 13 provides that in any civil action brought against an individual incarcerated in a penitentiary, reformatory or state hospital for mentally ill, the court is required to appoint counsel for his/her defense at public expense before a judgment can be entered against the individual. (See IOWA CODE, R.C.P. 13 (1975).) Participants comment, however, that there is no

statutory provision for appointment of counsel for inmates to initiate civil action. Standard 9.6, Women in Major Institutions, further endorses access to legal counsel. It states that legal services should be provided to female inmates with civil and in-house correctional problems.

The standard does not specify the authority that should furnish representation. However, conference participants note that Standard 1.3, Public Representation of Convicted Offenders, provides that public defense should be available at detention or correctional facilities. The standard stipulates the particular instances when representation should be provided to convicted offenders at the public expense.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.2.
NAC Courts 13.4.

STANDARD 1.4

Access To Legal Materials

Each correctional agency, as part of its responsibility to facilitate access to courts for each person under its custody, should immediately establish policies and procedures to fulfill the right of offenders to have reasonable access to legal materials, as follows:

1. An appropriate law library should be established and maintained at each major adult correctional institution. A plan should be developed and implemented for other residential facilities to assure reasonable access to an adequate law library.
2. The library should include:
 - a. The State Constitution and State statutes, State decisions, State procedural rules and decisions thereon, and legal works discussing the foregoing.
 - b. Federal case law materials.
 - c. Court rules and practice treatises.
 - d. One or more legal periodicals dealing with offenders' rights to facilitate current research.
 - e. Appropriate digests and indexes for the above.
 - f. Samples of pertinent legal forms.
3. The correctional authority should not obstruct persons under its supervision but not confined from having access to legal materials.

COMMENTARY

Standard 1.4, Access to Legal Materials, addresses the right of offenders to have reasonable access to legal materials. Essentially, it recommends the establishment of a law library at major adult correctional institutions and stipulates the legal materials that should be provided therein. The right of offenders to have access to legal materials was affirmed in **Younger v. Gilmore**, 404 U.S. 15 (1971). In Iowa, law libraries have been established at the State Penitentiary and the Men's and Women's Reformatories.

The standard suggests that persons under supervision, but not confined, should not be hindered by correctional authorities from securing legal materials. For two reasons, conference participants believe that the individual, not the correctional agency as suggested by the National Advisory Commission, should be responsible for securing legal materials. First, participants remark that a person released into the community has certain personal responsibilities. Because access to legal materials is not restricted in the community, the released person should have personal responsibility for obtaining these materials. Second, participants object to increased government involvement in people's personal lives. Participants believe securing legal materials is a personal matter.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.3.

STANDARD 1.5 Rehabilitation

Each correctional agency should immediately develop and implement policies, procedures, and practices to fulfill the right of offenders to rehabilitation programs. A rehabilitative purpose is or ought to be implicit in every sentence of an offender unless ordered otherwise by the sentencing court. A correctional authority should have the affirmative and enforceable duty to provide programs appropriate to the purpose for which a person was sentenced. Where such programs are absent, the correctional authority should (1) establish or provide access to such programs or (2) inform the sentencing court of its inability to comply with the purpose for which sentence was imposed. To further define this right to rehabilitative services:

1. The correctional authority and the governmental body of which it is a part should give first priority to implementation of statutory specifications or statements of purpose on rehabilitative services.
2. Each correctional agency providing parole, probation, or other community supervision, should supplement its rehabilitative services by referring offenders to social services and activities available to citizens generally. The correctional authority should, in planning its total range of rehabilitative programs, establish a presumption in favor of community-based programs to the maximum extent possible.
3. A correctional authority's rehabilitation program should include a mixture of educational, vocational, counseling, and other services appropriate to offender needs. Not every facility need offer the entire range of programs, except that:
 - a. Every system should provide opportunities for basic education up to high school equivalency, on a basis comparable to that available to citizens generally, for offenders capable and desirous of such programs;
 - b. Every system should have a selection of vocational training programs available to adult offenders; and
 - c. A work program involving offender labor on public maintenance, construction, or other public projects should not be considered part of an offender's access to rehabilitative services when he/she requests (and diagnostic efforts indicate that he/she needs) educational, counseling, or training opportunities.
4. Correctional authorities regularly should advise courts, sentencing judges and the parole board of the extent and availability of rehabilitative services and programs within the

correctional system to permit proper sentencing decisions and realistic evaluation of treatment alternatives.

5. Governmental authorities should be held responsible by courts for meeting the requirements of this standard.
6. No offender should be required to participate in programs of rehabilitation or treatment nor should the failure or refusal to participate be used to eliminate any of his/her rights in the institution.

COMMENTARY

Standard 1.5, Rehabilitation, stresses the right of offenders to rehabilitation programs. Consistent with the Iowa sentencing standards, the standard provides "...that offenders have the right to programs appropriate to the purpose for which they were sentenced. The duty is placed on correctional agencies to respond to the sentencing order." (NAC, **Corrections**, 45 (1973).)

Conference participants emphasize that the courts have been reluctant to address the right to rehabilitation. Participants raise several questions concerning the right to rehabilitation and the possible resulting conflict among the branches of government to carry out this right. First, participants question whether the courts can hold governmental (correctional) authorities responsible for administering programs that the legislature declines to fund. Second, participants question whether the judiciary has the authority to order legislative appropriations. Participants reflect that the necessary interaction between courts and correctional authorities has long been neglected. The standard recommends that the courts, sentencing judges and the parole board should be advised regularly by correctional authorities of the availability of rehabilitative services and programs. The standard encourages the appropriation and expenditure of funds necessary for the provision of rehabilitative programs.

The standard recommends that correctional authorities should not require offenders to participate in rehabilitative programs. However, the standard does not address whether correctional agencies should be permitted to offer incentives or privileges to encourage inmate participation in correctional programs. Some participants believe that it is coercive to offer such incentives. Others did not agree. It was brought to the attention of conference participants that leading authorities have theorized that for rehabilitation to work, it must be noncoercive. "A forced program of any nature is unlikely to produce constructive results." (NAC, **Corrections**, 45 (1973).)

STANDARD 1.6 Searches

Each correctional agency should immediately develop and implement policies and procedures governing searches and seizures to insure that the rights of persons under their authority are observed.

1. Unless specifically authorized by the court or other releasing authorities as a condition of release, persons supervised by correctional authorities in the community should be subject to the same rules governing searches and seizures that are applicable to the general public.
2. Correctional agencies operating institutions should develop a plan for making administrative searches of facilities and all persons confined in and employed by or visiting at correctional institutions.
 - a. The plan should provide for:
 - (1) Avoiding undue or unnecessary force, embarrassment, or indignity to the individual.
 - (2) Using non-intensive sensors and other technological advances instead of body searches wherever feasible.
 - (3) Conducting searches no more frequently than reasonably necessary to control contraband in the institution or to recover missing or stolen property.
 - (4) Respecting an inmate's rights in property owned or under his/her control, as such property is authorized by institutional regulations. The correctional agency should be provided with a fund to recompense inmates for property lost, damaged or destroyed during the course of an administrative search.
 - (5) Publication of the plan.
 - (6) Provision of a list of confiscated items.

Any search for a specific law enforcement purpose or one not otherwise provided for in the plan should be conducted in accordance with specific regulations which detail the officers authorized to order and conduct such a search and the manner in which the search is to be con-

ducted. Only top management officials should be authorized to order such searches. Such a search should be conducted in the presence of the inmate where feasible.

COMMENTARY

Standard 1.6, Searches, sets forth the three distinct situations where searches are conducted of persons under correctional supervision and the recommended procedures therefor. These are (1) a search of a person under supervision in the community, (2) an administrative search within a correctional institution, and (3) a law enforcement search within a correctional institution relating to a particular crime.

The National Advisory Commission on Criminal Justice Standards and Goals (NAC) recognizes and conference participants agree that an entire body of law regulates the conditions under which government may invade an individual's privacy. In the case of a supervised offender in the community, the standard recommends that the correctional authority should comply with fourth amendment constitutional requirements regarding searches, except where searches are specifically authorized by the court or paroling authority as a condition of release. (NAC, **Corrections**, 39 (1973).) However, some participants disagree and view searches of a supervised offender in the community as constituting a screening mechanism for protection of the public safety.

Conference participants conclude that frequent and irregular administrative searches in correctional institutions are vital and justifiable for the control of contraband. However, searches of inmates should be governed by specific guidelines designed to avoid unnecessary harassment or invasion of offender rights. The standard calls for development and publication of a plan for administrative searches.

The standard proposes that the plan for administrative searches should contain a provision whereby the inmate is compensated by the correctional agency for property that is damaged during an administrative search. Conference participants observe that, presently, an inmate is faced with limited alternatives to restore or replace his/her property. First, the institution may try to provide alternative property. Second, the inmate may pursue a state tort claim, which is a lengthy and burdensome process. (See IOWA CODE ch. 25A (1975).) Or, the individual simply suffers a loss. In a controlled environment, where possessions are limited and tension is constant, uncompensated property losses are especially significant.

The NAC and conference participants recognize that specific law enforcement searches of

confined offenders raise complicated constitutional issues. The standard is intended to be an internal administrative guideline and does not attempt to reflect fourth amendment constitutional rights. The standard calls for adoption of specific administrative regulations detailing the manner in which such searches are to be conducted and under what circumstances. (NAC, **Corrections**, 40 (1973).) Only top management correctional officials should be authorized to order law enforcement searches and, where feasible, the search should be conducted in the presence of the inmate.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.7.

STANDARD 1.7

Free Expression and Association

Each correctional agency should immediately develop policies and procedures to assure that individual offenders are able to exercise their constitutional rights of free expression and association to the same extent and subject to the same limitations as the public at large. Regulations limiting an offender's right to expression and association should be justified by a compelling state interest requiring such limitation. Where such justification exists, the agency should adopt regulations which effectuate the state interest with as little interference with an offender's rights as possible.

Rights of expression and association are involved in the following contexts:

1. Exercise of free speech.
2. Exercise of religious beliefs and practices. (See Standard 1.8).
3. Sending or receipt of mail. (See Standard 1.9).
4. Visitations. (See Standard 1.9).
5. Access to public through the media. (See Standard 1.9).
6. Engaging in peaceful assemblies.
7. Belonging to and participating in organizations.
8. Preserving identity through distinguishing clothing, hairstyles, and other characteristics related to physical appearance.

Justification for limiting an offender's right of expression or association would include regulations necessary to maintain order or protect other offenders, correctional staff, or other persons from violence, or the clear threat of violence. The existence of a justification for limiting an

offender's rights should be determined in light of all the circumstances, including the nature of the correctional program or institution to which he/she is assigned.

Ordinarily, the following factors would not constitute sufficient justification for an interference with an offender's rights unless present in a situation which constituted a clear threat to personal or institutional security.

1. Protection of the correctional agency or its staff from criticism, whether or not justified.
2. Protection of other offenders from unpopular ideas.
3. Protection of offenders from views correctional officials deem not conducive to rehabilitation or other correctional treatment.
4. Administrative inconvenience.
5. Administrative cost except where unreasonable and disproportionate to that expended on other offenders for similar purposes.

Correctional authorities should encourage and facilitate the exercise of the right of expression and association by providing appropriate opportunities and facilities.

STANDARD 1.8

Exercise of Religious Beliefs and Practices

Each correctional agency immediately should develop and implement policies and procedures that will fulfill the right of offenders to exercise their own religious beliefs. These policies and procedures should allow and facilitate the practice of these beliefs to the maximum extent possible, within reason, consistent with Standard 1.7, and reflect the responsibility of the correctional agency to:

1. Provide access to appropriate facilities for worship or meditation.
2. Enable offenders to adhere to the dietary laws of their faith.
3. Arrange the institution's schedule to the extent reasonably possible so that inmates may worship or meditate at the time prescribed by their faith.
4. Allow access to clergymen or spiritual advisers of all faiths represented in the institution's population.
5. Permit receipt of any religious literature and publications that can be transmitted legally through the United States mails.

6. Allow religious medals and other symbols that are not unduly obtrusive or dangerous.

The correctional agency should not proselytize persons under its supervision or permit others to do so without the consent of the person concerned. Reasonable opportunity and access should be provided to offenders requesting information about the activities of any religion with which they may not be actively affiliated.

In making judgments regarding the adjustment or rehabilitation of an offender, the correctional agency may consider the attitudes and perceptions of the offender but should not:

1. Consider, in any manner prejudicial to determinations of offender release or status, whether or not such beliefs are religiously motivated.
2. Impose, as a condition of confinement, parole, probation, or release, adherence to the active practice of any religion or religious belief.

STANDARD 1.9

Access To The Public

Each correctional agency should develop and implement immediately policies and procedures to fulfill the right of offenders to communicate with the public. Correctional regulations limiting such communication should be consistent with Standard 1.7. Questions of right of access to the public arise primarily in the context of regulations affecting mail, personal visitation, and the communications media.

MAIL. Offenders should have the right to communicate or correspond with persons or organizations and to send and receive letters, packages, books, periodicals, and any other material that can be lawfully mailed. The following additional guidelines should apply:

1. Correctional authorities should not limit the volume of mail to or from a person under supervision.
2. Correctional authorities should have the right to inspect incoming and outgoing mail, but neither incoming nor outgoing mail should be read or censored. Cash, checks, or money orders should be removed from incoming mail and credited to offenders' accounts. If contraband is discovered in either incoming or outgoing mail, it may be removed.

3. Offenders should receive a reasonable postage allowance to maintain communities.

VISITATION. Offenders should have the right to communicate in person with individuals of their own choosing not in conflict with the security of the institution. The following additional guidelines should apply:

1. Correctional authorities should not limit the number of visitors an offender may receive or the length of such visits except in accordance with regular institutional schedules and requirements.
2. Correctional authorities should facilitate and promote visitation of offenders by the following acts:
 - a. Providing transportation for visitors from terminal points of public transportation. In some instances, the correctional agency may wish to pay the entire transportation costs of family members where the offender and the family are indigent.
 - b. Providing appropriate rooms for visitation that allow ease and informality of communication in a natural environment as free from institutional or custodial attributes as possible.
 - c. Making provisions for family visits in private surroundings conducive to maintaining and strengthening family ties.
3. The correctional agency may supervise the visiting area in an unobtrusive manner.

MEDIA. Except in emergencies such as institutional disorders, offenders should be allowed to present their views through the communications media. Correctional authorities should encourage and facilitate the flow of information between the media and offenders by authorizing offenders, among other things, to:

1. Grant confidential and uncensored interviews to representatives of the media. Such interviews should be scheduled not to disrupt regular institutional schedules unduly unless during a newsworthy event.
2. Send uncensored letters and other communications to the media.
3. Publish articles or books on any subject.
4. Display and sell original creative works.

As used in this standard, the term "media" encompasses any printed or electronic means of conveying information to the public including but not limited to newspapers, magazines, books, or other publications regardless of the size or nature of their circulation and licensed radio and

television broadcasting. Representatives of the media should be allowed access to all correctional facilities for reporting items of public interest consistent with the preservation of offenders' privacy.

Offenders should be entitled to receive any lawful publication, or radio and television broadcast.

COMMENTARY

The standards, Free Expression and Association, Exercise of Religious Beliefs and Practices, and Access to the Public, speak to the basic first amendment rights of offenders.

Standard 1.7 "...recommends two general rules that should govern the regulation of expression and association of offenders whether or not they are sentenced to total confinement. The first is that there must be a compelling state interest before interference with expression or association is justified. Second, where such a showing is made, the authorities should intrude on freedom of expression to the least degree possible while protecting the state interest. Free speech is not an absolute right in the free community and thus would not be an absolute right within a correctional program." (NAC, Corrections, 59 (1973).) Conference participants endorse these principles recognizing that offenders have a right to express themselves and to retain their identify as individuals.

Standard 1.8 proposes that offenders should be allowed to exercise their religious beliefs and practices. However, the standard does not attempt to define "religion." Conference participants reflect that neither the courts nor corrections administrators have been able to define "religion." Therefore, conference participants concur that the standard should not set forth a definition of "religion." The standard sets forth guidelines that maximize accommodation of religious beliefs and practices. Yet, it permits reasonable limitations to meet the necessary demands of correctional security and order. Consistent in principle with Standard 10.4, The Parole Grant Hearing, Standard 1.8 advocates that correctional decision making concerning release or status of the offender should not be made on the basis of adherence to or nonaffiliation with a religious faith or belief.

Standard 1.9 addresses the right of offenders to communicate with the public in the specific areas of mail, visitation and media access. Offenders in correctional institutions have been isolated from the public in general and from their families and friends. The public should be informed about what happens in corrections. Likewise, the of-

fender should maintain ties to the community and have knowledge of what the free community is like if he/she is to be able to live there satisfactorily upon release. (NAC, Corrections, 67 (1973).) In addition, a closed institutional environment presents the opportunity for abuse. The standard recommends general rules in the areas of mail, visitation and media access to diminish isolation of offenders.

Concerning mail, the standard recommends that offenders should receive a reasonable postage allowance. Because of the low wages received by offenders, participants believe this recommendation has added significance. It provides a means of assuring that offenders are able to communicate with the public.

In regard to visitation, conference participants agree that maintaining family ties is very important in the rehabilitation of offenders. Participants also acknowledge that community and family contact should add calmness and stability to the environment of the Institution. To facilitate visitation, the standard recommends that the correctional agency provide transportation, if feasible, and make provision for appropriate visiting rooms.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.15, 2.16, 2.17.

STANDARD 1.10

Protection Against Personal Abuse

Each correctional agency should establish immediately policies and procedures to fulfill the right of offenders to be free from personal abuse by correctional staff or other offenders. The following should be prohibited:

1. Corporal punishment.
2. The use of physical force by correctional staff except as necessary for self-defense, protection of another person from imminent physical attack, or prevention of riot or escape.
3. The use of chemical agents only as necessary for self-defense, protection of persons, and to avoid damage to property. Chemical agents will not be used to discipline inmates. Due care will be taken to isolate the use of such chemical agents in order to protect other persons from their effects. Appropriate medical pre-

cautions will be taken. Such action will only be taken after approval from top institution management. Written records of all such incidents will be forwarded to the central office of the Division of Corrections and to the ombudsman.

4. Punitive, solitary, or isolated confinement as a disciplinary or punitive measure except as a last resort and then not extending beyond 10 days' duration. Such confinement should not result in a forfeiture of time of sentence.
5. Any deprivation of clothing, bed and bedding, light, ventilation, heat, exercise, balanced diet, or hygienic necessities except where such items constitute severe threat to person or property. Such deprivation is subject to review by top correctional management within 24 hours.
6. Any act or lack of care, whether by willful act or neglect, that injures or significantly impairs the health of any offender.
7. Infliction of mental distress, degradation, or humiliation.

Correction authorities should:

1. Evaluate their staff periodically to identify persons who may constitute a threat to offenders and where such individuals are identified, reassign or discharge them where feasible. Personnel policies will be oriented toward working with such employees in order to correct situations of this type.
2. Develop institution classification procedures that will identify violence-prone offenders and where such offenders are identified, insure greater supervision.
3. Implement supervision procedures and other techniques that will provide a reasonable measure of safety for offenders from the attacks of other offenders. Technological devices such as closed circuit television should not be exclusively relied upon for such purposes.

Correctional agencies should compensate offenders for injuries suffered because of the intentional or negligent acts or omissions of correctional staff.

COMMENTARY

Protection Against Personal Abuse precisely enumerates a variety of punitive measures that should be prohibited to prevent personal abuse of offenders, although these measures may not constitute cruel and unusual punishment prohi-

bited by the eighth amendment. (NAC, Corrections, 32 (1973).)

To diminish the possibility of abuse, the standard is very specific regarding use of chemical agents. Participants state that tear gas currently may be used in correctional institutions to enforce any lawful order. The standard defines its use.

The standard does not prohibit punitive segregation but places restraints on the use of extended solitary punitive confinement. Participants concur that extended isolated confinement that includes deprivation of sensory perception can be very harmful. Participants feel that it is inhumane, brutalizing both the person who administers it and the person who receives it. Administrators of Iowa's correctional institutions use varying levels of segregation with a distinction as to whether the segregation is for punitive purposes or for non-punitive purposes (administrative segregation). Participants contend that the use of administrative segregation is necessary for the control and security of the institution. Participants identify an underlying problem that causes the segregation of many offenders. The problem is that correctional institutions are required to house mentally ill offenders. Standard 9.5, Special Offender Types, recommends that provision be made for a medical facility that emphasizes treatment of the mentally ill offender or special offender types. Participants, rather than defining or endorsing administrative segregation in the standard, conclude that the State should strive for treatment of mentally ill offenders.

The standard recommends measures that correctional authorities should take with staff to decrease the possibility of personal abuse. Participants agree that staff should be evaluated to determine whether they are dealing with inmates in a therapeutic or positive way.

Consistent with the recommendation of the standard, the State Tort Claims Act makes the State liable for negligent acts. (See IOWA CODE ch. 25A (1975).)

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.4.

STANDARD 1.11

Grievance Procedures

There should exist within each correctional agency a grievance procedure, and in addition thereto, there should exist another equally accessible grievance procedure independent of the correctional agency which may be the correctional ombudsman. All grievance procedures should be equally accessible to the inmate. The procedures should have the following elements:

1. Each person being supervised by the correctional authority should be able to report a grievance.
2. The grievance should be transmitted without alteration, interference, or delay to the person or entity responsible for receiving and investigating grievances.
 - a. The grievance person or entity that is independent of the correctional authority should not be concerned with the day-to-day administration of the corrections function that is the subject of the grievance.
 - b. The person reporting the grievance should not be subject to any adverse action as a result of filing the report.
3. Promptly after receipt, each grievance not patently frivolous should be investigated. A written report should be prepared for the correctional authority and the complaining person. The report should set forth the findings of the investigation and the recommendations of the person or entity responsible for making the investigation.
4. The correctional authority should respond to each such report, indicating what disposition will be made of the recommendations received.

COMMENTARY

Standard 1.11 recommends development of fair and effective grievance mechanisms both within and independent of correctional agencies. All grievance procedures should be available to the offender on an equal basis. Conference participants state that because correctional institutions tend to have a closed operation, a grievance procedure independent of the correctional administration is especially necessary. However, participants also recognize that a large percentage of grievances are resolved by interpersonal com-

munication and can be handled by in-house procedures. Iowa correctional institutions have developed internal grievance procedures. Additionally, the State has a prison ombudsman completely independent of correctional authority.

The standard is intended to address all correctional agencies. "Peaceful avenues for redress of grievances are a prerequisite if violent means are to be avoided." (NAC, Corrections, 57 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.14.

STANDARD 1.12

Nondiscriminatory Treatment

Each correctional agency should immediately develop and implement policies and procedures assuring the right of offenders not to be subjected to discriminatory treatment based on race, religion, nationality, sex, sexual preference or political beliefs. The policies and procedures should assure:

1. An essential equality of opportunity in being considered for various program options, work assignments, and decisions concerning offender status.
2. All absence of bias in the decision process, either by intent or in result.
3. All remedies available to noninstitutionalized citizens open to prisoners in case of discriminatory treatment.

This standard would not prohibit segregation of juvenile or youthful offenders from mature offenders or male from female offenders in offender management and programming, except where separation of the sexes results in an adverse and discriminatory effect in program availability or institutional conditions.

COMMENTARY

Nondiscriminatory Treatment strives for equal treatment of offenders. The standard is broad in its scope, encompassing the areas of race, religion, nationality, sex, sexual preference, and political beliefs.

"Sexual preference" encompasses homosexuality. Conference participants state that persons should not be disqualified from participating in programs that are normally available to the inmate population solely on the basis of being either an avowed or practicing homosexual.

The Iowa standard is basically in agreement with the National Advisory Commission directing that correctional agencies should assure equality of opportunity, lack of bias, and available remedies to all offenders. "The courts have made it clear that practices which on the surface seem unobjectionable but prove to be discriminatory in effect also are vulnerable to the equal protection mandate of the fourteenth amendment." (NAC, Corrections, 41 (1973).)

COMPARATIVE ANALYSIS REFERENCE NAC Corrections 2.8.

STANDARD 1.13 Healthful Surroundings

Each correctional agency should immediately examine and take action to fulfill the right of each person in its custody to a healthful place in which to live. After a reasonable time to make changes, requirements set forth in State health and sanitation laws should be deemed a nuisance and abated.

The facility should provide each inmate with:

1. His/her own room or cell of adequate size.
2. Heat or cooling as appropriate to the season to maintain temperature in the comfort range.
3. Natural and artificial light.
4. Clean and decent installations for the maintenance of personal cleanliness.
5. Recreational opportunities and equipment; when climatic conditions permit, recreation or exercise in the open air.

Healthful surroundings, appropriate to the purpose of the area, also should be provided in all other areas of the facility. Cleanliness and occupational health and safety rules should be complied with.

Independent and unannounced comprehensive safety and sanitation inspections should be performed at least semi-annually and preferably more frequently by qualified personnel: State or local inspectors of food, medical, housing, and industrial safety who are independent of the correctional agency. Correctional facilities should

be subject to applicable State and local statutes or ordinances.

STANDARD 1.14 Medical Care

Each correctional agency should take immediate steps to fulfill the right of offenders to medical, dental, or mental health care. This should include services guaranteeing physical, mental, and social well-being as well as treatment for specific diseases or infirmities. Such medical, dental, or mental health care should be comparable in quality and availability to that obtainable by the general public and should include at least the following:

1. A prompt examination by a physician upon commitment to a correctional facility.
2. Medical or dental services performed by persons with appropriate training under the supervision of a licensed physician or dentist. Mental health care should be performed under the supervision of a certified mental health professional.
3. Emergency medical treatment on a 24-hour basis.
4. Access to an accredited hospital or physician or dentist outside the facility.

Medical, dental or mental health problems requiring special diagnosis, services, or equipment should be met by medical furloughs or purchased services.

A particular offender's need for medical, dental, or mental health care should be determined by a licensed physician, dentist or other appropriately trained person. Correctional personnel should not be authorized or allowed to inhibit an offender's access to medical, dental or mental health personnel or to interfere with medical, dental, or mental health treatment.

Complete and accurate records documenting all medical examinations, medical findings, and medical treatment should be maintained under the supervision of the physician in charge.

The prescription, dispensing, and administration of medication should be under strict medical supervision.

Coverage of any governmental medical or health program should include offenders to the same extent as the general public.

The court with original jurisdiction of the offender should have opportunity to review treatment of an inmate deemed mentally ill or a special offender type.

COMMENTARY

Standards 1.13 and 1.14, Healthful Surroundings and Medical Care, relate to living conditions and, therefore, speak to the rights of offenders in correctional facilities and institutions. The standards outline the basic physical environment that correctional facilities should have and the care and treatment that should be available to offenders incarcerated in these facilities.

Conference participants endorse the National Advisory Commission (NAC) position that all correctional facilities should provide clean, decent, healthful and safe surroundings for all confined offenders. Although the Iowa standard calls for individual cells or rooms in each correctional facility, conference participants recognize that this recommendation can not be achieved in the near future. Participants express the concern that the individual inmate room or cell requirement may place unworkable restrictions on halfway houses, secure psychiatric hospitals, jails and community-based facilities. However, conference participants endorse the NAC rationale that overcrowding is harmful. The natural establishment of human territorial rights dictates that all individuals need an area of privacy. Participants believe the standard should particularly apply to medium and maximum security institutions because of their closed environment. Currently in Iowa, the reformatories and penitentiary have single unit cells. However, due to rising populations, participants note this situation may not continue in the future. The Security Medical Facility, halfway houses, some jails and other community-based type facilities in Iowa may have multiple dormitory type rooms or cells.

To insure proper health and safety maintenance of facilities, conference participants deem that inspections should be frequent and unannounced by appropriate officials independent of the correctional agency.

In the area of medical care, conference participants recognize the importance of a facility for the treatment of mentally ill and special offender types. (See Standard 9.5.) Conference participants observe that, in present practice, the court often sends an individual to correctional institutions with the suggestion that the individual receive psychiatric treatment during his/her period of confinement. Although the institutions will usually refer the individual to the Iowa Security Medical Facility, limited bed space will not allow extended treatment. Both the NAC and conference participants endorse the concept that treatment may extend beyond injuries and disease to include preventive medicine and dentistry, corrective or restorative medicine, and mental as well as physical health. Physical disabilities or abnormalities may contribute to an

individual's socially deviant behavior or restrict his employment. (NAC, **Corrections**, 37 (1973).) In terms of impact on the actions of the person and cost to society, conference participants acknowledge that it may be cheaper and more feasible to remedy the underlying problem causing the deviant behavior. Therefore, conference participants reason that correctional institutions should have an affirmative obligation to treat an individual while he/she is incarcerated as an integral part of rehabilitation. Because of the diversity of correctional agencies (local jails through maximum security) and the limited resources of agencies, the responsibility may not necessarily require that the correctional agency itself provide or perform the care. However, the agency should provide suggestions for available community resources.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.5, 2.6.

STANDARD 1.15 Rules of Conduct

Each correctional agency should immediately promulgate rules for offenders under its jurisdiction. Such rules should:

- 1. Be designed to effectuate or protect an important interest of the facility or program for which they are promulgated.**
- 2. Be the least drastic means of achieving that interest.**
- 3. Be specific enough to give offenders adequate notice of what is expected of them.**
- 4. Be accompanied by a statement of the range of sanctions that can be imposed for violations. Such sanctions should be proportionate to the gravity of the rule and the severity of the violation.**
- 5. Be promulgated after appropriate consultation with offenders and other interested parties consistent with procedures recommended in Standard 1.18, Administrative Justice.**

Correctional agencies should provide offenders under their jurisdiction with an up-to-date written statement of rules of conduct applicable to them.

Correctional agencies in promulgating rules of conduct should not attempt generally to duplicate the criminal law.

STANDARD 1.16

Disciplinary Procedures

Each correctional agency immediately should adopt, consistent with Standard 1.18, disciplinary procedures for each type of residential facility it operates and for the persons residing therein.

Minor violations of rules of conduct are those punishable by no more than a reprimand, or loss of commissary, entertainment, or recreation privileges for not more than 24 hours. Rules governing minor violations should provide that:

1. Staff may impose the prescribed sanctions after informing the offender of the nature of his/her misconduct and giving him/her the chance to explain or deny it.
2. If a report of the violation is placed in the offender's file, the offender should be so notified and should receive a copy of the report and its disposition.
3. The offender should be provided with the opportunity to request a review by an impartial officer or board of the appropriateness of the staff action.
4. Where the review indicates that the offender did not commit the violation or the staff's action was not appropriate, all reference to the incident should be removed from the offender's file.

Major violations of rules of conduct are those punishable by sanctions more stringent than those for minor violations, including but not limited to, loss of good time, transfer to segregation or solitary confinement, transfer to a higher level of institutional custody or any other change in status which may tend to affect adversely an offender's time of release or discharge.

Rules governing major violations should provide for the following prehearing procedures:

1. Someone other than the reporting officer should conduct a complete investigation into the facts of the alleged misconduct to determine if there is probable cause to believe the offender committed a violation. If probable cause exists, a hearing date should be set.
2. The offender should receive a copy of any disciplinary report or charges of the alleged violation and notice of the time and place of the hearing.
3. The offender, if he/she desires, should receive assistance in preparing for the hearing from a member of the correctional staff, another inmate, or other authorized person (including legal counsel if available).
4. No sanction for the alleged violation should be imposed until after the hearing

except that the offender may be segregated from the rest of the population if the head of the institution finds that he/she constitutes a threat to other inmates, staff members, or himself/herself.

Rules governing major violations should provide for a hearing on the alleged violation which should be conducted as follows:

1. The hearing should be held as quickly as possible, generally, not more than 72 hours after the charges are made.
2. The hearing should be before an impartial officer or board.
3. The offender should be allowed to present evidence or witnesses on his/her behalf.
4. The offender should be allowed to select someone, including legal counsel, to assist him/her at the hearing and in the investigation where the subject thereof may result in criminal prosecution.
5. The hearing officer or board should be required to find substantial evidence of guilt before imposing a sanction.
6. The hearing officer or board should be required to render its decision in writing setting forth its findings as to controverted facts, its conclusion, and the sanction imposed. If the decision finds that the offender did not commit the violation, all reference to the charge should be removed from the offender's file.

Rules governing major violations should provide for internal review of the hearing officer's or board's decision. The reviewing authority should be authorized to accept the decision, order further proceedings, or reduce the sanction imposed.

STANDARD 1.17

Procedures for Nondisciplinary Changes of Status

Each correctional agency should immediately promulgate written rules and regulations to prescribe the procedures for determining and changing offender status, including classification, transfers, and major changes or decisions on participation in treatment, education, and work programs within the same facility.

1. The regulations should:

- a. Specify criteria for the several classifications to which offenders may be assigned and the privileges and duties of persons in each class.
 - b. Specify frequency of status reviews or the nature of events that prompt such review.
 - c. Be made available to offenders who may be affected by them.
 - d. Provide for notice to the offender when his/her status is being reviewed.
 - e. Provide for participation of the offender in decisions affecting his/her program, including his/her presence at all classification committee hearings.
2. The offender should be permitted to make his/her views known regarding the classification, transfer, or program decision under consideration both verbally and in writing. Such written response should be included in his/her permanent file. The offender should have an opportunity to oppose or support proposed changes in status or to initiate a review of his/her status.
 3. Where reviews involving substantially adverse changes in degree, type, location, or level of custody are conducted, an administrative hearing should be held, involving notice to the offender, an opportunity to be heard, and a written report by the correctional authority communicating the final outcome of the review. Where such actions, particularly transfers, must be made on an emergency basis, this procedure should be followed subsequent to the action. In the case of transfers between correctional and mental institutions, whether or not maintained by the correctional authority, such procedures should include specified procedural safeguards available for new or initial commitments to the general population of such institutions. This shall apply to all inter-institutional transfers.
 4. Proceedings for nondisciplinary changes of status should not be used to impose disciplinary sanctions or otherwise punish offenders for violations of rules of conduct or other misbehavior.

STANDARD 1.18

Administrative Justice

Iowa should enact by January 1, 1978, legislation patterned after the Model State Administrative Procedure Act, to regulate the administrative procedures of correctional agencies. Such legislation, as it applies to corrections, should:

1. Require the use of administrative rules and regulations and provide a formal procedure for their adoption or alteration which will include:
 - a. Publication of proposed rules.
 - b. An opportunity for interested and affected parties, including offenders, to submit data, views, or arguments orally or in writing on the proposed rules.
 - c. Public filing of adopted rules.
2. Require in a contested case where the legal rights, duties, or privileges of a person are determined by an agency after a hearing, that the following procedures be implemented:
 - a. The agency develop and publish standards and criteria for decision-making of a more specific nature than that provided by statute.
 - b. The agency state in writing the reason for its action in a particular case.
 - c. The hearings be open except to the extent that confidentiality is required.
 - d. A system of recorded precedents be developed to supplement the standards and criteria.
3. Require judicial review for agency actions affecting the substantial rights of individuals, including offenders, such a review to be limited to the following questions:
 - a. Whether the agency action violated constitutional or statutory provisions.
 - b. Whether the agency action was in excess of the statutory authority of the agency.
 - c. Whether the agency action was made upon unlawful procedure.
 - d. Whether the agency action was clearly erroneous in view of the reliable, probative, and substantial evidence on the record.

The above legislation should require the correctional agency to establish by agency rules procedures for:

1. The review of grievances of offenders.
2. The imposition of discipline on offenders.
3. The change of an offender's status within correctional programs.

Such procedures should be consistent with the recommendations in this chapter.

COMMENTARY

The standards, Rules of Conduct, Disciplinary Procedures, Procedures for Nondisciplinary Changes of Status, and Administrative Justice, address the regulation and control of the discretionary power which correctional agencies exercise over offenders.

The standards reflect the National Advisory Commission position that correctional agencies should have written rules and regulations regarding conduct, disciplinary procedures, and changes of status. The rules and regulations should be specific and should be provided to all offenders and staff. "Basic to any system that respects fundamental fairness are three requirements: (1) that the individual understand what is expected of him so he may avoid the consequences of inappropriate behavior; (2) if he is charged with a violation that he be informed of what he is accused; and (3) that he be given an opportunity to present evidence in contradiction or mitigation of the charge." (NAC, **Corrections**, 52 (1973).) Basically, the Iowa standards contain these fundamentals of due process.

Standard 1.15 recommends guidelines that should be followed in the promulgation of rules of offender conduct. "Correctional agencies rules of conduct, no less than the criminal code itself, should be enforced with penalties related to the gravity of the offense." (NAC, **Corrections**, 50 (1973).)

"The criminal code is applicable to those already convicted of crime. Inevitably—because of the breadth of criminal codes—disciplinary rules promulgated by correctional authorities will duplicate the criminal law, but correctional agencies should not attempt to promulgate parallel rules. Criminal action by offenders should be subject to trial as in any other case, with the potential sanction and the appropriate formal safeguards." (Id.)

The standard stipulates that rules of conduct should not attempt to duplicate criminal law. Conference participants were divided on the issue of whether administrative regulations should allow the offender to be subject to administrative sanction and criminal prosecution for the same offense or violation. The majority of the conference participants conclude that to insure security within the program, the administration should be able to take immediate disciplinary action and should be able to take further disciplinary action if the offender is criminally convicted.

A minority of conference participants contend that where overlap of administrative sanction and criminal prosecution occurs, correctional administrators should defer to prosecution wherever feasible. And where prosecution is unsuccessful,

administrative punitive measures should be prohibited. These participants insist that to permit both administrative sanction and criminal prosecution for the same violation constitutes double jeopardy. Their contention is that when the aggrieving party and the State are the same, the State should not have the opportunity to obtain redress twice against the same person for the same offense.

Standard 1.16 sets forth the sanctions for minor and major violations of rules of conduct and details the rules that should govern disciplinary procedures for both minor and major violations. "The administration of some form of discipline is necessary to maintain order within a prison institution. However, when that discipline violates constitutional safeguards or inhibits or seriously undermines reformatory efforts it becomes counterproductive and indefensible." (NAC, **Corrections**, 52 (1973).)

The prison disciplinary hearing takes place in a closed controlled environment where frustration and hostility are common and where correctional administrators must provide reasonable safety for offenders and staff. Although some conference participants believe an offender should be allowed to confront and cross-examine witnesses at the hearing for major violations, the majority of conference participants believe that direct cross-examination would be detrimental to the security and operation of the correctional institution or program. Direct confrontation would most likely cause retaliation and could jeopardize the safety of offenders and staff.

Standard 1.16 recommends that offenders be allowed representation at the point of investigation in the disciplinary proceedings if the possibility of criminal prosecution exists. Conference participants feel that in those situations where offenders can be charged criminally in court, they should have the option for use immunity or access to counsel. The standard directs that counsel should assist the offender in these situations. Standard 1.2, Access To Legal Services, proposes that offenders should not have counsel present at disciplinary hearings. Conference participants note that to date, the courts have ruled that the offender has no right to counsel in disciplinary hearings but may have counsel substitute if the inmate is illiterate or the issues complex.

Standard 1.17 prescribes the regulations and procedures that should govern classification and other status determinations that are nondisciplinary. Because nondisciplinary classification and status determinations have a critical effect on the offender's degree of liberty, access to correctional services, basic conditions of existence within a correctional system and eligibility for release, the offender as well as correctional administrators and specialists should have input into the decisionmaking. An offender's understanding

and acceptance of program objectives are directly related to the effectiveness of rehabilitation. (NAC, **Corrections**, 54, 55 (1973).)

Standard 1.17 recommends that the offender receive notice and be present when his/her status is under review. Additionally, the standard proposes that the offender be able to express his/her preferences in classification and status changes both verbally and in writing, and that the offender's written views be included in his/her permanent record. Conferees relate that although an offender is presently allowed to be present at classification committee meetings in the major institutions, he/she doesn't have an opportunity to present a written position, to oppose or initiate review, or to have the written response become a part of his/her permanent file. Conference participants view the preservation of the offender's views as being pertinent to later considerations.

Standard 1.18 recommends enactment of regulatory statutes governing the action of State agencies. Iowa has enacted the Administrative Procedures Act. (See IOWA CODE ch. 17A (1975).) Basically, the Act applies to the administrative agency's dealings with the public and the public's access to the administrative agency. Standard 1.18, however, recommends regulations that are not required by the Iowa statute. Standard 1.18 calls for publication and formal review of proposed correctional administrative rules and procedures including procedures governing internal operations and inmate rules of conduct.

Conference participants endorse the National Advisory Commission (NAC) rationale of requiring administrative agencies to document and publicize agency actions. "The best protection against arbitrary decisionmaking in a free society is the requirement of openness and discussion. In addition, known procedures keep top management aware of conditions within various facilities and programs." (NAC, **Corrections**, 556 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC **Corrections** 2.11, 2.12, 2.13, 16.2.

STANDARD 1.19

Remedies for Violation of an Offender's Rights

Each correctional agency immediately should adopt policies and procedures, and where applicable should seek legislation, to insure proper redress where an offender's rights as enumerated in this chapter are abridged.

1. Administrative remedies, not requiring the intervention of a court, should include at least the following:
 - a. Procedures allowing an offender to seek redress where he/she believes his/her rights have been or are about to be violated. Such procedures should be consistent with Standard 1.11, **Grievance Procedures**.
 - b. Policies of inspection and supervision to assure periodic evaluation of institutional conditions and staff practices that may affect offenders' rights.
 - c. Policies which:
 - (1) Assure wide distribution and understanding of the rights of offenders among both offenders and correctional staff.
 - (2) Provide that the intentional or persistent violation of an offender's rights is justification for removal from office or employment of any correctional worker.
 - (3) Authorize the payment of claims to offenders as compensation for injury caused by a violation of any right.
2. Judicial remedies for violation of rights should include at least the following:
 - a. Authority for an injunction either prohibiting a practice violative of an offender's rights or requiring affirmative action on the part of governmental officials to assure compliance with offenders' rights.
 - b. Authority for an award of damages against either the correctional agency or, in appropriate circumstances, the staff member involved to compensate the offender for injury caused by a violation of his/her rights.
 - c. Authority for the court to exercise continuous supervision of a correctional facility or program including the power to appoint a special master responsible to the court to oversee implementation of offenders' rights.
 - d. Authority for the court to prohibit further commitments to an institution or program.
 - e. Authority for the court to shut down an institution or program and require either

the transfer or release of confined or supervised offenders.

- f. Criminal penalties for intentional violations of an offender's rights.

COMMENTARY

Standard 1.19, Remedies for Violation of an Offender's Rights, sets forth the judicial and administrative remedies that should be available to enforce offender rights. "Judicial action, while necessary in many instances to define the rights available, should not be considered the exclusive method of enforcing rights once defined. Correctional administrators also have a responsibility to insure the protection of offenders' rights. Administrative policies and procedures should be designed to provide an effective way of assuring that offenders are properly treated." (NAC, Corrections, 71 (1973).)

"Courts have been increasingly willing to fashion remedies appropriate to the right violated. Federal courts have available various remedies arising out of Federal statutes protecting civil rights, which are applicable to prisoner complaints." (Id.)

However, participants comment that State courts have been reluctant to become as actively involved as the Federal courts. The standard enumerates effective remedies that State courts should be authorized to utilize to protect an offender's rights. If required, legislation specifically granting the State courts this authority should be enacted.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.18.

STANDARD 1.20

Retention and Restoration of Rights

Iowa should enact legislation immediately to assure that no person is deprived of any license, permit, employment, office, post of trust or confidence, or political or judicial rights based solely on an accusation of criminal behavior. Also, in the implementation of Standard 1.21, Collateral Consequences of a Criminal Conviction, legislation depriving convicted persons of civil rights should be repealed. This legislation should provide further

that a convicted and incarcerated person should have restored to him/her on release all rights not otherwise retained.

The appropriate correctional authority should:

1. With the permission of an accused person, explain to employers, families, or others the limited meaning of an arrest as it relates to the above rights.
2. Work for the repeal of all laws and regulations depriving accused or convicted persons of civil rights.
3. Provide services to accused or convicted persons to help them retain or exercise their civil rights or to obtain restoration of their rights or any other limiting civil disability that may occur.

STANDARD 1.21

Collateral Consequences of a Criminal Conviction

Iowa should enact legislation repealing all mandatory provisions depriving persons convicted of criminal offenses of civil rights or other attributes of citizenship. Such legislation should include:

1. Repeal of all existing provisions by which a person convicted of any criminal offense suffers civil death, loss of civil rights, or forfeiture of estate or property.
2. Repeal of all restrictions on the ability of a person convicted of a criminal offense to hold and transfer property, enter into contracts, sue and be sued, and hold offices of private trust.
3. Repeal of all mandatory provisions denying persons convicted of a criminal offense the right to engage in any occupation or obtain any license issued by government.
4. Repeal of all statutory provisions prohibiting the employment of ex-offenders by State and local governmental agencies.

Statutory provisions may be retained or enacted that:

1. Restrict or prohibit the right to hold public office during actual confinement.
2. Forfeit public office upon confinement.
3. Restrict the right to serve on juries during actual confinement.
4. Authorize a procedure for the denial of a license or governmental privilege to

selected criminal offenders when there is a direct relationship between the offense committed or the characteristics of the offender and the license or privilege sought.

The legislation also should:

1. Authorize a procedure for an ex-offender to have his/her conviction expunged from the record.
2. Require the restoration of civil rights upon the expiration of sentence.

STANDARD 1.22

Code of Offenders' Rights

Each State should immediately enact legislation that defines and implements the substantive rights of offenders. Such legislation should be governed by the following principles:

1. Offenders should be entitled to the same rights as free citizens except where the nature of confinement necessarily requires modification.
2. Where modification of the rights of offenders is required by the nature of custody, such modification should be as limited as possible.
3. The duty of showing that custody requires modification of such rights should be upon the correctional agency.
4. Such legislation should implement the substantive rights more fully described in Standards 1.1 - 1.21.
5. Such legislation should provide adequate means of enforcement of the rights so defined. It should authorize the remedies for violations of the rights of offenders listed in Standard 1.19, where they do not already exist.

COMMENTARY

The standards, Retention and Restoration of Rights, Collateral Consequences of a Criminal Conviction, and Code of Offenders' Rights address enactment of legislation defining the substantive rights of offenders and repeal of statutory or other regulations that deprive accused or convicted persons of rights and privileges.

Standards 1.20 and 1.21 enumerate the rights and privileges that should be restored to accused and convicted persons. Standard 1.20 advocates that the correctional authority itself should work towards removing restrictions and minimizing disadvantages to which accused and convicted persons are subjected. Conference participants note that rights lost upon conviction in Iowa include the right to vote and the right to hold office. However, conferees stress that other rights and privileges are diminished. The standards propose restoration of the right to vote but that the right to hold office may be prohibited.

"In many ways, the punishment an ex-convict faces is more lasting, more insidious, and more demeaning than that punishment he undergoes while incarcerated....The correctional authority has a major interest in seeing the offender fully integrated into the community and, where restoration is not automatic, the correctional authority is assigned the duty of helping the offender regain his rights." (NAC), **Corrections**, 47 (1973.)

Standard 1.22 recommends that legislation reflecting the fundamental principles of offenders' rights be enacted. Conference participants endorse the National Advisory Commission premise that statutes should be enacted specifying the rights of individuals when under correctional authority. The Iowa standard reflects the premise first decreed by the courts that "a prisoner retains all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law." (**Coffin v. Reichard**, 143 F. 2d 443 (6th Cir. 1944); See also NAC, **Corrections**, 558 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 2.10, 16.3, 16.17.

Chapter Two

Statutory Basis of Corrections

Goal: To establish a statutory foundation designed to promote the effective and equitable performance of corrections functions.

STANDARD 2.1

Unifying Correctional Programs

The State of Iowa should enact legislation by 1978 to unify supervision of correctional facilities and programs within a single Department of Corrections. The Board of Parole should be autonomous in its decision making authority and separate from the Department of Corrections. Programs that should be within the agency include:

1. Services for persons awaiting trial.
2. Presentence services.
3. Probation supervision.
4. Institutional confinement.
5. Community-based programs, whether prior to or during institutional confinement.
6. Parole supervision and other aftercare programs.
7. All programs for indictable misdemeanants including probation, confinement, community-based programs, and parole.

The legislation also should authorize the correctional agency to perform the following functions:

1. Planning of diverse correctional facilities.
2. Development and implementation of training programs for correctional personnel.
3. Development and implementation of an information-gathering and research system.
4. Evaluation and assessment of the effectiveness of its functions.
5. Periodic reporting to governmental officials including the legislature and the executive branch.
6. Development and implementation of correctional programs including academic and vocational training and guidance, productive work, religious and recreational activity, counseling and psychotherapy services, organizational activity, furloughs, home visits, and other such programs that will benefit offenders, but all programs other than institutional confinement should be administered on a judicial district basis.
7. Contracts for the use of nondepartmental and private resources in correctional programming.

This standard should be regarded as a statement of principle. It is recognized that exceptions may exist, because of local conditions or history, where adult corrections or pretrial and postconviction correctional services may operate effectively on a separated basis.

COMMENTARY

Standard 2.1 directs the State toward development of an administrative structure that will unify correctional facilities and programs.

Unification of all correctional programs will allow the coordination of essentially interdependent programs, more effective utilization of scarce human resources, and development of more effective, professionally operated programs across the spectrum of corrections. (NAC, **Corrections**, 561 (1973).)

The first section of the standard enumerates the correctional programs, services and facilities that should be unified under the supervision of a Department of Corrections. The second part of the standard specifies what the operational functions of the Department of Corrections should be.

Specifically, the standard recommends that supervision of correctional programs should be unified under a single department. The department should have responsibility only for corrections. In context, the standard does not propose direct administration of all correctional agencies. The standard lists the programs that should be under the department's supervision and the correlative responsibilities of the department. In regard to operational control, the standard recommends that all programs other than institutional confinement should be administered on a judicial district basis.

Conference participants conclude that this type of organizational structure will perform a checks and balances function for correctional programs. Such a structure will prevent the growth of a monolithic state structure and will allow and encourage local community input. Correspondingly, conferees believe the structure will preclude total autonomy at the local level and will promote the development of minimum standards or a set of rules for operating State and local programs. Conference participants contend that supervision by a State correctional agency, rather than State administration and total control, allows flexibility of administration for all correctional agencies.

Another reason given by conference participants for maintaining local operational control is to focus necessary attention on community programs such as probation and parole. Participants note that correctional institutions and their activities draw the attention of the public and therefore attract natural political influence. To insure that local community corrections programs receive proper emphasis and are not overshadowed by the attention accorded correctional institutions, conference participants believe a degree of autonomy and decisionmaking is necessary at the local level. However, guidelines

are necessary at the State level to insure consistent operation of community corrections programs.

Conference participants had conflicting views about whether several of the programs enumerated in the standard should be under the jurisdiction of the correctional agency. Some participants feel that persons awaiting trial should not be under the supervision of the State. The reason for this position is that the individual is innocent until proven guilty and efforts should be made to avoid interference with the life of the accused but unconvicted person. Therefore, limitations on persons awaiting trial should be curtailed only to the extent that is necessary to assure their attendance at trial. However, the majority of participants endorse the use of pre-trial programs. Several reasons were offered in support of pretrial correctional programs. First, pretrial programs start the correctional process and may have positive effects on the offender in terms of adjusting his/her behavior and of the resultant sentence; second, the information gathered for pretrial release may be incorporated into the presentence report, thereby reducing duplication of services; and third, unification of pre-trial services should insure that services are available in all counties across the state. Without pretrial services, offenders may remain in jail until trial.

Another program that conference participants had differing views about is presentence services. Some participants believe that corrections staff assigned to supervise probationers should not be the same corrections personnel assigned to provide presentence services to the court, and that the presentence staff should be under the supervision of the court. These participants reason that it creates a conflict of interest if the same staff handles both functions. For example, the staff person who makes a presentence recommendation to the court should not be the same staff person who supervises the offender on probation. However, the majority of participants conclude that having the same staff perform all functions—pretrial and presentence investigation and probation supervision—results in better provision of services. These participants conclude that having the same staff person handle these functions gives the correctional staff a better overview of the offender and permits them to make a better recommendation to the court.

Lastly, some participants do not agree that correctional programs should include programs for misdemeanants. Their reason is that programs for misdemeanants can be an invitation to more government interference in people's lives at a lower triggering level of the correctional system. However, the majority of conference participants believe correctional services should be extended to misdemeanants. The standard limits the programs to indictable misdemeanants.

Conference participants state that provision of services to misdemeanants may be the most neglected area in corrections.

The failure to provide probation staff, funds, and resources to misdemeanants results in the needless jailing of these offenders and, in too many cases, their eventual graduation to the ranks of felony offenders. (NAC, **Corrections**, 335 (1973).)

Conference participants conclude that intervention and provision of services at the misdemeanor level may possibly have the positive effect of preventing progression to more serious offenses. To have a comprehensive program available statewide for misdemeanants, participants believe that a unified correctional system is necessary.

COMPARATIVE ANALYSIS REFERENCE NAC Corrections 16.4.

STANDARD 2.2 **Comprehensive Correctional Legislation**

Iowa, by 1978, should enact a comprehensive correctional code, which should include statutes governing:

1. **Services for persons awaiting trial.**
2. **Sentencing criteria, alternatives, and procedures.**
3. **Probation and other programs short of institutional confinement.**
4. **Institutional programs.**
5. **Community-based programs.**
6. **Parole.**
7. **Pardon.**

The code should include statutes governing the preceding programs for:

1. **Felons, misdemeanants, and delinquents.**
2. **Adults, juveniles, and youth offenders.**
3. **Male and female offenders.**

The legislature should state the "public policy" governing the correctional system. The policy should include the following premises:

1. **Society should subject persons accused of criminal conduct or delinquent behavior and awaiting trial to the least restraint or condition which gives reasonable assurance that the person accused will appear for trial. Confinement should be used only where no other measure is shown to be adequate.**

2. The correctional system's first function is to protect the public welfare by emphasizing efforts to assure that an offender will not return to crime after release from the correctional system.
3. The public welfare is best protected by a correctional system characterized by care, differential programming, and reintegration concepts rather than punitive measures.
4. An offender's correctional program should be the least drastic measure consistent with the offender's needs and the safety of the public. Confinement, which is the most drastic disposition for an offender and the most expensive for the public, should be the last alternative considered.

6. A requirement that the correctional agency develop through rules and regulations (a) criteria for the assignment of an offender to a particular facility and (b) a procedure allowing the offender to participate in and seek administrative review of decisions affecting his/her assignment or transfer to a particular facility or program.

COMMENTARY

Standards 2.2 and 2.3 address statutory enactment of a comprehensive correctional code and of specific provisions governing commitment. Consistent with the recommendation for a comprehensive correctional code, the Iowa Revised Criminal Code refers to the chapter on judgment and sentencing procedures as the "Iowa Corrections Code." (See Revised Criminal Code, ch. 3, sec. 101.)

Standard 2.2 endorses the principles adopted in other Iowa standards. It seeks to establish a consistent statutory foundation to reflect that corrections is a continuum of interacting and mutually dependent programs. The National Advisory Commission (NAC) gives a succinct explanation of the correctional theory:

Corrections exists uncomfortably between two competing community attitudes. The first, a desire for retribution for the violation of existing social rules, would tend toward harsh and punitive measures for criminal offenders. The second, a desire that the correctional system return to the community individuals who will avoid further criminal conduct, dictates far more humane and constructive correctional programs....

It has not been shown that positive correctional programs designed to educate, train, or otherwise provide offenders with full opportunity to lead law-abiding lives are the ultimate answer to correctional problems. However, these programs do result in less misery and degradation than purely punitive measures, with little increase in danger to public safety. These factors alone indicate that a policy of utilizing such programs should be established. (NAC), **Corrections**, 554 (1973).)

Standard 2.3 recommends that the offender be sentenced to the correctional agency which would then determine the placement of the offender in the most appropriate facility. Currently, in Iowa, the courts are authorized by statute to designate the institution to which a particular offender is sentenced according to the type of offense. However, the Iowa Revised Criminal Code incorporates

STANDARD 2.3 Commitment Legislation

Iowa should enact, in conjunction with the implementation of Standard 2.2, legislation governing the commitment, classification, and transfer of offenders sentenced to confinement. Such legislation should include:

1. Provision requiring that offenders sentenced to confinement be sentenced to the custody of the chief executive officer of the correctional agency rather than to any specific institution.
2. Requirement that sufficient information be developed about an individual offender and that assignment to facility, program, and other decisions affecting the offender be based on such information.
3. Authorization for the assignment or transfer of offenders to facilities or programs administered by the agency, local subdivisions of government, the Federal Government, other States, or private individuals or organizations.
4. Authorization for the transfer of offenders in need of specialized treatment to institutions that can provide it. This should include offenders suffering from physical defects or disease, mental problems, narcotic addiction, or alcoholism.
5. Provision requiring that the decision to assign an offender to a particular facility or program should not in and of itself affect the offender's eligibility for parole or length of sentence.

the standard's recommendation. (See Revised Criminal Code, ch. 3, sec. 304.)

Conference participants point out that the standard will allow offenders, when sentenced, to be placed in halfway houses and other community-based facilities. This type of placement, rather than the approach of sentencing to a particular institution, increases the possibility of abuse of discretionary power by the correctional agency. However, it has the advantages of appropriate assignment based on offender program needs and coordination and effective utilization of resources. The NAC summarizes the importance of the proper choice of confinement. "The initial selection of a facility for a particular offender may have a direct impact on his ability to readjust to society upon release. His ability to participate in educational, vocational, and industrial programs may influence his employability, his suitability for community-based programs, his income while confined, and prospects for release." (NAC, **Corrections**, 582 (1973).)

To guard against abuse of placement decision making, the standard requires that: (1) a classification process be developed; (2) assignment to a facility should not in itself affect length of sentence or eligibility for parole; and (3) criteria for decision making and review be developed. Conference participants view these requirements as having a positive effect on offenders assigned or transferred to the Iowa Security Medical Facility (ISMF). Currently there is a reluctance to parole individuals on inmate or aide status from ISMF. Conference participants believe eligible offenders at this facility should be given the same consideration as inmates in correctional institutions.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 16.1, 16.12.

STANDARD 2.4

Regional Cooperation

Iowa should adopt and retain legislation specifically ratifying the following interstate agreements:

1. Interstate Compact for the Supervision of Parolees and Probationers.
2. Interstate Compact on Corrections.
3. Interstate Compact on Juveniles.
4. Agreement on Detainers.
5. Mentally Disordered Offender Compact.

In addition, statutory authority should be given to the chief executive officer of the correctional agency to enter into agreements with local jurisdictions, other States, and the Federal Government for cooperative correctional activities.

COMMENTARY

Standard 2.4, Regional Cooperation, addresses enactment of legislation endorsing numerous interstate compacts and agreements. Except for the mentally disordered offender compact, Iowa has ratified the interstate agreements enumerated in the standard.

The National Advisory Commission proposes and conference participants concur that endorsement of the mentally disordered compact may be a way of providing resources not available within the State. The Iowa Security Medical Facility's purpose is to provide a range of psychiatric evaluation and treatment services for persons referred from the courts and the State's institutions including correctional institutions. Conference participants note that because of its limited size, the psychiatric hospital provides essentially evaluative services and offers little in the way of treatment services. Conferees state that Iowa needs a facility for extended treatment of the mentally ill offender. Conference participants remark that, in practice, mentally ill male offenders are now housed in the State's maximum security correctional institution.

Participants note that Iowa does not have a facility for the mentally disordered female offender—the Iowa Security Medical Facility houses only males. The mentally disordered offender compact offers an economical and effective means of making services available to women offenders.

Conference participants comment that other Iowa standards endorse the treatment of the mentally ill offender. (See Standard 9.5.) Therefore, conference participants strongly support the mentally disordered offender interstate compact as being one possible method of providing needed programs and facilities.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 16.6.

STANDARD 2.5

Pardon Legislation

Iowa by January 1, 1978 should enact legislation detailing the procedures (1) governing the application by an offender for the exercise of the pardon powers, and (2) for exercise of the pardon powers.

COMMENTARY

Standard 2.5 seeks to develop criteria and enabling legislation for procedures governing the application for and exercise of executive pardon. Because no formal procedures currently exist, conference participants concur that a formal method is needed to insure equal access of all offenders to the pardon power.

The executive pardon operates as a last check on the discretion of correctional decision makers such as the parole board. The political process serves a checks and balances function on the discretion power exercised by elected officials. The standard's recommendation would allow the legislature to exercise a checking influence on the pardon discretion; legislatively developed procedures would insure that access to the pardon authority is equally available to all offenders. (NAC, **Corrections**, 591 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 16.16.

Chapter Three

Diversion

Goal: To promote development of formally organized programs of diversion.

STANDARD 3.1 Use of Diversion

Each local jurisdiction, in cooperation with related State agencies, should develop and implement by 1980 formally organized programs of diversion that can be applied in the criminal justice process from the time an illegal act occurs to adjudication.

1. The planning process and the identification of diversion services to be provided should follow generally and be associated with "total system planning" as outlined in Standard 7.1.
 - a. With planning data available, the responsible authorities at each step in the criminal justice process where diversion may occur should develop priorities, lines of responsibility, courses of procedure, and other policies to serve as guidelines to its use.
 - b. Mechanisms for review and evaluation of policies and practices should be established.
 - c. Criminal justice agencies should seek the cooperation and resources of other community agencies to which persons can be diverted for services relating to their problems and needs.
2. Each diversion program should operate under a set of written guidelines that insure periodic review of policies and decisions. The guidelines should specify:
 - a. The objectives of the program and the types of cases to which it is to apply.
 - b. The means to be used to evaluate the outcome of diversion decisions.
 - c. A requirement that the official making the diversion decision state in writing the basis for his/her determination denying or approving diversion in the case of each offender.
 - d. A requirement that the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decision makers.
 - e. If appropriate, that restitution arrangements should be made.
3. The factors to be used in determining whether an offender, following arrest but prior to adjudication, should be selected for diversion to a noncriminal program, should include the following:
 - a. Prosecution toward conviction may cause undue harm to the defendant or exacerbate the social problems that led to his/her criminal acts.

- b. Services to meet the offender's needs and problems are unavailable within the criminal justice system or may be provided more effectively outside the system.
- c. The arrest has already served as a desired deterrent.
- d. The needs and interests of the victim and society are served better by diversion than by official processing.
- e. The offender does not present a substantial danger to others or is not in actual danger himself/herself from others.
- f. The offender voluntarily accepts the offered alternative to further justice system processing.
- g. The facts of the case sufficiently establish that the defendant committed the alleged act.
- h. The likelihood is that the offender will not abscond from the program.

COMMENTARY

Standard 3.1, Use of Diversion, concerns the development of formally organized programs of diversion which will be used in lieu of official criminal processing. Diversion means halting or suspending formal criminal proceedings against a person who has violated a statute, in favor of processing through a noncriminal disposition. Diversion relates to formally acknowledged and organized efforts to utilize alternatives to initial or continued processing into the criminal justice system that are undertaken prior to adjudication and after a legally proscribed action has occurred. (NAC, **Corrections**, 73 (1973).)

The primary reasons for utilizing diversion are to conserve resources of the system and to offer less harsh alternatives to the offender that may bring about more successful correctional reform and social restoration of the offender. The National Advisory Commission summarizes some of the reasons for diversion programs:

A number of factors justify noncriminal treatment, counseling, or restitution programs. The existing system has failed to achieve reformation in any large number of cases; it is discriminatory in nature; and it is costly in relation to outcomes. Personal values, costs, and humanitarian interests also contribute to the arguments for diversion. (NAC, **Corrections**, 96 (1973).)

Conference participants note that many informal diversion processes currently exist. Participants relate that authorities at all levels of the criminal justice system use certain amounts of

discretion in deciding whether to proceed with criminal prosecution.

The standard seeks to structure and formalize diversion and to develop actual diversion programs. To establish formally organized diversion programs, the standard recommends that planning and identification of diversion services should be systematically planned, that guidelines should be established and made public, and that criteria for selection of offenders to diversion be standardized.

Although conference participants endorse the concept of diversion, they raise several questions about which no conclusion is reached. Participants question the stages in the criminal justice process when diversion is appropriate and who should make the decision to divert at these different stages. The standard does not set forth these determinations.

COMPARATIVE ANALYSIS REFERENCE
NAC Corrections 3.1.

DAIL BONDS

24 HOUR SERVICE

ALL COURTS



Photo Credit: Fifth Judicial District Department of Court Services

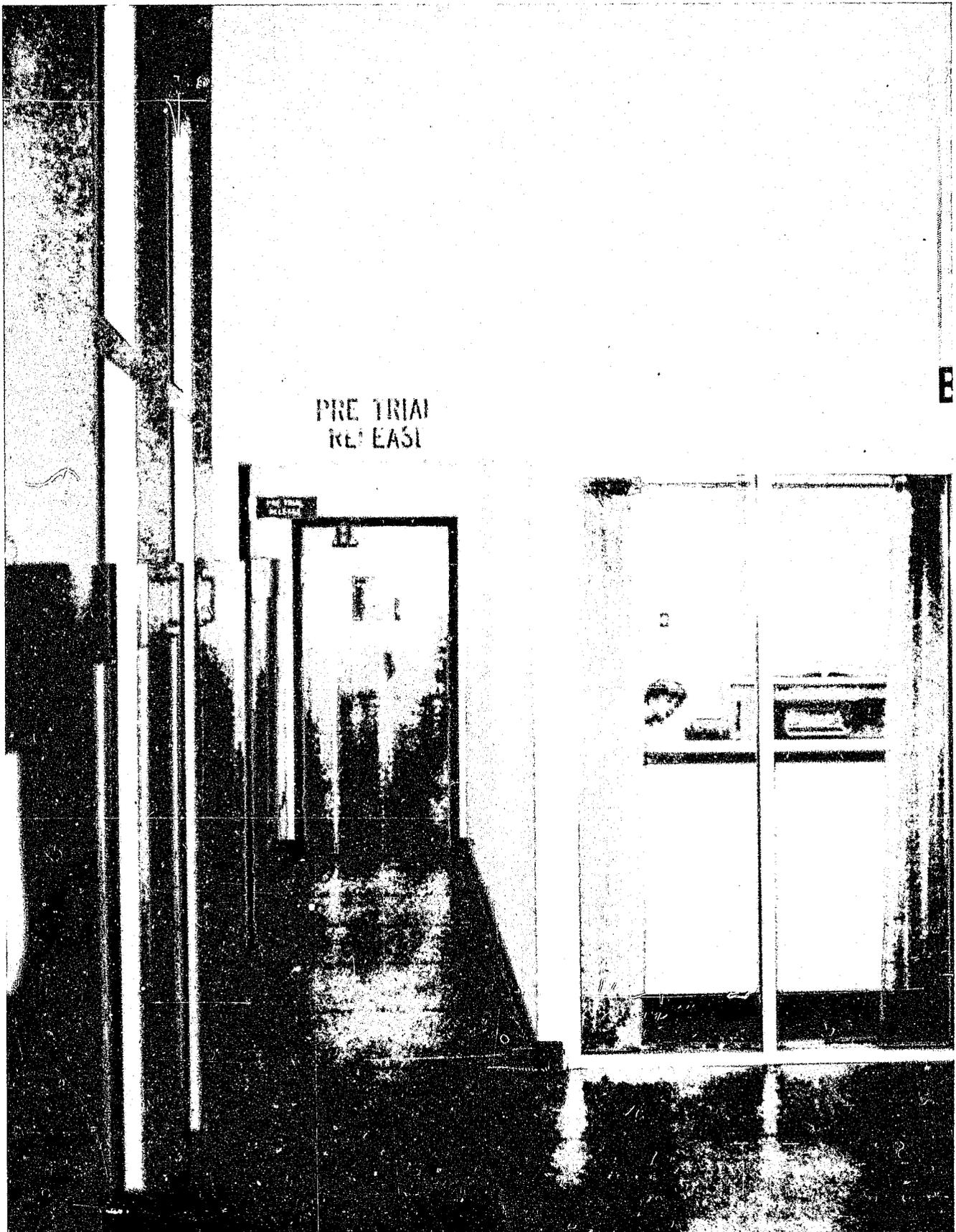


Photo Credit: Fifth Judicial District Department of Court Services

Chapter Four

Pretrial Release and Detention

Goal: To regularize pretrial procedures, consistent with the presumption of innocence, that authorize the use of alternatives to detention and that insure provision of programs and services for persons awaiting trial.

STANDARD 4.1

Comprehensive Pretrial Process Planning

Each criminal justice jurisdiction immediately should begin to develop a comprehensive plan for improving the pretrial process. In the planning process, the following information should be collected.

1. The extent of pretrial detention, including the number of detainees, the number of man-days of detention, and the range of detention by time periods.
2. The cost of pretrial release programs and detention.
3. The disposition of persons awaiting trial, including the number released on bail, released on non-financial conditions, and detained.
4. The disposition of such persons after trial including, for each form of pretrial release or detention, the number of persons who are convicted, who were sentenced to the various available sentencing alternatives, and whose cases were dismissed.
5. Effectiveness of pretrial conditions, including the number of releasees who (a) failed to appear, (b) violated conditions of their release, (c) were arrested during the period of their release, or (d) were convicted during the period of their release, and (e) were released on their own recognition that were able to employ their own attorney subsequent to a court appointed attorney.
6. Conditions of local detention facilities, including the extent to which they meet the standards recommended herein.
7. Conditions of treatment of and rules governing persons awaiting trial, including the extent to which such treatment and rules meet the recommendations in Standards 4.8 and 4.9.
8. The need for and availability of resources that could be effectively utilized for persons awaiting trial, including the number of arrested persons suffering from problems relating to alcohol, narcotic addiction, or physical or mental disease or defects, and the extent to which community treatment programs are available.
9. The length of time required for bringing a criminal case to trial and, where such delay is found to be excessive, the factors causing such delay.

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

1. Assessment of the status of programs and facilities relating to pretrial release and detention.

2. A plan for improving the programs and facilities relating to pretrial release and detention, including priorities for implementation of the recommendations in this chapter.
3. A means of implementing the plan and of discouraging the expenditures of funds for, or the continuation of, programs inconsistent with it.
4. A method evaluating the extent and success of implementation of the improvements.
5. A strategy for processing large numbers of persons awaiting trial during mass disturbances, including a means of utilizing additional resources on a temporary basis.
6. A method to require compliance with established standards.

The comprehensive plan for the pretrial process should be conducted by a group representing all major components of the criminal justice system that operate in the pretrial area. Included should be representatives of the police, sheriffs, prosecution, public defender, private defense bar, judiciary, court management, probation, corrections, the community, clients, and former clients.

STANDARD 4.2

Construction Policy for Pretrial Detention Facilities

Each criminal justice jurisdiction, State or local as appropriate, should immediately adopt a policy that no new physical facility for detaining persons awaiting trial should be constructed and no funds should be appropriated or made available for such construction until:

1. A comprehensive plan is developed in accordance with Standard 4.1.
2. Alternative means of handling persons awaiting trial as recommended in Standards 4.3 and 4.4 are implemented, adequately funded, and properly evaluated.
3. The constitutional requirements for a pretrial detention facility are fully examined and planned for.
4. The possibilities of regionalization and/or city/county complexes or appropriate alternatives of pretrial detention facilities are pursued.

STANDARD 4.3

Alternatives to Arrest

Each criminal justice jurisdiction, State or local as appropriate, should immediately develop a policy, and seek enabling legislation where necessary, to encourage the use of citations in lieu of arrest and detention. This policy should provide:

1. Enumeration of minor offenses for which a police officer should be required to issue a citation in lieu of making an arrest or detaining the accused unless:
 - a. The accused fails to identify himself/herself or supply required information;
 - b. The accused refuses to sign the citation;
 - c. The officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to himself/herself or others;
 - d. Arrest and detention are necessary to carry out additional legitimate investigative action;
 - e. The accused has no ties to the jurisdiction reasonably sufficient to assure his/her appearance, and there is a substantial risk that he/she will refuse to respond to the citation; or
 - f. It appears the accused has previously failed to respond to a citation or a summons or has violated the conditions of any pretrial release program.
 - g. Other reasons not covered a-f enumerated.
2. Discretionary authority for police officers to issue a citation in lieu of arrest in all cases where the officer has reason to believe that the accused will respond to the citation and does not represent a clear threat to himself/herself or others.
3. A requirement that a police officer making an arrest rather than issuing a citation specify the reason for doing so in writing or from a checklist pursuant to the preceding subsection 1. Superior officers should be authorized to reevaluate a decision to arrest and to issue a citation at the police station in lieu of detention.
4. Criminal penalties for willful failure to respond to a citation.
5. Authority to make lawful search incident to an arrest where a citation is issued in lieu of arrest.

Similar steps should be taken to establish policy encouraging the issuance of summons in lieu of arrest warrants where an accused is not in police custody. This policy should provide:

1. An enumeration of minor offenses for which a judicial officer should be required to issue

a summons in lieu of an arrest warrant unless he/she finds that:

- a. The accused has previously willfully failed to respond to a citation or summons or has violated the conditions of any pretrial release program.
 - b. The accused has no ties to the community and there is a reasonable likelihood that he/she will fail to respond to a summons.
 - c. The whereabouts of the accused is unknown or the arrest warrant is necessary to subject him/her to the jurisdiction of the court.
 - d. Arrest and detention are necessary to carry out additional legitimate investigative action.
2. Discretionary authority for judiciary officers to issue a summons in lieu of an arrest warrant in all cases where the officer has reason to believe that the accused will respond to the summons.
 3. A requirement that a judicial officer issuing a warrant instead of a summons state his/her reason for doing so in writing.
 4. Criminal penalties for willful failure to respond to a summons.

To facilitate the use of citations and summons in lieu of arrest, police agencies should:

1. Develop through administrative rules specific criteria for police officers for determining whether to issue citations or to request issuance of a summons in lieu of arrest.
2. Develop training programs to instruct their officers in the need for and use of the citation and summons in lieu of arrest.
3. Develop a method of quickly verifying factual information given to police officers which if true would justify the issuance of a citation in lieu of arrest.
4. Develop a method of conducting a reasonable investigation concerning the defendant's ties to the community to present to the judicial officer at the time of application for a summons or an arrest warrant.

STANDARD 4.4

Alternatives to Pretrial Detention

Each criminal justice jurisdiction, State or local as appropriate, should immediately seek enabling legislation and develop, authorize, and encourage the use of a variety of alternatives to the detention of persons awaiting trial. The use of these alternatives should be governed by the following:

1. Judicial officers on the basis of information available to them should select from the list of the following alternatives the first one that will reasonably assure the appearance of the accused for trial or, if no single condition gives that assurance, a combination of the following:
 - a. Release on recognizance without further conditions.
 - b. Release on the execution of an unsecured appearance bond in an amount specified.
 - c. Release into the care of a qualified person or organization reasonably capable of assisting the accused to appear at trial.
 - d. Release to the supervision of a probation officer or some other public official.
 - e. Release with imposition of restrictions on activities, associations, movements, and residence reasonably related to securing the appearance of the accused.
 - f. Release on the basis of financial security to be provided by the accused.
 - g. Compliance with pretrial treatment programs.
 - h. Imposition of any other restrictions other than detention reasonably related to securing the appearance of the accused.
 - i. Detention, with release during certain hours for specific purposes.
 - j. Detention of the accused.
2. Judicial officers in selecting the form of pretrial release should consider the nature and circumstances of the offense charged, the weight of the evidence against the accused, his/her ties to the community, his/her record of convictions, if any, and his/her record of appearance at court proceedings or of flight to avoid prosecution.
3. When a person is booked, it shall be required that (1) an officer in charge of the detention facility notify pretrial release personnel; (2) the committed offender is notified of pretrial release programs; and (3) a record is made thereof of these notifications.

4. Willful failure to appear before any court or judicial officer as required should be made a criminal offense.

STANDARD 4.5

Procedures Relating to Pretrial Release and Detention Decisions

Each criminal justice jurisdiction, State or local as appropriate, should immediately develop procedures governing pretrial release and detention decisions, as follows:

1. A person in the physical custody of a law enforcement agency on the basis of an arrest, with or without a warrant, should be taken before a judicial officer without unnecessary delay.
2. When a law enforcement agency takes a person accused of crime into custody, it should immediately notify the appropriate pretrial release unit. An investigation should commence immediately to gather information relevant to the pretrial release or detention decision. The nature of the investigation should be flexible and generally exploratory in nature and should provide information about the accused including:
 - a. Current employment status and employment history.
 - b. Present residence and length of stay at such address.
 - c. Extent and nature of family relationships.
 - d. General reputation and character references.
 - e. Present charges against the accused.
 - f. Prior criminal record.
 - g. Prior record of compliance with or violation of pretrial release conditions.
 - h. Other facts relevant to the protection of society and to the likelihood that he/she will appear for trial.
3. Where a defendant is detained prior to trial or where conditions substantially infringing on his/her liberty are imposed, the defendant should be authorized to seek review of that decision by the judicial officer making the original decision. The defendant also should be authorized to seek appellate review of such a decision.
4. Whenever a defendant is released pending trial subject to conditions, his/her release should not be revoked unless:

- a. A judicial officer finds after a hearing that there is substantial evidence of a willful violation of one of the conditions of his/her release or a court or grand jury has found probable cause to believe the defendant has committed a serious crime while on release.
- b. The violation of conditions is of a nature that involves a risk of nonappearance or of criminal activity.
- c. The defendant is granted notice of the alleged violation, access to official records regarding his/her case, the right to be represented by counsel (appointed counsel if he/she is indigent), to subpoena witnesses in his/her own behalf, and to confront and cross-examine witnesses against him/her.
- d. The judicial officer finds that there has not been compliance with a pretrial treatment program.
- e. The judicial officer provides the defendant a written statement of the findings of fact, the reasons for the revocation, and the evidence relied upon.

STANDARD 4.6

Organization of Pretrial Services

Iowa should enact legislation specifically establishing the administrative authority over and responsibility for persons awaiting trial. Such legislation should provide as follows:

1. The decision to detain a person prior to trial should be made by a judicial officer.
2. Information-gathering services for the judicial officer in making the decision should be provided by the pretrial release agency.
3. Courts should be authorized to exercise continuing jurisdiction over persons awaiting trial.
4. By 1976, facilities, programs, and services for those awaiting trial should be administered by a unified correctional system.

STANDARD 4.7

Persons Incompetent to Stand Trial

Each criminal justice jurisdiction, State or local as appropriate, should immediately develop procedures and seek enabling legislation, if needed, governing persons awaiting trial who are alleged to be or are adjudicated incompetent to stand trial as follows:

1. Persons awaiting trial for a criminal offense who are alleged to be incompetent to stand trial should be eligible for bail or other alternative forms of release to the same extent as other persons awaiting trial. Where the court orders an examination and diagnosis to determine competency, the court should impose on the person the least restrictive measures required to assure his/her presence for trial and for effective examination and diagnosis. Out-patient diagnosis should given preference over in-patient diagnosis.
2. Persons awaiting trial for a criminal offense who have been adjudicated incompetent to stand trial should be eligible for bail or alternative forms of release to the same extent as other persons awaiting trial. Where the court orders treatment to return the person to competency, it should impose the least restrictive measures appropriate. Out-patient treatment should be given preference over in-patient treatment, and detention should be imposed only upon substantial evidence that:
 - a. There is a reasonable probability that the person will regain competency within the time limits recommended herein and detention is required to assure his/her presence for trial;
 - b. There is a substantial probability that treatment will return the person to competency and such treatment can be administered effectively only if the person is detained.
3. Each jurisdiction should adopt, through legislation or court rule, provisions which:
 - a. Require annual review of cases of persons adjudged incompetent to stand trial.
 - b. Set a maximum time limit for the treatment of incompetency. Such maximum limits should not exceed the maximum prison sentence for the offense charged.
 - c. Provide that when the time limit expires or when it is determined that restoration to competency is unlikely, the person should be released and the criminal charge dismissed.

- d. Provide that where it is believed that the person adjudicated incompetent is dangerous to himself/herself or others and should be detained, civil commitment procedures should be instituted, subject to judicial review.
- e. Release of any person committed under 3d should be determined by the court.

facility, to the detainee, or to other detained persons.

- 5. Administrative cost or convenience should not be considered a justification for failure to comply with any of the above enumerated rights of persons detained awaiting trial.
- 6. Persons detained awaiting trial should be authorized to bring class actions to challenge the nature of their detention and alleged violations of their rights.

STANDARD 4.8

Rights of Pretrial Detainees

Each criminal justice jurisdiction and facility for the detention of adults should immediately develop policies and procedures to insure that the rights of persons detained while awaiting trial are observed, as follows:

- 1. Persons detained awaiting trial should be entitled to the same rights as those persons admitted to bail or other form of pretrial release except where the nature of confinement requires modification.
- 2. Where modification of the rights of persons detained awaiting trial is required by the fact of confinement, such modification should be as limited as possible.
- 3. The duty of showing that custody requires modification of such rights be upon the detention agency.
- 4. Persons detained awaiting trial should be accorded the same rights recommended for persons convicted of crime as set forth in Chapter 1. In addition, the following rules should govern detention of persons not yet convicted of a criminal offense:
 - a. Treatment, the conditions of confinement, and the rules of conduct authorized for persons awaiting trial should be reasonably and necessarily related to the interest of the State in assuring the person's presence at trial. Any action or omission of governmental officers deriving from the rationales of punishment, retribution, deterrence, or rehabilitation should be prohibited.
 - b. The conditions of confinement should be the least restrictive alternative that will give reasonable assurance that the person will be present for his/her trial.
 - c. Persons awaiting trial should be kept separate and apart from convicted and sentenced offenders.
 - d. Isolation should be prohibited except where there is clear and convincing evidence of a danger to the staff of the

STANDARD 4.9

Programs for Pretrial Detainees

Each criminal justice jurisdiction and agency responsible for the detention of persons awaiting trial immediately should develop and implement programs for these persons as follows:

- 1. Persons awaiting trial in detention should not be required to participate in any program of work, treatment, or rehabilitation. The following programs and services should be available on a voluntary basis for persons awaiting trial:
 - a. Educational, vocational, and recreational programs.
 - b. Treatment programs for problems associated with alcoholism, drug addiction, and mental or physical disease or defects.
 - c. Counseling programs for problems arising from marital, employment, financial, or social responsibilities.
- 2. Participation in voluntary programs should be on a confidential basis, and the fact of participation or statements made during such participation should not be used at trial. Information on participation and progress in such programs should be available to the sentencing judge following conviction for the purpose of determining sentence.

STANDARD 4.10

Expediting Criminal Trials

Iowa should enact legislation, and each criminal justice jurisdiction should develop policies and procedures, to expedite criminal trials and thus minimize pretrial detention. Such legislation and policies and procedures should include:

1. Time limits in which a defendant must be brought to trial. The limits that can be imposed effectively will vary among jurisdictions depending on the number of criminal cases and the availability of judicial, prosecutorial, and defense resources. As an objective to be achieved, sufficient resources should be available so that the time limits imposed would not exceed the following:
 - a. The period from arrest to the beginning of trial of an indictable prosecution generally should not be longer than 90 days.
 - b. In a misdemeanor prosecution, the period from arrest to trial generally should be 30 days or less.

The court may for good cause shown extend the time limits herein specified.

2. Authorization for the temporary assignment or relocation of judges, prosecuting attorneys, defense counsel, and other officers essential for the trial of a criminal case to a jurisdiction where crowded dockets prohibit or make difficult compliance with the time limits for bringing defendants to trial.

Each criminal court or, where appropriate, the highest court of each jurisdiction should promulgate rules assuring criminal defendants a speedy trial on all pending charges. Such rules should include the recommendations of this standard not adopted by legislation and in addition the following:

1. To the extent practical, scheduling of cases in accordance with the following priority:
 - a. Criminal cases where the defendant is detained awaiting trial.
 - b. Criminal cases where the defendant is at liberty awaiting trial and is believed to present unusual risks to himself/herself or the public.
 - c. Criminal cases where the defendant is subject to substantial conditions or supervision awaiting trial.
 - d. All other criminal cases.
 - e. Civil cases.
2. For defendants detained while awaiting trial, time limits for shorter duration than that provided by statute.

3. Time limits within which the various pretrial procedures must take place and a means for altering such limits in individual cases.

COMMENTARY

The standards in this chapter focus on comprehensive review and reform of the pretrial process. The goal is to develop, consistent with the presumption of innocence, pretrial procedures that authorize the use of alternatives to detention and of programs and services for persons awaiting trial. Traditionally, bail and pretrial detention have been used for assuring the presence of the accused for trial. These measures, however, are discriminatory in that only those accused who have the financial resources can meet the bail demand imposed by the judge and be released.

Conference participants observe that decisions made prior to trial have a dramatic effect on sentencing and other decisions made subsequent to conviction. Moreover, they note that studies indicate that pretrial detention has an adverse effect. "In addition, ...it is not unreasonable to assume that the attitude of a person detained prior to trial is markedly different from that of a person who was at liberty. The man who has met with the indecent conditions typical of jails is likely to have built up considerable animosity toward the criminal justice system and the society that perpetuates it. Correctional services are not easily applied or productive where such an attitude exists." (NAC, **Corrections**, 101 (1973).)

The National Advisory Commission on Criminal Justice Standards and Goals (NAC) lists three objectives for pretrial reform:

1. Detention and other restrictions on liberty should be minimized to an extent consistent with the public interest....
2. The treatment of persons awaiting trial should be consistent with the presumption of innocence....
3. The time prior to trial should be a constructive period in the life of the accused rather than one of idleness. (*Id.*)

The NAC recognizes that "[w]hile corrections should have a major role in seeking attainment of these objectives for reform of the pretrial process, cooperation of law enforcement and judicial agencies is essential." (*Id.*)

Standard 4.1 proposes a method for developing a comprehensive plan to improve the pretrial process. The first section of the standard details the information that should be collected and evaluated in the planning process. The second section of the standard sets forth guidelines for the plan. Conference participants comment that

pretrial release programs are in operation throughout the state. Participants note, however, that planning is fragmented. Moreover, participants state that some of the data outlined in the standard is not collected.

Conferees believe that data should be collected on the number of pretrial releases who were able to employ their own attorney as opposed to those detained who required a court appointed attorney. Participants conclude that such information can be valuable in planning and in presenting reports to the Legislature.

The pretrial process involves all elements of the criminal justice system. The Iowa standard provides that the comprehensive plan for the pretrial process should be conducted by a group representing all major components of the criminal justice system. Conference participants believe such a group should include police, sheriffs, prosecutors, public defenders, the private defense bar, the judiciary, court administrators, probation and corrections personnel, the community, clients, and former clients.

Standard 4.2, Construction Policy for Pretrial Detention Facilities, recommends adoption of policy prohibiting construction and improvements of pretrial detention facilities until alternatives for handling persons awaiting trial are properly planned and implemented. The rationale for this policy is that construction represents a long range commitment that should not be made until other alternatives are explored and pursued. (NAC, **Corrections**, 114 (1973).) Use of alternatives, such as pretrial release programs, may make new physical facilities unnecessary.

The National Advisory Commission observes that:

Nothing commits a jurisdiction to a course of action for a longer period of time than capital improvements. The magnitude of the initial investment requires that the facility be used. Jails are not multipurpose facilities. Once constructed, they insure that confinement therein will be a major response to accusation of or conviction for crime. (*Id.*)

Conference participants agree this standard should not be construed as prohibiting remodeling or improving existing facilities. Conferees note that some facilities are in need of improvements, and such improvements should be made now whether or not the facilities are used in the future.

Conferees conclude that many types of facilities should be considered prior to construction. These should include regional facilities, city-county complexes or other appropriate alternatives. Participants comment that city-county complexes where the courtroom, jail and other services are within the complex are regarded as more economical and a better type of facility.

Standard 4.3, Alternatives to Arrest, seeks to develop policy and enabling legislation to encourage the use of citations or summons in lieu of arrest and detention. Conference participants believe that minimizing pretrial detention should begin at the initiation of the criminal justice process between the police or judicial officer and the accused. The standard proposes that "...the citation [be] the primary form of initiating the criminal justice process at least for minor offenses, with physical arrest and detention authorized where specific facts indicate substantial risk of nonappearance." (NAC, **Corrections**, 117 (1973).)

Conference participants conclude that a police officer should be required to issue a citation in lieu of arrest or detention under prescribed conditions and that a police officer should have discretionary authority to issue a citation in all cases where the officer believes the accused will respond to the citation and does not represent a threat. Under Iowa law, a peace officer has the discretion to issue a citation in lieu of making an arrest. (See IOWA CODE sec. 753.5, 755.4 (1975).) The standard recommends that the police officer should be required to specify the reason in writing or from a checklist if a citation is not issued. Participants agree that similar policy should be established regarding issuance of summonses in lieu of arrest warrants by a judicial officer. Moreover, the standard calls for criminal penalties for willful failure to respond to a citation or summons.

A minority of conferees express a concern with requiring an officer to issue a citation for minor offenses. These participants believe that there are certain factors that occur which cannot be defined and, therefore, the officer should have the discretion rather than be required, to issue a citation.

Conferees conclude that the use of citations and summonses will result in savings of time and manpower. "...The high economic, social, and human costs of pretrial detention would indicate that the interest of both the public and the accused would be better served by another means of initiating the criminal justice process." (NAC, **Corrections**, 117 (1973).)

The standard recommends measures that law enforcement agencies should take to insure that their officers understand the need for citations and summonses and cooperate in their use.

The purpose of Standard 4.4 is to insure development of a variety of release alternatives to the detention of persons awaiting trial. "In theory, money bail is intended to insure the presence of the accused for trial. In practice, it makes release prior to trial depend not on the risk of nonappearance but on the financial resources of the accused.... Society has a rightful interest in insuring that persons accused of crimes are available for trial. The accused on the other hand

is presumed innocent and should not be detained unless he represents a substantial risk of not appearing when required. In most instances, money bail is irrelevant in protecting or promoting either interest." (NAC, **Corrections**, 120, 121 (1973).)

Conference participants remark that detention of the accused results in loss of employment and severance of family ties which has drastic results on the family and may entail more public expense. Participants note that pretrial release programs have been implemented across the State and have eliminated unnecessary pretrial detention for many offenders.

The standard sets forth a list of alternatives in the order they should be considered by the judicial officer. These alternatives are similar to existing bail statutes in Iowa. (See IOWA CODE sec. 763.17 (1975).) Imposition of conditions should be consistent with the risk of nonappearance represented by the accused. Conferees conclude that one condition of release that may be imposed is compliance with pretrial treatment programs. Although conference participants differ in their opinions of the constitutional and contractual issues of such a condition of release, they believe correctional personnel should have the opportunity to report to the court if the accused is not complying with pretrial programs. Participants state that when corrections personnel are charged with the responsibility of supervising the accused, they need to be assured that the accused will cooperate with pretrial treatment programs.

To properly implement alternatives to pretrial confinement, participants believe that it is essential that three measures be taken. First, an official of the detention facility should be required to notify the pretrial release agency when a person is booked. Second, the accused should be notified of the existence of pretrial programs. Third, a record should be made of such notifications to assure that it is being done.

The National Advisory Commission recommends that no person should be allowed to act as surety for compensation. Conference participants do not accept this position and conclude that bail bondsmen do perform an important service. Rather than eliminate bail bondsmen, conference participants feel efforts should be made to notify the accused of pretrial release programs. The accused can then decide whether he/she wishes to be interviewed or to post collateral with a bail bondsman.

Standard 4.5 recommends development of procedures that should govern pretrial release and detention decisions. Conference participants endorse the NAC position that procedural safeguards protect the defendant and insure that decisions are based on accurate information.

Conference participants conclude that the following procedures should structure pretrial

release and detention: (1) When arrested, the accused should be taken before a judicial officer without unnecessary delay. (2) The pretrial release unit should be notified and an investigation should begin to gather information to present to the court regarding pretrial release or detention. (3) If the defendant is detained or substantial restrictions are placed on his/her liberty, he/she should be able to seek judicial and appellate review. (4) When the accused is released prior to trial, his/her release should not be revoked unless certain procedures are followed including a revocation hearing.

Conference participants believe that procedures similar to those required for parole and probation revocation should apply to the revoking of pretrial release. The standard allows detention after there is a showing of willful violation of release conditions or of probable cause that the defendant has committed an offense while on pretrial release. Conferees determine that one of the reasons for revoking pretrial release can be noncompliance with pretrial treatment programs.

Standard 4.6 proposes that a corrections agency, rather than law enforcement or some community organization, should be identified as having the responsibility for provision of services for persons awaiting trial. Conference participants believe that designating a central corrections agency to coordinate services for persons awaiting trial will allow for more efficient and effective use of investigative and treatment services. Participants note that information collected for the purposes of pretrial release by the correctional agency can also be used for presentence reports.

Conferees state that the wide diversity of pretrial programs presently operating across the State is a problem. To remedy this problem, conference participants believe that a State correctional agency should promulgate flexible correctional standards to be used by all correctional agencies that provide pretrial services. (See also Standard 2.1.)

Standard 4.7 proposes development of procedures and enabling legislation governing persons awaiting trial who are alleged or adjudicated incompetent to stand trial. The person accused of crime who is incompetent to stand trial is in an ambiguous position. This person becomes the captive of both the criminal law and public health systems, neither of which wants to assume full responsibility for his/her welfare. The criminal justice system cannot deal with him/her in a manner consistent with due process until he/she is competent to understand the trial and assist his/her counsel in its preparation. On the other hand, health officials are often reluctant to allocate already scarce resources to individuals who, if treated, will be subjected to prosecution and possible punishment. The result at present is that many individuals languish for long periods either in jail or mental institutions, uncared for

and untreated, even though they have never been convicted of a crime. (NAC, **Corrections**, 130 (1973).)

Basically, the intent of the standard is to handle persons alleged or adjudicated incompetent to stand trial the same as any other person who is accused of a crime. Conference participants remark that the standard recommends procedures that are not in existence in the criminal justice system. Participants believe that persons awaiting trial who are alleged or adjudicated incompetent to stand trial should be eligible for bail or alternative forms of release. Additionally, Standard 4.7 proposes that legislation or court rule should be adopted that provides: (1) There should be annual review of persons adjudged incompetent. (2) Maximum time limits for treatment of incompetency should be established. (3) When the time limit expires or restoration to competency is unlikely, the criminal charge should be dismissed. (4) Where it is believed the person adjudicated incompetent is dangerous, civil commitment procedures should be instituted subject to judicial review. (5) Release of any person committed should be determined by the court.

Standard 4.8 seeks to protect and preserve the rights of persons detained awaiting trial. Basically, the standard proposes that confined but unconvicted persons should retain all rights of a free citizen except those limited by confinement.

Conference participants note that persons detained awaiting trial are many times confined in a facility with far worse living conditions and have fewer privileges than that of persons confined in a correctional institution after conviction.

The person confined awaiting trial is more often than not detained in a local jail—the correctional facility that suffers most from lack of resources, programs, and professional personnel. Living conditions are intolerable. Yet, the person awaiting trial is presumed to be innocent of the offense charged. (NAC, **Corrections**, 134 (1973).)

Conferees remark that those awaiting trial should not be considered in the same category with those serving a sentence and should be granted additional protection. Conference participants believe that persons detained awaiting trial should not be confined with convicted offenders and should not be placed in isolation except where the detainee presents a danger to others or himself/herself. The National Advisory Commission states that:

Detention before trial is based on the state's interest in assuring the presence of the accused at trial. Where persons are already convicted of an offense, the state can with varying degrees of legitimacy argue that practices are motivated by concepts of punishment, retribution, deterrence, or re-

habilitation. None of these rationales can be applied to justify treatment of a person not yet convicted of an offense. (*Id.*)

Standard 4.9 recommends development of programs for persons detained awaiting trial. Conferees remark that programs and services for persons detained in jail awaiting trial are totally lacking. Pretrial detainees have no opportunity to participate in programs and are, therefore, relegated to idleness.

Conference participants believe viable alternatives should be developed for pretrial detainees. Participants conclude that not only may programming, such as earning a GED, have an effect on sentence received, but it also is going to increase the likelihood of the person gaining employment when he/she is released.

Participants note another reason why pretrial programs for persons detained in jail are important. Conferees state that there is more of a chance that the accused will be motivated to change his/her behavior because participation in pretrial programs is voluntary. Participants state that in contrast to convicted persons who are assigned to programs when they are placed in correctional institutions, pretrial detainees may decide if they wish to participate.

The purpose of Standard 4.10 is to expedite the trial of criminal cases and thus minimize pretrial detention. Generally, conference participants recommend that indictable offenses be prosecuted within 90 days of arrest and that non-indictable misdemeanor offenses be prosecuted within 30 days. The standard proposes that the court have the discretion to extend these time limits for good cause. The standard is similar to the existing Iowa criminal justice system. (See IOWA CODE sec. 795.1, .2 (1975).) The Revised Criminal Code extends the time limits. (See Revised Criminal Code, Iowa Rules of Criminal Procedure, Rule 27.)

The National Advisory Commission observes that:

The person accused of a crime always will remain in an ambiguous position. The mere accusation of criminal conduct is enough to cause the accused to suffer humiliation, discrimination, and disruption of his life. His employment and family relationships often are threatened. In addition, the pressure and anxiety due to the pending trial and pretrial procedures can cause severe emotional strain....

Society also has an interest in the expeditious handling of criminal cases. Any deterrence associated with enforcement of the criminal law is generally conceded to arise from swift and sure punishment rather than the intensity of the sanction. Likewise, the ability to effectively reconstruct events for the determination of guilt or innocence is severely hampered where there is lengthy de-

lay between offense and trial. The victim is often less willing to cooperate. And where the accused is innocent, the guilty person is less easily identified and apprehended. (NAC, **Corrections**, 139 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10.



Photo Credit: Fifth Judicial District Department of Court Services

Chapter Five

Sentencing

Goal: To establish general principles of sentencing and insure that these principles are applied equally in each case.

STANDARD 5.1

The Court's Role in Sentencing

The trial judge should be required to impose a sentence that, within limits imposed by statute, determines the maximum period a defendant's liberty may be restricted. Within this maximum period, other agencies may be given the power to determine the manner and extent of interference with the offender's liberty.

STANDARD 5.2

Sentencing the Nondangerous Offender

State penal code revisions should include a provision that the maximum sentence for any offender not specifically found to represent a substantial danger to others should not exceed 5 years for felonies other than murder. When by specific definition a crime has elements of aggravation involving the infliction or attempted or threatened infliction of serious bodily harm on another, to be determined by the trier of fact, the maximum sentence should not exceed 25 years except where the prescribed penalty is life imprisonment. No mandatory minimum sentence should be imposed by the legislature.

The sentencing court should be authorized to impose a maximum sentence less than that provided by statute.

Criteria should be established for sentencing offenders. Such criteria should include:

1. A requirement that the least drastic sentencing alternative be imposed that is consistent with public safety, rehabilitation, and punishment. The court should impose the first of the following alternatives that in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant and for the protection of the community from further offenses by the defendant and others:
 - a. Unconditional release.
 - b. Conditional release.
 - c. A fine.
 - d. Release under supervision in the community.
 - e. Sentence to a halfway house or other residential facility located in the community.
 - f. Sentence to partial confinement with liberty to work or participate in training or education during all but leisure time.
 - g. Total confinement in a correctional facility.

2. A provision against the use of confinement as an appropriate disposition unless affirmative justification is shown on the record. Factors that would justify confinement may include:
 - a. There is undue risk that the offender will commit another crime if not confined.
 - b. The offender is in need of correctional services, rehabilitation, or punishment that can be provided effectively only in an institutional setting, and such services are reasonable available.
 - c. Any other alternative will depreciate the seriousness of the offense.
3. Weighting of the following in favor of withholding a disposition of incarceration:
 - a. The offender's criminal conduct neither caused nor actually threatened serious harm.
 - b. The offender did not contemplate or intend that his/her criminal conduct would cause or threaten serious harm.
 - c. The offender acted upon strong provocation.
 - d. There were substantial grounds tending to excuse or justify the offender's criminal conduct, though failing to establish defense.
 - e. The offender had led a law-abiding life for a substantial period of time before commission of the present crime.
 - f. The offender is likely to respond affirmatively to probationary or other community supervision.
 - g. The victim of the crime induced or facilitated its commission.
 - h. The offender has made or will make restitution or reparation to the victim of his/her crime for the damage or injury which was sustained.
 - i. The offender's conduct was the result of circumstances unlikely to recur.
 - j. The character, history, and attitudes of the offender indicate that he/she is unlikely to commit another crime.
 - k. Imprisonment of the offender would entail undue hardship to dependents.
 - l. The offender is elderly or in poor health.
 - m. The correctional programs within the institutions to which the offender would be sent are inappropriate to his/her particular needs or would not likely be of benefit to him/her.

STANDARD 5.3

Sentencing to Extended Terms

State penal code revisions should contain separate provision for sentencing offenders when, in the interest of public protection, it is considered necessary to incapacitate them for substantial periods of time.

The following provisions should be included:

1. Authority for the judicial imposition of an extended term of confinement of not more than 25 years, except for murder, when the court finds the incarceration of the defendant for a term longer than 5 years is required for the protection of the public and that the defendant is a persistent felony offender.
2. Definition of a persistent felony offender as a person over 18 years of age who stands convicted of a felony for the third time. At least one of the prior felonies should have been committed within the 5 years preceding the commission of the offense for which the offender is being sentenced. At least two of the three felonies should be offenses involving the infliction, or attempted or threatened infliction, of serious bodily harm on another. The three felonies necessary for classifying an offender as a persistent felony offender must arise from separate incidents.
3. Authority for the court to impose a minimum sentence to be served prior to eligibility for parole. It should not exceed one-third of the maximum sentence imposed or more than three years.
4. Authority for the sentencing court to permit the parole of an offender sentenced to a minimum term prior to service of that minimum upon request of the board of parole.

STANDARD 5.4

Probation

Each sentencing court should review and where necessary should revise its policies, procedures, and practices concerning probation, and where necessary, enabling legislation should be enacted, as follows:

1. A sentence to probation should be for a specific term not exceeding 5 years except that probation for misdemeanants may be for a period not exceeding two years.
2. The court or the probation officer should be authorized to impose such conditions as are

necessary to provide a benefit to the offender and protection to the public safety. The court or the probation officer also should be authorized to modify or enlarge the conditions of probation at any time prior to expiration or termination of sentence. The conditions imposed in an individual case should be tailored to meet the needs of the defendant and society.

3. The offender should be provided with a written statement of the conditions imposed and should be granted an explanation of such conditions.
4. Procedures should be adopted authorizing the revocation of a sentence of probation for violation of specific conditions imposed, such procedures to include:
 - a. Authorization for the prompt confinement of probationers who exhibit behavior that is a serious threat to themselves or others and for allowing probationers suspected of violations of a less serious nature to remain in the community until further proceedings are completed.
 - b. A requirement that for those probationers who are arrested for violation of probation, a preliminary hearing be held promptly by a neutral official other than his/her probation officer to determine whether there is probable cause to believe that the probationer violated his/her probation. At this hearing the probationer should be accorded the following rights:
 - (1) To be given notice of the hearing and of the alleged violations.
 - (2) To be heard and to present evidence.
 - (3) To confront and cross-examine adverse witnesses unless there is substantial evidence that the witnesses will be placed in danger of serious harm by so testifying.
 - (4) To be represented by counsel and to have counsel appointed for him/her if he/she is indigent.
 - (5) To have the decision maker state his/her reasons for his/her decision and the evidence relied on.
 - c. Authorization of informal alternatives to formal revocation proceedings for handling alleged violations of minor conditions of probation. Such alternatives to revocation should include:
 - (1) A formal or informal conference with the probationer to reemphasize the necessity of compliance with the conditions.
 - (2) A formal or informal warning that further violations could result in revocation.
 - d. A requirement that, unless waived by the probationer after due notification of his/her rights, a hearing be held on all alleged

violations of probation where revocation is a possibility to determine whether there is substantial evidence to indicate a violation has occurred and if such a violation has occurred, the appropriate disposition.

- e. A requirement that at the probation revocation hearing the probationer should have notice of the alleged violation, access to official records regarding his/her case, the right to be represented by counsel including the right to appointed counsel if he/she is indigent, the right to subpoena witnesses in his/her own behalf, and the right to confront and cross-examine witnesses against him/her.
- f. A requirement that before probation is revoked the court make written findings of fact based upon substantial evidence of a violation of a condition of probation.
- g. Authorization for the court, upon finding a violation of conditions of probation, to continue the existing sentence with or without modification, to enlarge the conditions, or to impose any other sentence that was available to the court at the time of initial sentencing. In resentencing a probation violator, the following rules should be applicable:
 - (1) Criteria and procedures governing initial sentencing decisions should govern resentencing decisions.
 - (2) Failure to comply with conditions of a sentence that impose financial obligations upon the offender should not result in confinement unless such failure is due to a willful refusal to pay.

- 2. A fine should be imposed only if there is a reasonable chance that the offender will be able to pay without undue hardship for himself/herself or his/her dependents.
- 3. A fine should be imposed only where the imposition will not interfere seriously with the offender's ability to make reparation or restitution to the victim.

Legislation authorizing the imposition of fines also should include the following provisions:

- 1. Authority for the court to impose a fine payable in installments.
- 2. Authority for the court to revoke part or all of a fine once imposed in order to avoid hardship either to the defendant or others.
- 3. A prohibition against court imposition of such sentences as "30 dollars or 30 days."
- 4. Authority for the imprisonment of a person who intentionally refuses to pay a fine or who fails to make a good-faith effort to obtain funds necessary for payment. Imprisonment solely for inability to pay a fine should not be authorized.

Legislation authorizing fines against corporations should include the following special provisions:

- 1. Authority for the court to base fines on sales, profits, or net annual income of a corporation where appropriate to assure a reasonably even impact of the fine on defendants of various means.
- 2. Authority for the court to proceed against specified corporate officers or against the assets of the corporation where a fine is not paid.

STANDARD 5.5

Fines

In enacting penal code revisions, the State Legislature should determine the categories of offenses for which a fine is an appropriate sanction and provide a maximum fine for each category.

Criteria for the imposition of a fine also should be enacted, to include the following:

- 1. A fine should be imposed where it appears to be a deterrent against the type of offense involved or an appropriate correctional technique for an individual offender. Fines should not be imposed for the purpose of obtaining revenue for the government.

STANDARD 5.6

Multiple Sentences

The State Legislature should authorize sentencing courts to make disposition of offenders convicted of multiple offenses, as follows:

- 1. Under normal circumstances, when an offender is convicted of multiple offenses separately punishable, or when an offender is convicted of an offense while under sentence on a previous conviction, the court should be authorized to impose concurrent sentences.
- 2. Where the court finds on substantial evidence that the public safety requires a longer sentence, the court should be authorized to impose consecutive sentences. However, a consecutive sentence should not be imposed if the result would be a maximum sentence

more than double the maximum sentence authorized for the most serious of the offenses involved.

3. The sentencing court should have authority to allow a defendant to plead guilty to any other offenses he/she has committed within the State, after the concurrence of the prosecutor and after determination that the plea is voluntarily made. The court should take each of these offenses into account in setting the sentence. Thereafter, the defendant should not be held further accountable for the crimes to which he/she has pleaded guilty.
4. The sentencing court should be authorized to impose a sentence that would run concurrently with out-of-State sentences, even though the time will be served in an out-of-State institution. When apprised of either pending charges or outstanding detainers against the defendant in other jurisdictions, the court should be given by interstate agreements the authority to allow the defendant to plead to those charges and to be sentenced, as provided for in the case of intrastate criminal activity.

3. Where an offender successfully challenges his/her conviction and is retried and re-sentenced, all time spent in custody arising out of the former conviction and time spent in custody awaiting the retrial should be credited against any sentence imposed following the retrial.

The clerk of court should have the responsibility for assuring that the record reveals in all instances the amount of time to be credited against the offender's sentence and that such record is delivered to the correctional authorities. The correctional authorities should assume the responsibility of granting all credit due an offender at the earliest possible time and of notifying the offender that such credit has been granted.

Credit as recommended in this standard should be automatic and a matter of right and not subject to the discretion of the sentencing court or the correctional authorities. The granting of credit should not depend on such factors as the offense committed or the number of prior convictions.

STANDARD 5.7

Credit for Time Served

The State Legislature should eliminate all good and honor time and reduce the sentences provided by law to reflect a more realistic expectation of the time served considering that good and honor time has been eliminated. Until such time as the Legislature takes such action, the following provisions will apply:

Sentencing courts immediately should adopt a policy of giving credit to defendants against their maximum terms and against their minimum terms, if any, for time spent in custody and "good time" earned under the following circumstances:

1. Time spent in custody arising out of the charge or conduct on which such charge is based prior to arrival at the institution to which the defendant eventually is committed for service of sentence. This should include time spent in custody prior to trial, prior to sentencing, pending appeal, and prior to transportation to the correctional authority.
2. Where an offender is serving multiple sentences, either concurrent or consecutive, and he/she successfully invalidates one of the sentences, time spent in custody should be credited against the remaining sentence.

STANDARD 5.8

Judicial Visits to Institutions

Court systems should adopt immediately, and correctional agencies should cooperate fully in the implementation of, a policy and practice to acquaint judges with the correctional facilities and programs to which they sentence offenders, so that the judges may obtain firsthand knowledge of the consequences of their sentencing decisions. It is recommended that:

1. During the first year of his/her tenure, a judge should visit all correctional facilities within his/her jurisdiction or to which he/she regularly sentences offenders.
2. Thereafter, he/she should make annual, unannounced visits to all such correctional facilities and should converse with both correctional staff and committed offenders.
3. No judge should be excluded from visiting and inspecting any part of any facility or from talking in private to any person inside the facility, whether offender or staff.

STANDARD 5.9

Sentencing Review

Procedures for implementing the review of sentences on appeal should contain the following precepts:

1. Appeal of a sentence should be a matter of right.
2. A statute specifying the issues for which review is available should be enacted. The issues should include:
 - a. Whether the sentence imposed is consistent with statutory criteria.
 - b. Whether the sentence is unjustifiably disparate in comparison with cases of similar nature.
 - c. Whether the sentence is excessive or inappropriate.
 - d. Whether the manner in which the sentence is imposed is consistent with statutory and constitutional requirements.

STANDARD 5.10

Sentencing Institutes

Court systems immediately should adopt the practice of conducting sentencing institutes to provide judges with the background of information they need to fulfill their sentencing responsibilities knowledgeably. The practice should be governed by these considerations:

1. Iowa should provide for a biennial sentencing institute, which all sentencing judges should be eligible to attend without cost or expense.
2. Each judge who has been appointed or elected since the last convening should be required to attend the institute in order to acquaint himself/herself further with sentencing alternatives available.
3. The institute should concern itself with all aspects of sentencing, among which should be establishment of more detailed sentencing criteria, alternatives to incarceration, and reexamination of sentencing procedures.
4. Defense counsel, prosecutors, police, correctional administrators, and interested members of the bar and other professions should be encouraged to attend. A stipend for at least some persons, including students, should be established.

5. To the extent possible, sentencing institutes should be held in a maximum or medium security penal institution in the State.

STANDARD 5.11

Requirements for Presentence Report and Content Specification

Sentencing courts immediately should develop standards for determining when a presentence report should be required and the kind and quantity of information needed to insure more equitable and correctionally appropriate dispositions. The guidelines should reflect the following:

1. A presentence report should be presented to the court in every case where there is a potential sentencing disposition involving incarceration of more than 30 days and in all cases involving felonies or minors.
2. Gradations of presentence reports should be developed between a full report and a short-form report for screening offenders to determine whether more information is desirable or for use when a full report is unnecessary.
3. No incarcerative disposition of over 30 days can be imposed without a written presentence report without exception. Copies of the presentence report are to be forwarded to any facility in which the individual is to be confined. The report must be delivered at the time of admittance to the facility.
4. In all cases after sentencing and disposition, the original presentence report should be sealed and made a part of the offender's official file with the clerk of district court.
5. The full presentence report should contain a complete file on the offender—his/her background, his/her prospects of reform, and details of the crime for which he/she has been convicted. Specifically, the full report should contain at least the following items:
 - a. Complete description of the situation surrounding the criminal activity with which the offender has been charged, including the county attorney's, the victim's and the offender's version of the criminal act; and the offender's explanation for the act.
 - b. The offender's educational background.
 - c. The offender's employment background, including any military record, his/her present employment status, and capabilities.
 - d. The offender's social history, including family relationships, marital status, interests, and activities.

- e. Residence history of the offender.
 - f. The offender's medical history and, if desirable, a psychological or psychiatric report.
 - g. Information about environments to which the offender might return or to which he/she could be sent should a sentence of nonincarceration or community supervision be imposed.
 - h. Information about any resources available to assist the offender, such as treatment centers, residential facilities, vocational training services, special educational facilities, rehabilitative programs of various institutions, and similar programs.
 - i. Views of the person preparing the report as to the offender's motivations and ambitions, and an assessment of the offender's explanations for his/her criminal activity.
 - j. A list of the defendant's criminal record.
 - k. A recommendation as to disposition.
6. The short-form report should contain the information required in sections 5 a, c, d, e, h, i, and k.
7. All information in the presentence report should be factual and verified to the extent possible by the preparer of the report. On examination at the sentencing hearing, the preparer of the report, if challenged on the issue of verification, should bear the burden of explaining why it was impossible to verify the challenged information. Failure to do so should result in the refusal of the court to consider the information.

STANDARD 5.12

Preparation of Presentence Report Prior to Adjudication

No presentence report should be prepared until the defendant pleads guilty or is found guilty by a jury.

STANDARD 5.13

Disclosure of Presentence Report

Sentencing courts immediately should adopt a procedure to inform the defendant of the basis for his/her sentence and afford him/her the opportunity to challenge it.

1. The presentence report and all similar documents should be available to defense counsel and the prosecution. The court may suppress such portions of the report as is necessary to assure the safety of individuals.
2. The presentence report should be made available to both parties within a reasonable time, fixed by the court, prior to the date set for the sentencing hearing. After receipt of the report, the defense counsel may request:
 - a. A presentence conference, to be held within the time remaining before the sentencing hearing.
 - b. A continuance of one week, to allow him/her further time to review the report and prepare for its rebuttal. Either request may be made orally, with notice to the prosecutor. The request for a continuance should be granted only:
 - (1) If defense counsel can demonstrate surprise at information in the report; and
 - (2) If the defendant presently is incarcerated, he/she consents to the request.

STANDARD 5.14

Sentencing Hearing - Role of Counsel

Sentencing courts immediately should develop and implement guidelines as to the role of defense counsel and prosecution in achieving sentencing objectives.

1. It should be the duty of both the prosecutor and defense counsel to:
 - a. Avoid any undue publicity about the defendant's background.
 - b. Challenge and correct, at the hearing, any inaccuracies contained in the presentence report.
 - c. Inform the court of any plea discussion which resulted in the defendant's guilty plea.
 - d. Verify, to the extent possible, any information in the presentence report.

2. The prosecutor may make recommendations with respect to sentence. He/she should disclose to defense counsel any information he/she has that is favorable or unfavorable to the defendant and is not contained in the presentence report.
3. It should be the duty of the defense counsel to protect the best interest of his/her client. He/she could consider not only the immediate but also the long-range interest in avoiding further incidents with the criminal justice system. He/she should, to this end:
 - a. Challenge, and contradict to the extent possible, any material in the presentence report or elsewhere that is detrimental to his/her client.

STANDARD 5.15

Imposition of Sentence

Sentencing courts immediately should adopt the policy and practice of basing all sentencing decisions on an official record of the sentencing hearing. The record should be similar in form to the trial record but in any event should include the following:

1. A verbatim record of the sentencing hearing including statements made by all witnesses, the defendant and his/her counsel, and the prosecuting attorney.
2. Specific findings by the court on all controverted issues of fact and on all factual questions required as a prerequisite to the selection of the sentence imposed.
3. The reasons for selecting the particular sentence imposed.
4. A precise statement of the terms of the sentence imposed and the purpose that sentence is to serve.
5. The record of the sentencing hearing should be made a part of the trial record and should be available to the defendant or his/her counsel for purposes of appeal.

RESOLUTION: To the extent that the implementation of these standards may require increased court and probation personnel and services, it has been assumed that the same will be available.

COMMENTARY

Sentencing is a critical determination. "If too short or of the wrong type, it can deprive the law of its effectiveness and result in premature release of a dangerous criminal. If too severe or improperly conceived, it can reinforce the criminal tendencies of the defendant and lead to a new offense by one who otherwise might not have offended so seriously again." (ABA, **Sentencing Alternatives and Procedures**, 1 (Approved Draft, 1971).)

The sentencing decision is enormously complex because it is influenced by a wide variety of officers, institutions, and forces. (NAC, **Corrections**, 141 (1973).) In Iowa, the sentencing decision can be influenced by the Legislature, the prosecutor, correctional agencies, and the parole board. The Legislature affects sentencing by establishing statutory guidelines with which the sentencing judge must comply. These guidelines may grant the court considerable discretion in the selection of a sentencing alternative for some crimes while limiting judicial sentencing discretion for others. (See, e.g., IOWA CODE §§ 690.2, 789A.1 (1975); Revised Criminal Code, ch. 1 § 702, ch. 3 § 702.) The prosecutor's actions also have an impact on sentencing. His/her determination of the charge and other commitments arising out of plea negotiations may limit or influence the sentencing judge's discretion. (NAC, **Corrections**, *supra*.) In addition, corrections entities may affect the judge's determination of sentence by providing the court with presentence investigation reports and recommendations. (See IOWA CODE §§ 789A.3, .4 (1975); Revised Criminal Code, ch. 3 §§ 102, 103.) Finally, when an offender is convicted of a felony punishable by an indeterminate sentence, the parole board in effect determines the length of sentence, thus leaving the trial judge with no sentencing discretion. (See IOWA CODE § 789.13 (1975); Revised Criminal Code, ch. 3 § 203; Dunahoo, **The Scope of Judicial Discretion in the Iowa Criminal Law Process**, 58 Iowa L. Rev. 1023, 1111 (1973).)

The primary goals of sentencing are effectiveness and equality. (NAC, **Corrections**, 143 (1973).) The achievement of these goals demands that the sentencing roles of the Legislature, the court system, and corrections entities be defined and coordinated. Conference participants conclude that sentencing effectiveness and equality can best be achieved in Iowa through the adoption of a qualified version of the indeterminate sentencing process. The standards contained in this chapter set forth this sentencing process and specifically define the roles of the Legislature, the courts, and corrections. Essentially, the standards suggest that the Legislature should articulate the purposes of the criminal sanction in a general way, that the courts should tailor individual sentences

to implement these purposes, and that corrections should carry out the terms of the sentences and determine when offenders should be released from incarceration or supervision.

Role of the Legislature in Sentencing

The role of the Legislature in sentencing should be threefold. First, the Legislature should articulate the purposes of the sentencing process. The power of the State should not be exercised over an individual without some socially useful purpose. (NAC, **Corrections**, 143 (1973).)

...[R]estrictions on liberty should be justified by some legitimate purpose, and the state in imposing sanctions should bear some burden of proving that the means employed have some reasonable relationship to the purpose selected. This requires not only an articulation of what those purposes are but also a measured application of sanctions in general. (Id.)

Standard 5.2 recommends that the purposes of the Iowa sentencing process should be protection of the community, rehabilitation of the offender, and punishment. Conference participants feel that sentencing for punitive reasons alone, where there is no need to protect the community or to rehabilitate the offender, serves the socially useful purpose of deterring others from committing similar offenses. Conferees cite tax fraud and white collar crimes as examples of situations where punitive sentencing is appropriate.

The Legislature's sentencing role should also include the authorization of a variety of sentencing alternatives. These alternatives should enable sentencing judges to formulate offender dispositions that are consistent with the purposes of sentencing. Standard 5.2 sets forth sentencing alternatives that should be available to Iowa judges and suggests the order in which these alternatives should be considered. Trial judges should be required by statute to impose the least drastic alternative that will provide for the rehabilitation of the offender, the protection of the community, and the deterrence of potential offenders.

The authorization of sentencing alternatives also requires that the Legislature establish the maximum terms to which offenders may be sentenced by the trial court. The standards recommend that the nondangerous offender's sentence should not exceed 5 years and that the dangerous offender's sentence not exceed 25 years, except where the prescribed penalty is life imprisonment. Conference participants conclude that these maximum terms will reduce the excessively long sentences served by some offenders for whom such sentences are inappropriate and will diminish disparate treatment of similarly situated offenders. Conferees also believe that these maximum terms reflect a more realistic assessment of actual time served in prison.

To make these sentencing provisions more consistent with actual practice, the Legislature should eliminate good and honor time. Currently, Iowa has statutory provisions granting good and honor time to inmates in correctional institutions. (See IOWA CODE Sec. 246.38, .39, .41, .43 (1975).) Good and honor time is calculated and credited upon arrival at the institution and is forfeited only as a result of infractions of the rules. When an offender is received at a correctional institution, the expiration date of his/her sentence is calculated on the basis of the inmate having already earned all good and honor time. Conferees conclude that the elimination of this practice will give criminal justice functionaries, the public, and offenders a better understanding of the sentencing process.

In addition to establishing statutory maximum terms, the Legislature should authorize the trial judge to impose maximum terms less than those authorized by law and to sentence dangerous offenders to minimum terms. However, conferees reject mandatory legislative minimum terms because they eliminate discretion. Conference participants observe that discretion is a pervasive and necessary part of the criminal justice system and believe that its elimination at the sentencing stage will limit the system's ability to deal with offenders on an individual basis. The major reason for this position is that "...a pure determinate sentence that could not be altered ... would leave little room for correctional administrators or parole boards to release the offender when it appears to them that he is capable of returning to society." (NAC, **Corrections**, 152 (1973).)

The Legislature's sentencing role should also encompass the articulation of sentencing criteria. The utilization of appropriate criteria for guiding and structuring the sentencing decision promotes the attainment of established sentencing purposes. (NAC, **Corrections**, 143 (1973).) For example, a requirement that the trial judge apply the legislatively prescribed criteria and state the rationale for individual sentencing decisions provides a check on the judge's own decisionmaking process and insures that his/her decisions are consistent with sentencing purposes. (See Standard 5.15.) In addition, such a requirement serves as a basis for appellate review of sentencing decisions. (See Standard 5.9.)

Standards 5.2 and 5.3 suggest sentencing criteria for the Iowa criminal justice system. They are designed to encourage dispositions that rehabilitate offenders, protect the community, and deter others while extending fairness and equality. The thrust of the criteria is that probation should become the standard sentence in criminal cases. Conference participants agree with the National Advisory Commission's observations regarding probation:

Probation, with its emphasis on assisting the offender to adjust to the free community and supervising that process, offers greater hope

for success and less chance for human misery. But probation, to meet the challenge ahead, must be carefully and fairly administered.

Probation is a sentence in itself. In the past in most jurisdictions, probation was imposed only after the court suspended the execution or imposition of sentence to confinement. It was an act of leniency moderating the harshness of confinement. It should now be recognized as a major sentencing alternative in its own right. (NAC, **Corrections**, 159 (1973).

Role of the Court in Sentencing

The standards recommend an expanded judicial role in sentencing. "Since sentencing affects individual liberty, the involvement of a judicial officer attuned to the need to protect the offender against unjustified detention as well as to impose adequate punishment to meet society's needs is essential." (NAC, **Courts**, 110 (1973).)

The role of the Iowa district court in sentencing should be to individualize the general sentencing process established by the Legislature. Individualized sentencing requires that the trial judge specifically articulate the Legislative purposes of the criminal sanction for each case. Thus, the standards contemplate that, in each case, the court will: (1) apply the Legislative sentencing criteria, (2) select and articulate an appropriate sentencing purpose, (3) impose an authorized sentencing alternative designed to implement the selected purpose, and (4) state the terms of the sentence imposed and the factual findings for the particular decision. (See Standards 5.2, 5.3, 5.15.) Conference participants believe that these sentencing steps will promote effectiveness and reduce disparity by insuring that individual sentences are consistent with Legislative purposes, that correctional agencies have sufficient information to execute the sentence, and that appellate courts have a basis for review.

The standards also define the proper extent of judicial activity in sentencing. Conference participants conclude that, within limits imposed by the Legislature, the trial court should be empowered to impose a maximum sentence. (See Standards 5.1, 5.2, and 5.3.) The maximum sentence sets an outer limit to the extent to which correctional discretion may be used. (See NAC, **Courts**, 111 (1973).) Correctional authorities may determine whether to detain the offender or release him/her on parole up to the point at which the sentence expires. Conferees also recommend that the trial court should be empowered to impose a minimum sentence in certain cases. (Standard 5.3) This permits the judge to create three periods. In one, the offender must be detained (the period up to the minimum). However, the court may permit the parole of an offender sentenced to a minimum term prior to service of that minimum upon the request of the board of parole. (*Id.*) In the second

period, the offender may, but need not, be released (the period between the minimum and the maximum during which the parole board may exercise its discretion). At the third period, the offender must be released (expiration of the maximum).

Conference participants considered whether correctional discretion should be further limited by authorizing the trial court to exercise continuing jurisdiction over sentenced offenders. The National Advisory Commission on Criminal Justice Standards and Goals makes the following argument in support of continuing jurisdiction of the sentencing court:

The sentence imposed by the court is binding on two parties, the offender and the correctional agency. The offender is required to serve the sentence imposed. The correctional agency should be required to execute the sentence the sentencing court envisioned. The inherent power of a court continually to supervise its own orders should apply to the sentencing decision. Either party should be entitled to return to the court when the other party violates the order. This would allow the offender to return to the court if proper treatment and rehabilitation programs contemplated by the sentence were not made available. (NAC, **Corrections**, 173 (1973).)

Several conferees observed that federal courts now exercise jurisdiction over state confinement conditions. These participants argued that continuing state jurisdiction over prison conditions and problems would involve the Iowa district court in what is basically a state problem. In addition, conferees felt that continuing jurisdiction would enable the trial courts to play an orchestrating role in the criminal justice system. However, the majority of conference participants concluded that the judiciary was not specifically qualified to administer correctional institutions and programs and, therefore, should not exercise continuing jurisdiction over offenders.

Role of Corrections in Sentencing

The primary roles of corrections officials and the parole board are to execute the sentence imposed by the court and to determine when the purposes of each individual sentence have been achieved and the offender may be released from imprisonment and from any supervision. (The role of the paroling authority and corrections officials in the parole process is more fully considered in Chapter 10 of the Corrections report.) The corrections role in sentencing, like the court's role, involves the exercise of discretion. For example, the theory of indeterminate sentencing is that, while the judicially imposed sentence is the best estimate of the term of imprisonment necessary to rehabilitate the offender, protect the community, or serve the punitive needs of society, changes in attitude and development may alter the needs of the offender. Therefore, discretion is granted to the parole board to select the most appropriate date for release.

Conference participants recommend that paroling authorities continue to have broad discretion to release confined offenders. The standards seek to allow this discretion to operate where it bears a reasonable relationship to legitimate goals of the system but to limit and check discretionary decisions in order to avoid arbitrary and counter-productive actions. (NAC, **Corrections**, 145 (1973).) The judicially imposed maximum and minimum sentences recommended in Standards 5.1, 5.2, and 5.3 serve to limit and check the discretion of the parole board. In the proposed sentencing structure, the period when the parole board may exercise its discretion to parole begins when the judicially imposed minimum sentence, if any, is served and ends when the judicially imposed or statutory maximum term expires. To diminish the inflexibility of judicially imposed sentences, the parole board may recommend to the court that the minimum sentence be revoked. (See Standard 5.3.) Conference participants comment that where the period of confinement is extended beyond an offender's needs, it is very destructive to the individual. For this reason, participants believe that the role of corrections officials should allow flexibility to meet the offender's changing needs.

To guide correctional agencies in executing the sentence, conference participants conclude that increased communication between the trial court and the correctional system is necessary. Correctional agencies will be in a better position to carry out the order of the court if they know the reasons upon which the sentence is based. (NAC, **Corrections**, 196 (1973).) Standard 5.15 requires that the record of the sentencing hearing show findings of fact, reasons justifying the sentence, and the purpose the sentence is intended to serve, and that the record be transmitted to correctional officials. (*Id.*)

To familiarize judges with correctional institutions and to promote communication between judges and correctional personnel, Standards 5.8 and 5.10 recommend that judges should visit correctional institutions periodically and that sentencing institutes should be convened in correctional institutions. Conferees endorse the position that to keep relatively apprised of conditions in institutions and to fully realize the impact of institutionalization, some personal observation and contact is necessary.

Another function of corrections officials in the sentencing process is to conduct the presentence investigation and to prepare the presentence report. Presentence investigations are usually conducted by a probation or parole officer. Presentence reports are "...written prior to sentence to inform the judge of what may be pertinent facts concerning the offender, his past, and his potential for the future. The purpose is to provide a range of evaluative and descriptive information and considerations the judge could not possibly obtain in mere courtroom exposure to the offender. Such information is essential if the

[sentencing] decision is to be a knowledgeable one." (NAC, **Corrections**, 185 (1973).)

Guidelines for the presentence report are set forth in Standards 5.11, 5.12, 5.13, and 5.14. These guidelines contemplate several changes in the existing system in Iowa. First, conferees strongly support preparation of a presentence report before imposition of any sentence of confinement for more than 30 days. Presently, Iowa law requires a presentence investigation only if the offense is a felony. (See IOWA CODE § 789A.3 (1975).) However, the Revised Criminal Code contains provisions similar to the Iowa standard. (See Revised Criminal Code, ch. 3, § 102.)

Participants also recommend that the presentence report should be received at the institution at the time the person is committed. Participants insist that if corrections officials are to effectively carry out the sentencing order, they must have information concerning the offender at the time of admittance and classification.

Furthermore, to prevent possible prejudice to the defendant's case, Standard 5.12 recommends that the presentence report should not be prepared prior to adjudication. Conference participants feel that the court may be influenced by the information contained in the presentence report if the report is available prior to the determination of guilt. (See NAC, **Corrections**, 186 (1973).)

Finally, conference participants advocate full disclosure of the presentence report to the defense counsel and to the prosecution except where the court determines that suppression of specific portions of the report is necessary to protect the safety of informants. This position, outlined in Standard 5.13, contemplates a significant change. It removes the broad discretion of the trial judge to determine whether to disclose the entire contents of the presentence report. Under existing Iowa law, the trial judge has the discretion to suppress the report or portions of it. (See IOWA CODE § 789A.5; Revised Criminal Code, ch. 3 § 104.) Generally, the standard requires that the entire presentence report be disclosed to defense counsel and the prosecution. The trial judge's discretion is limited to suppressing those portions of the presentence report which may jeopardize the safety of individuals. However, the standard permits the sentencing judge to disclose such sensitive information, if deemed sufficiently important, by restricting its disclosure to defense counsel.

Conferees believe that full disclosure of the presentence report is important for several reasons. Conference participants reason that if the offender is to be reintegrated into society, he/she must be convinced that society has treated him/her fairly. When the offender has been sentenced on information that has not been available to his/her defense counsel, the offender will not perceive that he/she has been treated with impartiality and justice. (NAC, **Corrections**, 189 (1973).) In addition,

conferees feel that it is important that the court have a factual basis for making sentencing decisions. Full disclosure of the presentence report gives the defense counsel the opportunity to examine and contest information in the report.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 5.1 - 5.19

NAC Courts 5.1

Chapter Six

Classification

Goal: To develop a common classification system for corrections having as its objectives (1) assessment of risk and (2) efficient management of offenders.

STANDARD 6.1

Comprehensive Classification Systems

Each correctional agency, whether community-based or institutional, should immediately reexamine its classification system and reorganize it along the following principles:

1. Recognizing that corrections is now characterized by a lack of knowledge and deficient resources, and that classification systems therefore are more useful for assessing risk and facilitating the efficient management of offenders than for diagnosis of causation and prescriptions for remedial treatment, classification should be designed to operate on a practicable level and for realistic purposes, guided by the principle that:
 - a. No offender should receive more surveillance or "help" than he/she requires; and
 - b. No offender should be kept in a more secure condition or status than his/her potential risk dictates.
2. The classification system should be developed under the management concepts discussed in Chapter 11 and issued in written form so that it can be made public and shared. It should specify:
 - a. The objectives of the system based on a hypothesis for the social reintegration of offenders, detailed methods for achieving the objectives, and a monitoring and evaluation mechanism to determine whether the objectives are being met.
 - b. The critical variables of the typology to be used.
 - c. Detailed indicators of the components of the classification categories.
 - d. The structure (committee, unit, team, etc.) and the procedures for balancing the decisions that must be made in relation to programming, custody, personal security, and resource allocation.
3. The system should provide full coverage of the offender population, clearly delineated categories, internally consistent groupings, simplicity, and a common language.
4. The system should be consistent with individual dignity and basic concepts of fairness (based on objective judgments rather than personal prejudices).
5. The system should provide for maximum involvement of the individual in determining the nature and direction of his/her own goals, and mechanisms for appealing administrative decisions affecting him/her.

6. The system should be adequately staffed, and the agency staff should be trained in its use.
7. The system should be sufficiently objective and quantifiable to facilitate research, demonstration, model building, intrasystem comparisons, and administrative decisionmaking.
8. The correctional agency should participate in or be receptive to cross-classification research toward the development of a classification system that can be used commonly by all correctional agencies.

STANDARD 6.2

Classification for Inmate Management

Each correctional agency operating institutions for committed offenders, in connection with and in addition to implementation of Standard 6.1, should reexamine and reorganize its classification system immediately, as follows:

1. Whether a reception unit or classification committee or team is utilized within the institution, the administration's classification issuance described in Standard 6.1 also should:
 - a. Describe the makeup of the unit, team, or committee, as well as its duties and responsibilities.
 - b. Define its responsibilities for custody, employment, and vocational assignments.
 - c. Indicate what phases of an inmate program may be changed without unit, team, or committee action.
 - d. Specify procedures relating to inmate transfer from one program to another.
 - e. Prescribe form and content of the classification interview.
 - f. Develop written policies regarding initial inmate classification and reclassification.
2. The purpose of initial classification should be:
 - a. To screen inmates for safe and appropriate placements and to determine whether these programs will accomplish the purposes for which inmates are placed in the correctional system, and
 - b. Through orientation to give new inmates an opportunity to learn of the programs available to them and of the

performance expected to gain their release.

3. The purpose of reclassification should be the increasing involvement of offenders in community-based programs as set forth in Standard 8.4, Inmate Involvement in Community Programs.
4. Initial classification and the quarantine period should not take longer than 4 weeks.
5. Classification should be reviewed at reasonable intervals not exceeding one year after initial classification.

COMMENTARY

A difficult task experienced by all correctional agencies is deciding what should be done with those persons who are placed in or committed to their program or institution. Classification at its best is an inexact process. In many cases, the sentencing decision determines the initial classification—whether a community program or an institutional setting is required. In most cases, however, determining the level of security within an institution or the specific educational or treatment programs to which an offender will be referred is at the discretion of the correctional agency under whose jurisdiction the offender is placed.

This chapter sets forth recommendations that should guide correctional classification schemes. The standards address the purpose of classification and the classification procedures of major correctional institutions.

In theory, classification is a process by which a correctional agency assesses the offender's needs and determines his/her appropriate placement in available programs. However, there is considerable controversy as to what the purpose of classification should be and what type of classification arrangements should be used.

All correctional agencies have an explicit or implicit classification system. Most correctional institutions have developed explicit formal classification procedures. Classification usually is carried out through classification units within the institution or by a centralized reception-diagnostic center. In the community setting, implicit classification systems exist. Classification primarily involves differential levels of surveillance.

A uniformly applied classification system can lead to more effective management, assignment, and programming decisions. An effective classification system will also facilitate communications and can provide reliability for evaluative research in the corrections field.

Standard 6.1, Comprehensive Classification Systems, proposes that the purpose of classification systems be for management reasons rather than for "treatment" of the offender. The standard recommends that classification should be guided by the principle that no offender should receive more surveillance or "help" than he/she requires and no offender should be kept in a more secure condition or status than his/her potential risk dictates.

If classification is going to be a useful correctional tool, it is of utmost importance to analyze the theory or reason for such a correctional system and specify the purpose of the system. As yet, the field of corrections does not have the knowledge or the resources to identify the causes of crime. With the causation of crime unknown, the only objectives of a classification system that are obtainable presently are (1) assessment of risk and (2) efficient management of offenders. (NAC, **Corrections**, 197, 211 (1973).)

...[T]o subject the offender to more surveillance or security than he requires, and to coerce him into subjecting himself to "treatment" that he does not want, and perhaps does not need, may produce results counter to those intended by the classification system. (NAC **Corrections**, 211 (1973).)

Standard 6.2, Classification for Inmate Management, applies specifically to classification systems for major correctional institutions. The standard recommends that the classification unit within the institution be based upon the principles established in Standard 6.1.

The National Advisory Commission states that:

The medical model of treatment, which many correctional agencies have attempted to follow in structuring classification, is rejected as inappropriate and incapable of fulfillment due to corrections' lack of knowledge and resources. On the other hand, corrections has the capability to screen offenders for risk and to place them appropriately in programs involving different degrees of risk and to use classification as a method for managing offender populations. The traditional "treatment" programs—education, vocational training, employment—are not seen as necessarily rehabilitative in themselves. But these learning experiences may be useful assets in enabling offenders who are given opportunities to change their own behavior and who benefit from them to persist in a lifestyle that will avoid future involvement with the criminal justice system. (NAC, **Corrections**, 214 (1973).)

Standard 6.2 directs that the purpose of initial classification should be to screen inmates for safe and appropriate placements and to orient new inmates as to the programs available to them (education, vocational training, counseling, em-

ployment). Initial classification should also inform inmates of the performance expected to gain release. The standard recommends that the purpose of reclassification should be to increase the involvement of offenders in community programs.

To insure that adequate time is allotted for comprehensive classification, the standard sets forth a time period for initial classification and quarantine. To provide a continuous followup and reassessment of inmates, the standard stipulates that reclassification should occur at regular intervals.

COMPARATIVE ANALYSIS REFERENCE
NAC Corrections 6.1, 6.2.



Photo Credit: Fifth Judicial District Department of Court Services

Chapter Seven

Local Adult Correctional Facilities

Goal: To undertake total system planning for community corrections and implement programs to improve the services and operation of jails and other local adult correctional facilities.

STANDARD 7.1

Total System Planning

State and local corrections systems and planning agencies should immediately undertake, on a cooperative basis, planning for community corrections based on a total system concept that encompasses the full range of offenders' needs and the overall goal of crime reduction. Total system planning for a particular area should include the following concepts.

1. While the actual methodology may vary, total system planning should include these phases:
 - a. A problem definition phase, including initial demarcation of the specific service area, as determined by the scope of the problem to be addressed. Its identification results in a preliminary statement of the correctional problem.
 - b. Data survey and analysis designed to obtain comprehensive information on population trends and demography, judicial practices, offender profiles, service area resources, geographic and physical characteristics, and political and governmental composition. Such information is needed to assess service area needs and capability and to determine priorities.
 - c. A program linkage phase involving examination of various ways to meet the problems identified. The linkages should emphasize service area resources that can be used to provide community based correctional programs as alternatives to incarceration. Identification and development of diversion programs by program linkage will have significant implications for a service area's detention capacity and program requirements.
 - d. A definition and description of the correctional delivery system for the service area developed on the basis of results of the previous phases. Facility and nonfacility program requirements should be included.
 - e. Program and facility design, which proceed from delivery system definition. The resulting overall community correctional system design will vary with specific service area characteristics but it should follow that:
 - (1) A network service delivery system should be developed for urban service areas with large offender populations. This system should have dispersed components (programs and facilities) that are integrated operationally and administratively.

The networks should include all components necessary to meet the needs of clientele and the community. Court intake, social investigation, and pretrial release and detention programs should be located near the courts. Other residential and non-residential components should be located in the clients' communities or neighborhoods and should use existing community resources.

- (2) A service delivery system should be developed for service areas that are sparsely populated and include a number of cities, towns, or villages. Such a system may be city-county or multicounty in composition and scope. Components should include intake and social investigations services, pretrial release services, pretrial and posttrial residential facilities, special programs, and resource coordination. Extended components, such as pre-release, work/education release, alcoholic and narcotic addict treatment, and related program coordination units, should be located in smaller population centers with provision for operational and administrative coordination with the centralized components. The centralized system component should be located in close proximity to court services and be accessible to private and public transportation.
2. All correctional planning should include consideration of the physical, social, and aesthetic impact imposed by any facility. Such consideration should be based on the National Environmental Policy Act of 1969.
3. All planning efforts should be made in the context of the master plan of the statewide correctional planning body.
4. Individual program needs, such as detention centers, should not be considered apart from the overall correctional service plan or the relevant aspects of social service systems (health, education, public assistance, etc.) that have potential for sharing facilities, resources, and experiences.
5. All community correctional planning should give priority to the utilization of community resources.

STANDARD 7.2

State Operation and Control of Local Facilities

All local detention and correctional functions, both pre- and postconviction, should be incorporated within the appropriate State system by 1982.

1. Community-based resources should be developed initially through subsidy contract programs, subject to State standards, which reimburse the local unit of government for accepting State commitments.
2. Coordinated planning for community-based correctional services should be implemented immediately on a State and regional basis. This planning should take place under jurisdiction of the State correctional system.
3. Special training and other programs operated by the State should be available immediately to offenders in the community by utilizing mobile service delivery or specialized regional centers.
4. Program personnel should be recruited from the immediate community or service area to the maximum extent possible. Employees' ties with the local community and identification with the offender population should be considered essential to community involvement in the correctional program. At the same time, professional services should not be sacrificed, and State training programs should be provided to upgrade employee skills.

- d. Offenders' employment.
 - e. Offenders' education and work programs.
 - f. Offenders' housing.
 - g. Offenders' recreation programs.
 - h. Food service.
 - i. Observation of rights of offenders.
 - j. Visiting procedures and facilities.
3. The State agency should have authority to require those in charge of the facility to take necessary measures to bring the facility up to standards. The State should provide for financial means for any additional programs needed to comply with subsection 2.
 4. In the event that the facility's staff fails to implement the necessary changes within a reasonable time, the State agency should have authority to either condemn the facility or take other appropriate measures to insure and enforce compliance with State guidelines or standards.
 5. Once a facility is condemned, it should be unlawful to commit or confine any persons to it. Prisoners should be relocated to facilities that meet established standards until a new or renovated facility is available. Provisions should be made for distribution of offenders and payment of expenses for relocated prisoners by the detaining jurisdiction.

STANDARD 7.3

State Inspection of Local Facilities

Pending implementation of Standard 7.2, the Legislature should immediately authorize the formulation of State standards for correctional facilities and operational procedures and State inspection to insure compliance, including such features as:

1. Access of inspectors to a facility and the persons therein.
2. Inspection of:
 - a. Administrative area, including record-keeping procedures.
 - b. Health and medical services.
 - c. Offenders' leisure activities.

STANDARD 7.4

Adult Intake Services

Community-based corrections programs in each judicial district should immediately take action, including the pursuit of enabling legislation where necessary, to establish centrally coordinated and directed adult intake services to:

1. Perform investigative services for pretrial intake screening. Such services should be conducted within 24 hours and provide data for decisions regarding appropriateness of summons release, release on recognizance, community bail, conditional pretrial release, or other forms of pretrial release. Persons should not be placed in detention solely for the purpose of facilitating such services.
2. Emphasize diversion of alleged offenders from the criminal justice system and referral to alternative community-based

programs (halfway houses, drug treatment programs, and other residential and nonresidential adult programs). The principal task is identifying the need and matching community services to it.

3. Offer initial and ongoing assessment and evaluation to other agencies as requested.
4. Provide assessment and evaluation that assist program planning for sentenced offenders.
5. Arrange secure residential detention for pretrial detainees at an existing community or regional correctional center or jail, or at a separate facility for pretrial detainees where feasible. Most alleged offenders awaiting trial should be diverted to release programs, and the remaining population should be only those who represent a serious threat to the safety of others, threat of absconding, or fail to comply with conditions of release.

The following principles should be followed in establishing, planning, and operating intake services for adults:

1. Intake services should be administratively part of the corrections programs located within each judicial district.
2. Intake services should operate in conjunction with a community correctional facility.
3. Initiation of intake services should in no way imply that the client or recipient of its services is guilty. Protection of the rights of the accused must be maintained at every phase of the process.
4. Confidentiality should be maintained at all times.
5. Social inventory and offender characteristics should be a significant component of intake services.
6. Specialized services should be purchased in the community on a contractual basis.
7. Service intake staff should use appropriate resources in providing intake services:
 - a. Psychiatrists.
 - b. Clinical Psychologists.
 - c. Social Workers.
 - d. Interviewers.
 - e. Education Specialists.
 - f. Vocational Rehabilitation Counselors.
 - g. Drug and Alcoholic Counselors.
 - h. Ministers.
 - i. And such other persons as may be appropriate.

STANDARD 7.5

Pretrial Detention Admission Process

County, city or regional jails or community correctional centers should immediately reorganize their admission processing for residential care as follows:

1. In addition to providing appropriate safeguards for the community, admission processing for pretrial detention should establish conditions and qualities conducive to overall correctional goals.
2. Detention center admission staffing should be sufficient to avoid use of holding rooms for periods longer than 24 hours. Emphasis should be given to prompt processing that allows the individual to be aware of his/her circumstances and avoid undue anxiety.
3. The admission process should be conducted within the security perimeter, with adequate physical separation from other portions of the facility and from the discharge process.
4. Intake processing should include a hot water shower with soap, the option of clothing issue, and proper checking and storage of personal effects.
5. All personal property and clothing taken from the individual upon admission should be recorded and stored, and a receipt issued to him/her. The detaining facility is responsible for the effects until they are returned to their owner.
6. Proper record keeping in the admission process is necessary in the interest of the individual as well as the criminal justice system. Such records should include: name and vital statistics; a brief personal, social, and occupational history; usual identity data; results of the initial medical examination; and results of the initial interview. Emphasis should be directed to individualizing the record-taking operation, since it is an imposition on the innocent and represents a component of the correctional process for the guilty.
7. Each person should be interviewed by a counselor, or other program staff member as soon as possible after reception. Interviews should be conducted in private, and the interviewing area furnished with reasonable comfort.

STANDARD 7.6 Staffing Patterns

Every jurisdiction operating locally based correctional facilities and programs should immediately establish these criteria for staff:

1. Personnel should be placed on a merit or civil service status.
2. Correctional personnel should receive salaries equal to those of persons in comparable classifications with comparable qualifications.
3. Designated jails and other locally based correctional facilities should be staffed by correctional personnel and other designated short-term holding facilities may be staffed by law enforcement personnel. Any jail which is a temporary holding facility with more than 20 persons daily average population should have correctional personnel available.
4. Qualifications for correctional staff members should be set at the State level.
5. A program of preservice and inservice training and staff development should be given all personnel. Guidelines and standards for such programs should be the responsibility of the State government. New correctional workers should receive preservice training in the fundamentals of facility operation, correctional programming, and their role in the correctional process. Responsibilities and salaries should increase with training and experience.
6. Correctional personnel should be responsible for maintenance and security operations as well as for the bulk of the facility's in-house correctional programming for residents.
7. In all instances where correctional personnel engage in counseling and other forms of correctional programming, professionals should serve in a supervisory and advisory capacity. The same professionals should oversee the activities of volunteer workers within the institution. In addition, they themselves should engage in counseling and other activities as needs indicate.
8. Wherever feasible, professional services should be purchased on a contract basis from practitioners in the community or from other governmental agencies. Relevant State agencies should be provided space in the institution to offer services. Similarly, other criminal justice employees should be encouraged to utilize the facility, particularly parole and probation officers.

9. Correctional personnel should be involved in screening and evaluation of inmates.

STANDARD 7.7 Internal Policies

Every jurisdiction operating locally based correctional facilities and programs for adults should immediately adopt these internal policies:

1. A system of screening and evaluation should be used to provide the basis for residential assignment and program planning for individuals. Where feasible, segregation of diverse categories of incarcerated persons, as well as identification of special supervision and treatment requirements, should be observed.
 - a. The mentally ill should not be housed in a detention facility.
 - b. Since local correctional facilities are not equipped to treat addicts, they should be diverted to narcotic treatment centers. When drug users are admitted to the facility because of criminal charges not related to their drug use, immediate medical attention and treatment should be administered by a physician.
 - c. Since local correctional facilities are not proper locations for treatment of alcoholics, all such offenders should be diverted to detoxification centers and given a medical examination. Alcoholics with delirium tremens should be transferred immediately to a hospital for proper treatment.
 - d. Prisoners who suffer from various disabilities should have separate housing and close supervision to prevent mistreatment by other inmates. Any potential suicide risk should be under careful supervision. Epileptics, diabetics, and persons with other special problems should be treated as recommended by a physician.
 - e. Beyond segregating these groups, serious and multiple offenders should be kept separate from those whose charge or conviction is for a first or minor offense. In particular, persons charged with noncriminal offenses (for example, traffic cases) should not be detained before trial. The State government should insist on the

- separation of pretrial and posttrial inmates, except where it can be demonstrated conclusively that separation is not possible and every alternative is being used to reduce pretrial detention.
2. Detention rules and regulations should be provided each new admission and posted in each separate area of the facility. These regulations should cover items discussed in Chapter 1, Rights of Offenders and Legal Framework.
 3. Every inmate has the right to visits from family and friends. Visiting hours should be expanded to the maximum extent possible. The environment in which visits take place should be designed and operated under conditions as normal as possible. Maximum security arrangements should be reserved for the few cases in which they are necessary.
 4. The institution's medical program should obtain assistance from external medical and health resources (State agencies, medical societies, professional groups, hospitals, and clinics). Specifically:
 - a. A preliminary observation should be conducted by the receiving officer to detect any injury or illness requiring immediate medical attention and possible segregation from other inmates until a physician can see him/her.
 - b. Every facility should have a formal sick call procedure that gives inmates the opportunity to present their request directly to a member of the staff and obtain medical attention from a physician
 - c. On an emergency basis, every facility should be able to provide the services of a qualified dentist, eyeglass fitting, and other special services as needed.
 - d. Personal medical records should be kept for each inmate, containing condition on admission, previous medical history, illness or injury during confinement and treatment provided, and condition at time of release.
 - e. All personnel should be trained to administer first aid.
 5. Three meals daily should be provided at regular and reasonable hours. Meals should be of sufficient quantity, well prepared, served in an attractive manner, and nutritionally balanced. Service should be prompt, so that hot food remains hot and cold food remains cold. Each facility should also have a commissary service.

6. The inmates' lives and health are the responsibility of the facility. Hence the facility should implement sanitation and safety procedures that help protect the inmate from disease, injury, and personal danger.
7. Each detention facility should have written provisions that deal with its management and administration. Proper legal authority, legal custody and charge of the facility, commitment and confinement rules, transfer and transportation of inmates, and emergency procedures are among the topics that should be covered.

STANDARD 7.8

Local Correctional Facility Programming

Every jurisdiction operating locally based correctional facilities and programs for adults should immediately adopt the following programming practices:

1. A decision making body should be established to direct the inmate's progress through the local correctional system. It should discuss with an individual inmate all major decisions pertaining to him/her.
2. Educational programs should be available to all residents in cooperation with the community education system. Particular emphasis should be given to self-pacing learning programs, packaged instructional materials, and utilization of volunteers and paraprofessionals as instructors.
3. Vocational programs should be provided by the appropriate agency. It is desirable that overall direction be provided on the State level to allow variety and to permit inmates to transfer among facilities in order to take advantage of training opportunities.
4. A job placement program should be operated at all community correctional centers as part of the vocational training program. Such programs should be operated by State employment agencies and local groups representing employers and local unions.

5. Each local facility should provide counseling services. Individuals showing acute problems will require professional services. Other individuals may require, on a day-to-day basis, situational counseling that can be provided by correctional workers supervised by professionals.
6. Volunteers should be recruited and trained to serve as needed.
7. A range of activities to provide physical exercise should be available both in the facility and through the use of local recreational resources. Other leisure activities should be supported by access to library materials, television, writing materials, playing cards and games.
8. In general, internal programs should be aimed only at that part of the facility's population unable to take advantage of ongoing programs in the community.
9. Meetings with the administrator or appropriate staff of the facility should be available to all individuals and groups.

STANDARD 7.9

Jail Release Programs

Every jurisdiction operating locally based correctional facilities and programs for convicted adults immediately should develop release programs drawing community leadership, social agencies, and business interests into action with the criminal justice system.

1. Since release programs rely heavily on the participant's self-discipline and personal responsibility, the offender should be involved as a member of the program planning team.
2. Release programs have special potential for utilizing specialized community services to meet offenders' special needs. This capability avoids the necessity of service duplication within corrections.
3. Weekend visits and home furloughs should be planned so that eligible individuals can maintain ties with family and friends.
4. Work release should be made available to persons in all offense categories who do not present a serious threat to others.
5. The offender in a work-release program should be paid at prevailing wages. The individual and the work-release agency

may agree to allocation of earnings to cover subsistence, transportation cost, compensation to victims, family support payments, and spending money. The work-release agency should maintain strict accounting procedures open to inspection by the client and others.

6. Program location should give high priority to the proximity of job opportunities. Various modes of transportation may need to be utilized.
7. Work release may be operated initially from an existing jail facility, but this is not a long-term solution. Rented and converted buildings (such as YMCA's, YWCA's, motels, hotels) should be considered to separate the transitional program from the image of incarceration that accompanies the traditional jail.
8. Educational programs or study release should be available to all inmates. Arrangements with the local school district and nearby colleges should allow participation at any level required (literacy training, adult basic education, high school or general educational development equivalency, and college level).
9. Arrangements should be made to encourage offender participation in local civic and social groups. Particular emphasis should be given to involving the offender in public education and the community in corrections efforts.

STANDARD 7.10

Local Facility Evaluation and Planning

Jurisdictions evaluating the physical plants of existing local facilities for adults or planning new facilities should be guided by the following considerations:

1. A comprehensive survey and analysis should be made of criminal justice needs and projections in a particular service area.
 - a. Evaluation of population levels and projections should assume maximum use of pretrial release programs and postadjudication alternatives to incarceration.
 - b. Diversion of sociomedical problem cases (alcoholics, narcotic addicts, mentally ill and vagrants) should be provided for.

2. Facility planning, location, and construction should:
 - a. Develop, maintain, and strengthen offenders' ties with the community. Therefore, convenient access to work, school, family, recreation, professional services, and community activities should be maximized.
 - b. Increase the likelihood of community acceptance, the availability of contracted programs and purchased professional services, and attractiveness to volunteers, paraprofessionals, and professional staff.
 - c. Afford easy access to the courts and legal services to facilitate intake screening, presentence investigations, postsentence programming, and pretrial detention.
3. A spatial "activity design" should be developed.
 - a. Planning of sleeping, dining, counseling, visiting, movement, programs, and other functions should be directed at optimizing the conditions of each.
 - b. Unnecessary distance between staff and resident territories should be eliminated.
 - c. Transitional spaces should be provided that can be used by "outside" and inmate participants and give a feeling of openness.
4. Security elements and detention provisions should not dominate facility design.
 - a. Appropriate levels of security should be achieved through a range of unobtrusive measures that avoid the ubiquitous "cage" and "closed" environment.
 - b. Environmental conditions comparable to normal living should be provided to support development of normal behavior patterns.
 - c. All inmates should be accommodated in individual rooms arranged in residential clusters of 8 to 24 rooms to achieve separation of accused and sentenced persons, male and female offenders, and varying security levels and to reduce the depersonalization of institutional living.
 - d. A range of facility types and the quality and kinds of spaces comprising them should be developed to provide for sequential movement of inmates through different programs and physical spaces consistent with their progress.
5. Applicable health, sanitation, space, safety, construction, environmental, and custody codes and regulations must be taken into account.
6. Consideration must be given to resources available and the most efficient use of funds.
 - a. Expenditures on security hardware should be minimized.
 - b. Existing community resources should be used for provision of correctional services to the maximum feasible extent.
 - c. Shared use of facilities with other social agencies not conventionally associated with corrections should be investigated.
 - d. Facility design should emphasize flexibility and amenability to change in anticipation of fluctuating conditions and needs and to achieve highest return on capital investment.
7. Prisoners should be handled in a manner consistent with humane standards.
8. Existing community facilities should be explored as potential replacement for, or adjuncts to, a proposed facility.
9. Planning for community based facilities should include no single component housing more than 50 persons.

COMMENTARY

Jails have been one of the most neglected areas in the criminal justice system. They are plagued with problems of inadequate physical conditions, lack of personnel and underutilization of alternative programs and community resources.

Local control, multiple functions, and a transient, heterogeneous population have shaped the major organizational characteristics of jails. Typically, they are under the jurisdiction of the county government. In most instances, the local area has neither the necessary tax base from which to finance a jail adequately nor sufficient size to justify even the most rudimentary correctional programs. Local control inevitably has meant involvement with local politics. Jails are left in a paradoxical situation: localities cling tenaciously to them but are unwilling or unable to meet even minimal standards. The problem of American jails is the problem of local control. (NAC, *Corrections*, 274 (1973).)

Jails are the intake point of our entire criminal justice system. There are more jails than any other type of "correctional" institution. For the first time since the colonial era, attention is being given to the place where

social problems originate—the community—as the logical location for solving these problems. (Id.)

With the emphasis on community corrections, a coordinated approach to problem solving must be taken.

Total system planning is a process that defines, analyzes, and develops responses to problems of a specific area. The composition of jail populations varies widely, depending on law enforcement practices and community values. Total system planning, through a coordinated service delivery system, offers an approach to meeting existing and projected needs and a way to structure the diverse activities now operating in jails. (NAC, **Corrections**, 280 (1973).)

The standards in this chapter set forth recommendations for local jails. Specifically, the standards address total system planning; operation and control; State inspection; intake and admission processing; staffing; internal policies; and planning, programming and evaluation of jails.

Standard 7.1 explains the concept of total system planning and defines the procedures necessary to carry out total system planning. The National Advisory Commission on Criminal Justice Standards and Goals (NAC) states that:

Clearly, a logical, systematic planning approach is needed, one that recognizes changing concepts and changing priorities and provides a means for developing more effective programs and facilities. Total system planning should be undertaken to encompass the entire scope of an area's needs and resources.

The objective of community corrections is to maximize offenders' access to local resources, not as an alternative to incarceration but as a solution itself. This goal requires more integration of criminal justice components (statewide and within each service area) and coordination with other social service delivery systems. (NAC, **Corrections**, 290 (1973).)

The total systems planning approach was developed by the National Clearinghouse for Criminal Justice Planning and Architecture. Total system planning requires that offenders' needs, existing resources, and community needs be examined to generate the widest possible factual foundation from which planning decisions will be made.

Although conference participants endorse the total system planning concept, they are opposed to regional jails. One of the reasons participants object to regional jails is the problem of transporting prisoners long distances to court. Moreover, participants from rural areas disfavor regional jails because they believe it is the first step toward doing away with the local system of government. Participants object to local jails being assimilated into large metropolitan areas where problems are

different than in rural areas. Participants state that rural areas have distinct problems that can best be resolved in that particular area. However, participants agree that a coordinated statewide system is needed for delivery of correctional services. Conferees believe that the system should not have regionalized jails but may utilize county jails as a resource.

Standard 7.2 recommends State control of all local detention and correctional functions. The National Advisory Commission on Criminal Justice Standards and Goals observes that few local communities, particularly those in sparsely settled areas, can be expected to have sufficient resources to provide a full continuum of services throughout the criminal justice process. Coordination among all components of the local criminal justice system and various levels of government and the development of needed resources can occur only with state control of correctional services. (NAC, **Corrections**, 292, 293 (1973).)

Standard 7.2 calls for increased State participation in funding, inspection, standard-setting, staff training and sponsorship of special programs until State control is achieved. Conference participants conclude that a State operated system does not and should not preclude the State correctional agency from being responsive to local needs.

Conference participants believe that advantages of State control are the recruitment of qualified individuals for correctional positions and the removal of the influence of local politics in their selection. The single most important advantage to State control of local facilities that participants recognize is coordination and provision of services to inmates. Participants remark that most local jails provide no programming and that time spent in these facilities is "dead time." Conference participants comment that another advantage to State responsibility will be a more equitable distribution of funds and, therefore, better provision of services throughout the State.

Standard 7.3 calls for State inspection of local facilities to ensure and enforce compliance with State guidelines or standards. The standard recommends legislation to enforce compliance with professional standards for program operations and environmental conditions. Although Iowa by statute requires State inspection of jails, the inspection is generally limited to the physical facility. (See IOWA CODE sections 356.37 to 356.44 (1975).) Conference participants believe that inspection should include programmatic areas as well as the facility itself.

Standard 7.4, Adult Intake Services, and Standard 7.5, Detention Admission Process, set forth guidelines for intake screening services and for proper and humane admission processing in local correctional facilities. A problem identified by conference participants is that some judicial districts do not have adequate community-based

corrections programs and therefore lack pretrial interviewing services. Moreover, conferees remark that admission processing in jails is oriented basically to expediency and movement with little differentiation between individuals and their particular problems or needs.

The National Advisory Commission observes that:

Protection of the individual, of society, and of individuals from one another while detained calls for recognition of these needs and their incorporation into improved admission and detention practices. Postarrest intake processing should be a series of judgments, actions, and decisions, which begins with consideration of diversion at the street level and proceeds to consideration of diversion at initial intake. For persons subsequently processed, these steps should include humane approaches to prisoner handling, keeping necessary records, efficient and sanitary processing, medical examination, and individual interviewing designed to humanize the entire process. (NAC, **Corrections**, 299 (1973).)

Intake services should offer nonresidential services to community-based programs for improved decisionmaking and system performance. They emphasize early investigation and reports as the basis for pretrial decisions and posttrial dispositions.... Information obtained through the initial intake interview and evaluation by the staff provide a rational basis to present to the court for decisionmaking about an individual's eligibility for bail, release on recognizance, daytime release, release to a third party, or other alternatives and referrals. (NAC, **Corrections**, 297 (1973).)

Both standards call for pretrial interviewing and admission processing to be conducted within 24 hours. Participants insist that any person who goes to jail should be interviewed by a pretrial interviewer within 24 hours. A minority of participants thought this an unreasonable time period in rural areas. However, participants conclude that various procedures can be worked out to allow interviewing and investigation to be conducted within the 24 hour period.

Standard 7.6, Staffing Patterns, outlines the criteria for staff of local correctional facilities and programs. Of all factors affecting the operation of jails, the most important is the staff.

The neglect of local jails is as apparent in staff as in dismal physical facilities. Jail employees almost invariably are untrained, too few in number, and underpaid. (Mattick and Sweet, **Illinois Jails**, p. 368; Also see NAC, **Corrections**, 276 (1973).)

"Those persons in the most frequent contact with inmates have a significant impact on the nature and effects of incarceration." (NAC,

Corrections, 301 (1973).) Most employees assigned to the jail are law enforcement personnel. "The law enforcement psychology of a policeman is to arrest offenders and to see to it that they get **into** jail; the rehabilitative psychology of a correctional worker should be to prepare an inmate to get **out** of jail and take his place in the free community as a law-abiding citizen." (Mattick and Sweet, **Illinois Jails**, p. 255-256; See also NAC, **Corrections**, 276 (1973).)

The standard recommends that some jails designated as short-term holding facilities may have law enforcement staff, while other designated jails and local correctional facilities should be staffed by correctional personnel. Conference participants conclude that the movement should be toward multi-county correctional facilities, such as halfway houses, and away from utilizing county jails except as short term holding facilities.

The standard recommends that employment qualifications and guidelines for training programs should be established by the State. Conference participants believe that positions and salaries should be compared and standardized for local correctional personnel across the State. Because job qualifications for similar positions differ significantly among locally operated and State administered community-based corrections projects, participants comment that a position classification should be developed and certain job qualifications should be established for correctional positions.

Standard 7.7 sets forth internal policies that should guide the operation of local correctional facilities. The National Advisory Commission states that:

Both pretrial detainees and convicted offenders are entitled to the same rights and privileges as ordinary citizens, except those necessarily limited by virtue of their confinement and safety of others. Concomitantly, the exercise of those rights limited by virtue of confinement becomes the responsibility of the center to provide: i.e., access to medical and dental care, counseling and welfare services, food, clothing, shelter, recreation, education, safety, and pursuit of family and social relationships. (NAC, **Corrections**, 303 (1973).)

Conference participants recognize that correctional staff can determine residential assignment only within the flexibility permitted by law. However, conference participants state that staff of local correctional facilities should be sensitive to offender needs and should make recommendations to the court if changes should be made.

Standards 7.8 and 7.9 describe programming that should be available in local correctional facilities. A major concern of conference participants is lack of programming in local jails.

Participants are especially concerned about inadequate services for convicted inmates spending three months to one year in local jails. Although the number of inmates incarcerated in jails for long periods of time is small, participants believe that some type of minimal services can be provided.

The National Advisory Commission on Criminal Justice Standards and Goals observes that:

Local correctional facility programs link the sentenced and pretrial offender to activities oriented to his individual needs—personal problem-solving, socialization, and skills development.... Educational programming which relates to the needs of the client and contributes to his ability to cope with community living is needed in local correctional facilities. Self-pacing learning programs, packaged instructional materials, utilization of volunteers and paraprofessionals, are particularly desirable elements of such programming.... The building or rebuilding of solid ties between the offender and his community is served by vocational and academic education programs to ameliorate deficiencies in educational, occupational, and social skills. Vocational deficiencies and training needs should be determined on the basis of thorough aptitude and skill testing....

Well-planned recreational activities aid in the general adjustment process and are acknowledged essentials to mental and physical health. Such activities assist in normalizing the physical and social correctional milieu. Maximum use of both staff and equipment of community resources should be sought....

Work release, educational release, and other forms of program release are based on recognition that institutions cannot replicate community living. The institutional setting offers only an overstructured environment for the custodial control of those representing a threat to others. Full adjustment to community living is served best by transitional programs that gradually decrease the level of supervision. (NAC, **Corrections**, 305, 307 (1973).)

It is only through comprehensive evaluation that a determination can be made about renovating existing jails or construction of new facilities. Conference participants believe this is particularly important in Iowa where community-based correctional programming is being evaluated to determine its effectiveness and whether the dual purposes of rehabilitation and protection of the public safety can be accomplished in the community setting.

Where new facility construction is contemplated, it must be preceded by collection of information and systematic review of needs and resources of a given area. Such an approach requires justification for any action. Standard 7.10 reflects this principle.

The National Advisory Commission states that: Contemporary facility planning must recognize the requirement of security for the community as well as the need for the most efficient expenditure of limited public funds. At the same time, it must recognize that community safety is jeopardized whenever first offenders, misdemeanants, perpetrators of victimless crimes, and the accused are treated uniformly as dangerous individuals. (NAC, **Corrections**, 309 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC **Corrections** 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10.



Photo Credit: Fifth Judicial District Department of Court Services

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Chapter Eight

Corrections and the Community

Goal: To systematically plan and generate public support for a range of community-based corrections programs and services as alternatives to institutional confinement.

STANDARD 8.1

Development Plan For Community-Based Alternatives to Confinement

The State agency having the responsibility for the correctional system should begin immediately to analyze its needs, resources, and gaps in service and to develop by 1978 a systematic plan with timetable and scheme for implementing a range of alternatives to institutionalization. The plan should specify the services to be provided directly by the correctional authority and those to be offered through other community resources. Community advisory assistance (discussed in Standard 8.3) is essential. The plan should be developed within the framework of total system planning discussed in Chapter 7, Local Adult Facilities, and planning discussed in Chapter 11, Organization and Administration.

Minimum alternatives to be included in the plan should be the following:

1. Diversion mechanisms and programs prior to trial and sentence.
2. Nonresidential supervision programs in addition to probation and parole.
3. Residential alternatives to incarceration.
4. Community resources open to confined populations and institutional resources available to the entire community. Implementation should be adapted to the security classification of the institution and the offender.
5. Prerelease programs.
6. Community facilities for released offenders in the critical reentry phase, with provision for short-term return as needed.

STANDARD 8.2

Marshaling and Coordinating Community Resources

Each State correctional system or the systems of other units of government should take appropriate action immediately to establish effective working relationships with the major social institutions, organizations, and agencies of the community, including the following:

1. Employment resources - private industry, labor unions, employment services, civil services systems.

2. Educational resources - vocational and technical, secondary college and university, adult basic education, private and commercial training, government and private job development and skills training.
3. Social welfare services - public assistance, housing, rehabilitation services, mental health services, counseling assistance, neighborhood centers, unemployment compensation, private social service agencies of all kinds.
4. The law enforcement system - Federal, State, and local law enforcement personnel, particularly specialized units providing public information, diversion, and services to juveniles.
5. Other relevant community organizations and groups - ethnic and cultural groups, recreational and social organizations, religious and self-help groups, and others devoted to political or social action.

At the management level, correctional agencies should seek to involve representatives of these community resources in policy development and interagency procedures for consultation, coordinated planning, joint action, and shared programs and facilities. Correctional authorities also should enlist the aid of such bodies in formation of a broad-based community concern that will speak for correctional and inmate needs and support community correctional programs.

At the operating level, correctional agencies should initiate procedures to work cooperatively in obtaining services needed by offenders.

STANDARD 8.3

Corrections' Responsibility For Citizen Involvement

Each correctional unit should create immediately: (a) a multipurpose public information and education unit, to inform the general public on correctional issues and to organize support for correctional goals and projects; and (b) an administrative unit responsible for securing citizen involvement in a variety of ways within corrections, including advisory roles, direct service roles, and cooperative endeavors with correctional clients.

1. The unit responsible for securing citizen involvement should develop and make public a written policy on selection process, term of service, tasks, respon-

sibilities, and authority for any advisory function.

2. The administrative unit responsible for citizen involvement should be specifically assigned the management of volunteer personnel serving in direct service capacities with correctional clientele, to include:
 - a. Screening and selection of appropriate persons.
 - b. Orientation to the system and training as required for particular tasks.
 - c. Development of appropriate personnel practices for volunteers, including personnel records, advancement opportunities, and other rewards.
3. Design and coordination of volunteer tasks and supervision of the volunteers involved will remain the responsibility of the staff person supervising the client or program with which the volunteer is involved.
4. The administrative unit responsible for citizen involvement should seek to improve institutional programs by obtaining needed resources from the community that can be used in the institution and by evaluating the participation of inmates in any community program.

STANDARD 8.4

Inmate Involvement in Community Programs

Correctional agencies should begin immediately to develop arrangements and procedures for offenders sentenced to correctional institutions to assume increasing individual responsibility and community contact. A variety of levels of individual choice, supervision, and community contact should be specified in these arrangements, with explicit statements as to how the transitions between levels are to be accomplished. Progress from one level to another should be based on specified behavioral criteria, sentence, time served, subjective judgments regarding attitudes, personal history, and nature of offense.

The arrangements and procedures should be incorporated in the classification system to be used at an institution and reflect the following:

1. When an offender is received at a correctional institution, he/she should meet with the classification unit (com-

mittee, team, or the like) to develop a plan for increasing personal responsibility and community contact.

2. At the initial meeting, behavioral objectives should be established, to be accomplished within a specified period of time and the inmate advised of all factors affecting transition from one level to another. After that time another meeting should be held to make adjustments in the individual's plan and consideration be given to transition to a lower level of custody and increasing personal responsibility and community involvement.
3. Similarly, at regular time intervals, each inmate's status should be reviewed, and if no strong reasons exist to the contrary, further favorable adjustments should be made.
4. Allowing for individual differences in time and progress or lack of progress, and other factors or considerations, the inmate should move through a series of levels broadly encompassing movement from (a) initial security involving few outside privileges and minimal contact with community participants in institutional programs, to (b) lesser degrees of custody with participation in institutional and community programs involving both citizens and offenders, to (c) residence in a halfway house or similar noninstitutional residence, to (d) residence in the community with moderate supervision, and finally to release from correctional supervision.
5. The presumption should be in favor of decreasing levels of supervision and increasing levels of individual responsibility.
6. When an inmate fails to meet behavioral objectives, the team may decide to keep him/her in the same status for another period or move him/her back. On the other hand, his/her behavioral achievements may indicate that he/she can be moved forward rapidly without having to go through all the successive stages.
7. Throughout the process, the primary emphasis should be on individualization — on behavioral changes based on the individual's interests, abilities, and priorities. Offenders also should be afforded opportunities to give of their talents, time, and efforts to others, including other inmates and community residents.
8. A guiding principle should be the use of positive reinforcement in bringing about behavioral improvements.

COMMENTARY

It is now widely accepted that community corrections offers the most promising means of accomplishing offender rehabilitation. The movement toward community-based corrections comes from the realization that benefits attained from imprisonment are minimal at best. At its worst, the prison offers temporary and false security as most of those who were banished return to the community. The offender seldom comes back the better for the experience of confinement. Not only is the prison an effective school for crime, it damages in more subtle ways. Attitudes are brutalized, and self-confidence is lost. The prison is a place of coercion where compliance is obtained by force. The typical response to coercion is alienation, which may take the form of active hostility to all social controls or later a passive withdrawal into alcoholism, drug addiction, or dependency. (Hans W. Mattick, *The Prosaic of Prison Violence*, University of Chicago Law School Occasional Paper (1972). Also see NAC, *Corrections*, 223 (1973).)

There has been a growing realization that prison commitments for most offenders can be avoided or at least abbreviated without significant loss of public protection. (NAC, *Corrections*, 223 (1973).)

The basic principle of community-based corrections is that efforts consistent with public safety should be made to keep the offender in the community and reduce involvement with the institutional aspects of corrections.

One advantage of community corrections is that it is a more humane way of dealing with the criminal offender. "The humanitarian aspect of community-based corrections is obvious. To subject anyone to custodial coercion is to place him in physical jeopardy, to narrow drastically his access to sources of personal satisfaction, and to reduce his self-esteem." (NAC, *Corrections*, 222 (1973).)

Another advantage of community corrections is that it is considerably less costly than custodial control. When offenders can be shifted from custodial control to community-based programming without loss of public protection, it results in a savings of public funds. Not only is the cost of correctional supervision in the community considerably less than the cost of confinement but also the offender is self-supporting and generates revenue through his/her employment. In addition, offenders are able to assume financial responsibility for their families removing the need for public welfare. Moreover, offenders will be able to compensate victims of crime through restitution programs.

Probably the most important advantage of community corrections is that it keeps the offender in the community where resources are available to meet his/her needs. Vocational and

educational training, specialized counseling, and other community services can be provided.

The purpose of Standard 8.1, Development Plan for Community-Based Alternatives to Confinement, is to coordinate planning for community-based corrections. In order to provide for orderly development and coordination of future and existing programs, there is a need at the State level for systematic planning which incorporates specific local needs. Existing community resources need to be fully utilized. Conference participants reflect that community-based programs have developed as a result of specialized interest groups or availability of funds rather than organized and systematic planning. The standard recommends that the State agency having responsibility for the correctional system should develop the systematic plan. Conference participants recommend that the following alternatives should be included in the plan: (1) diversion programs; (2) nonresidential programs; (3) residential alternative programs; (4) prerelease programs; (5) community resources open to institutionalized offenders; and (6) community facilities for released offenders in the critical reentry phase.

Standard 8.2, Marshaling and Coordinating Community Resources, recommends that the correctional system establish effective working relationships with employment, educational, social welfare, law enforcement, social and other community institutions, organizations, and agencies in the community. Conference participants recognize that many factors beyond the direct control of correctional staff, such as housing, job restrictions, unavailability of education, discrimination, and exclusion of offenders from community programs, influence an offender's adjustment in the community. Therefore, participants believe that correctional agencies should develop working relationships with agencies and institutions which will aid the offender in successfully reintegrating into the community.

Standard 8.3, Corrections' Responsibility for Citizen Involvement, calls for an expanded public relations endeavor designed to increase public awareness and understanding of correctional issues and problems. The National Advisory Commission indicates that:

Correctional systems have hidden themselves and their problems behind walls, legal procedures, and fear tactics for many years. To the maximum possible extent, citizens have been systematically excluded. In addition, the general public never has been well-informed about corrections and correctional issues. This lack of information has led to apathy and lack of understanding and occasionally to indignation and hostility. (NAC, *Corrections*, 242 (1973).)

Conference participants believe that, if community corrections are to operate effectively,

citizen involvement and community support are needed to break down isolation and change community attitudes toward offenders. Participants state that this may be more important than actual community programs.

Standard 8.4, Inmate Involvement in Community Programs, details the methods that should be used for determining inmate release readiness and suggests various custody levels that will accommodate increasing inmate involvement in community programs. "Within a slight range of variation, offenders either are greatly restricted (incarcerated) or have few restrictions (probation and parole) in their opportunity to exercise individual choice. Such a sharp distinction clearly is not in the interests of the individual or the community." (NAC, **Corrections**, 245 (1973).) Conference participants believe that a reasonable and logical way to assess an inmate's release readiness is to allow him/her progressively more individual choice and responsibility under controlled conditions. The standard proposes that a number of transitional phases be employed regarding custody instead of moving an individual from confinement status to that of free citizen. Conference participants conclude that transition from one custody level to another should be based on specified behavioral criteria, sentence, time served, subjective judgments regarding attitudes, personal history and nature of the offense. A minority of participants believe that only behavioral criteria should be considered in the determination of when an inmate should be moved to a lesser degree of custody. These participants contend that institutional arrangements which allow progression based on behavioral objectives provide incentives for the inmates.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 7.1, 7.2, 7.3, 7.4.

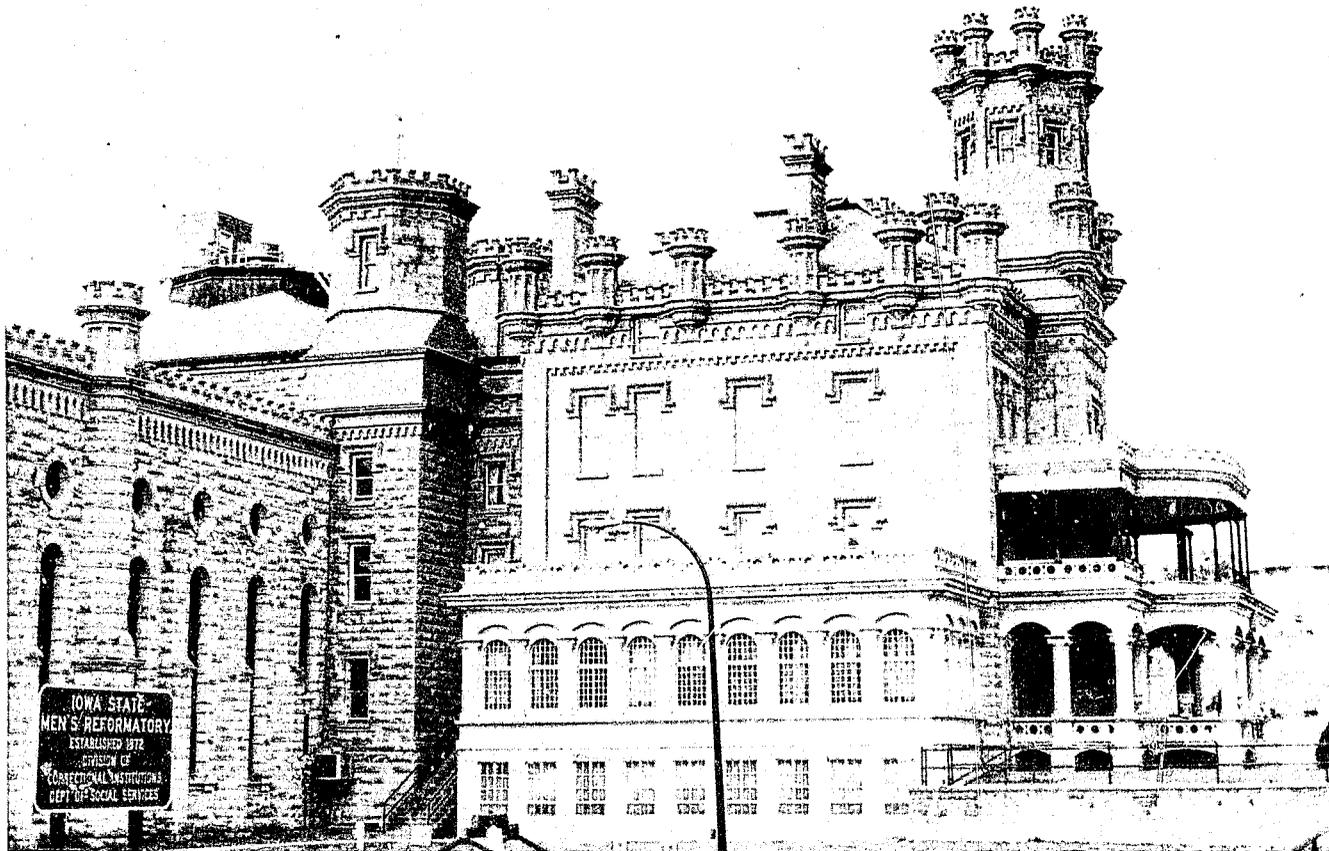


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Chapter Nine

Major Institutions

Goal: To provide a more humane environment for individuals who must be confined in major correctional institutions and to emphasize development of programs that will aid their reintegration into the community.

STANDARD 9.1

Planning New Correctional Institutions

Each correctional agency administering State institutions for all offenders should adopt immediately a policy of not building new major institutions unless an analysis of the total criminal justice system produces a clear finding that no alternative is possible. The analysis should conform generally to "total system planning" discussed in Iowa Corrections Standard 7.1. If this effort proves conclusively that a new institution is essential, these factors should characterize the planning and design process:

1. A collaborative planning effort should identify the purpose of the physical plant.
2. The size of the inmate population of the projected institution should be small enough to allow security with a minimal necessary amount of regimentation, surveillance equipment and hardware.
3. The location of the institution should be selected on the basis of its proximity to:
 - a. The communities from which the inmates come.
 - b. Areas capable of providing or attracting adequate numbers of qualified line and professional staff members of racial and ethnic origin compatible with the inmate population, and capable of supporting staff lifestyles and community service requirements.
 - c. Areas that have community services and activities to support the correctional goal, including social services, schools, hospitals, universities, and employment opportunities.
 - d. The courts and auxiliary correctional agencies.
 - e. Public transportation.
4. The physical environment of a new institution should be designed with consideration to:
 - a. Provision of privacy and personal space.
 - b. Minimization of noise.
 - c. Reduction of sensory deprivation.
 - d. Encouragement of constructive inmate-staff relationships.
 - e. Provision of adequate utility services.
5. Provision also should be made for:
 - a. Dignified facilities for inmate visiting.
 - b. Individual and group counseling.
 - c. Education, vocational training, and workshops designed to accommodate small numbers of inmates and to facilitate supervision.

- d. Recreation yards for each housing unit as well as larger recreational facilities accessible to the entire inmate population.
- e. Adequate medical facilities and accessibility to hospital facilities.

COMMENTARY

The standards in this chapter specifically refer to State-operated correctional institutions for juveniles and adults. Halfway houses, work release centers, community-based correctional facilities and jails are addressed in the standards in Chapters 7 and 8. Currently in Iowa, the State Department of Social Services administers and controls state institutions for juveniles and for adult felons. State juvenile institutional facilities are the Training School for Boys at Eldora, the Training School for Girls at Mitchellville, and the State Juvenile Home at Toledo. State correctional institutions for adult offenders include the Men's Reformatory at Anamosa, the Women's Reformatory at Rockwell City, the State Penitentiary at Fort Madison, and the Iowa Security Medical Facility at Oakdale.

"From the standpoint of rehabilitation and reintegration, the major adult institutions operated by the States represent the least promising component of corrections." (NAC, *Corrections*, 349 (1973).) There are many inherently negative aspects in the institutional environment. It came to the attention of conference participants that because many of Iowa's correctional institutions are very limited by their antiquated buildings and location in Iowa in respect to community resources, the influence of institutionalization is compounded. To diminish the impact of institutionalization, the standards recommend that Iowa should divert more convicted offenders from adult institutions to community-based programs, which are less costly and more humane. However, the need for correctional institutions will continue to exist.

"It cannot be overemphasized that unusually convincing justification of need should be required as a logical precedent to planning a new institution." (NAC, *Corrections*, 353 (1973).) The Iowa standards recommend total system planning before consideration is given to building new correctional institutions. If necessary, existing institutions should be modified to provide a more humane physical setting. Institutional programming should be oriented toward the offender's return to the community. Essentially, the standards propose that correctional institutions should provide a more humane environment for persons who must be incarcerated. In order to motivate offenders to change their behavior and prepare

for their eventual return to the community, institutional activities and programs should be realistically geared toward living, interacting, and working outside the institution. The standards address planning for new institutions, modification of existing institutions, programs for women offenders, special offender types, the social environment, prison labor and industries, educational and vocational training, religious programs, and recreation programs.

Standard 9.1, Planning New Correctional Institutions, recommends total system planning before consideration is given to building new correctional institutions. This recommendation requires that the problems of the entire system be identified and that data be compiled and analyzed in order to determine the role of correctional institutions in the criminal justice system. Consideration must be given to correctional purposes and philosophy, existing practices and facilities, and all possible alternatives. Only through comprehensive evaluation of community-based programs can a final determination be made regarding the role of secure institutions. This is particularly crucial in Iowa where community-based programs are being evaluated to determine whether the dual purposes of rehabilitation and protection of the public safety can be accomplished in settings other than secure physical facilities.

If the planning process reveals a need for construction of a new correctional institution, further study is necessary to design an institution which will accommodate offender needs. The first consideration should not be the development of floor plans. Rather, the philosophy and the practical needs of the program planned for the institution must serve as the basis for architecture.

The standard specifies factors that should characterize the planning and design of new institutions. These factors are purpose, size, location, physical environment, and operation. Conference participants insist that the enumerated factors must structure the design process rather than serve as a checklist.

Participants initially split on the issue of whether a hospital should be within the perimeters of a planned institution. The standard directs that medical care should be available within the institution and that provision should be made for accessibility to hospitals. The majority of participants conclude that, if a hospital is located within the institution, the hospital's specialized staff, equipment, and service requirements cannot adequately be met. For administrative reasons, some participants feel that a hospital should be included within a correctional institution. These participants remark that increased staff are required for transportation and security if prisoners must be transported to a hospital outside the facility. Because of the increased demands on a limited staff, these

participants contend that accessibility to the hospital is likely to be lowered.

Conference participants generally endorse the National Advisory Commission (NAC) principle that a new institution should not be built unless substantiated by a total system study. Several considerations lead the participants to conclude that such a study is necessary in Iowa. The first consideration is that prison overcrowding adds to the degradation of prison life. Conference participants observe that overcrowding is a particularly crucial issue because the State's correctional institutions are currently experiencing rising prison populations. Because of the gravity of the problem, the Legislature is presently contemplating whether a new correctional institution should be built.

Another consideration concerns the many inherently negative features associated with the institutional environment. Correctional institutions are dehumanizing and foster an increased degree of dependency that is contrary to behavior expected in the community. Confinement in correctional institutions represents the harshest, most drastic end of the spectrum of possible correctional response. (NAC, **Corrections**, 351, 353 (1973).)

A further consideration is the cost to maintain large correctional institutions. Conference participants remark that community-based programs are considerably less costly.

Another consideration illustrating the need for a total system study before building a new institution relates to the fact that nearly all of those sent to prison will return to the community. Although confinement has been the traditional method of dealing with criminal offenders, conference participants endorse the National Advisory Commission position that more offenders should be diverted from adult institutions, that much of their present populations should be transferred to community-based programs, and that the need for additional institutions must be clearly established. (NAC, **Corrections**, 349 (1973).) Therefore, a basic issue of whether to build new correctional institutions centers on emphasis given to community-based programs as opposed to institutionalization.

The purpose of the criminal justice system and the role of correctional institutions in the system must be determined through total system planning. If community-based corrections programs are going to be utilized as an effective alternative for keeping offenders out of major institutions, the concept must be supported by all components of the criminal justice system and the public. Conference participants conclude that the emerging philosophy of a community oriented system based on total system planning is a considerable departure from the prevailing institutionally oriented system. Corrections alone cannot implement desired changes. Conferees note that

correctional agencies have little control over the numbers of offenders sentenced to and released from correctional institutions. Therefore, conference participants urge that the judiciary, the parole board, and the community focus attention and energy to diverting and transferring as many persons as possible into community corrections rather than imprisoning them in correctional institutions. Conferees acknowledge that although community corrections programs are being developed in Iowa in every judicial district, community corrections presently cannot be considered a major alternative to institutionalization. Therefore, community corrections should be further developed and expanded throughout the State. Corrections Standard 9.2, Modification Of Existing Institutions, and Standard 2.3, Commitment Legislation, reflect this thinking. Consistent with developing a balanced system, Sentencing Standard 5.2, Sentencing The Nondangerous Offender, and Standard 2.2, Comprehensive Correctional Legislation, affirm the principle that imprisonment should be used as a last resort.

COMPARATIVE ANALYSIS REFERENCE NAC Corrections 11.1

STANDARD 9.2 **Modification of Existing Institutions**

Each correctional agency administering State institutions for juvenile or adult offenders should undertake immediately a 5-year program of reexamining existing institutions to minimize their use, and maximize the development of community-based corrections programs, and for those who must be incarcerated, modifying the institutions to minimize the deleterious effects of excessive regimentation and harmful physical environments imposed by physical plants.

1. A collaborative planning effort should be made to determine the legitimate role of each institution in the correctional system. The planning effort should be conducted in a manner which assures objectivity.
2. If the average population of an institution is too large to facilitate the purposes stated in paragraph 2 of Standard 9.1, it should be reduced.
3. Consideration should be given to the relocation of adult institutions that do not fit the location criteria of paragraph 3 of Standard 9.1.
4. All major institutions for juveniles should be phased down in concert with creation and development of local alternatives.

5. The physical environments of the adult institutions to be retained should be modified to achieve the objectives stated in paragraph 4 of Standard 9.1 as to:
 - a. Provision of privacy and personal space.
 - b. Minimization of noise.
 - c. Reduction of sensory deprivation.
 - d. Reduction in size of inmate activity spaces to facilitate constructive inmate-staff relationships.
 - e. Provision of adequate utility services.
6. Plant modification of retained institutions should also be undertaken to provide larger, more dignified, and more informal visiting facilities; spaces for formal and informal individual and group counseling, education and vocational training, workshops, recreational facilities, and adequate medical facilities and accessibility to hospital facilities; and such additional program spaces as may fit the identified purposes of the institution.
7. A reexamination of the purposes and physical facilities of each existing institution should be undertaken at least every 5 years, in connection with continuing long-range planning for the entire corrections system.

COMMENTARY

Standard 9.2, Modification of Existing Institutions, proposes that the purposes and physical plants of existing correctional institutions should be reexamined, and, if necessary, should be modified. In setting criteria for modification, the standard recommends that the principles established in Standard 9.1, Planning New Correctional Institutions, should likewise be applied to existing institutions.

Most existing major institutions were built with undue emphasis on custodial security and the control of large numbers of inmates. Experience has demonstrated that confinement under these circumstances is more destructive than rehabilitative and that substantial numbers of offenders can be handled more effectively in the community without endangering public safety. (NAC, Corrections, 360 (1973).)

The standard identifies two measures that should be taken to reduce the harmful effects of imprisonment. First, efforts should be made to reduce commitment rates and to increase parole release. Second, existing institutions should be reexamined and modified.

If numbers are to be diverted from correctional institutions, community resources must be developed. Conference participants remark that legislation was enacted in 1973 in Iowa providing for the development and implementation of

community-based corrections. (See IOWA CODE sections 217.24, 25, 26, 27, 28, 29 (1975).) As a result, community-based corrections programs have been developed statewide. However, conference participants indicate that community corrections, at this time, cannot be considered a major alternative to incarcerating individuals in correctional institutions. Therefore, the standard recommends further development of community corrections along with minimizing the use of correctional institutions. Participants stress the importance of total system planning and the development of community corrections programs in conjunction with modification of existing institutions. Conferees comment that without these, the system will be unable to handle increased numbers. Participants state that if alternative resources are not developed in the community, judges will be likely to sentence offenders to institutions to protect the community.

The antiquated, obsolete prison by its design and facilities hinders trained personnel in attempting to diagnose, motivate and program the offender. Therefore, the physical environment of adult institutions must be modified, if necessary, and an appropriate sense of size and grouping must be translated into physical reality.

The standard recommends that a planning effort should be made to determine the role of each institution in the correctional system. Conference participants believe the role and purpose of institutions should be expressed in legislation. Any study or planning effort determining the legitimate role of correctional institutions should be compatible with its legally expressed purpose. Participants note that the purpose of correctional institutions expressed by existing law is inconsistent with many current theories and practices. The CODE requires that all commitments to the Men's Reformatory or Penitentiary must be at hard labor. (See IOWA CODE sec. 246.31 (1975).)

The standard directs that the planning effort should be conducted in a manner which assures objectivity. Participants differ in their opinions as to whether the study and planning effort should be conducted in-house by the correction agency or by an outside independent organization.

Regarding juvenile institutions, conference participants believe institutions should be phased down, not closed, and emphasis should be placed on developing good community resources. Conferees state that juvenile offenders having committed serious violations represent an increasing proportion of those sent to institutions. Therefore, participants believe that even with expansion of community programs, a structured institutional setting may be necessary for some juveniles.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.2.

STANDARD 9.3

Social Environment of Institutions

Each correctional agency operating juvenile or adult institutions, and each institution, should undertake immediately to reexamine and, if necessary, revise its policies, procedures, and practices to bring about an institutional social setting that will stimulate offenders to change their behavior and to participate on their own initiative in programs intended to assist them in reintegrating into the community.

1. The institution's organizational structure should permit open communication and provide for maximum input in the decision-making process.
 - a. Inmate advisory committees should be developed.
 - b. A policy of maximum involvement of staff and inmates in the decision-making process should be adopted.
 - c. An ombudsman independent of institutional administration should receive and process inmate complaints.
 - d. Inmate newspapers and magazines should be supported.
2. The correctional agency and the institution should make explicit their correctional goals and program thrust.
 - a. Staff recruitment and training should emphasize attitudes that support these goals.
 - b. Performance standards should be developed for programs and staff to measure program effectiveness.
 - c. An intensive public relations campaign should make extensive use of media to inform the public of the agency's goals.
 - d. The institution administration should be continuously concerned with relevance and change.
3. The institution should adopt policies and practices that will preserve the individual identity of the inmate and normalize institutional settings.
 - a. Each offender should be involved in program decisions affecting him/her.
 - b. Offenders should be identified by name in all cases with numbers to be used for record management only.
 - c. Rules governing personal appearance should reflect respect for individuality and cultural and subcultural trends.

- d. Where possible, uniforms should be eliminated and replaced with civilian dress, with reasonable opportunity for individual choice of colors, styles, etc.
 - e. Institutional visitation should be held in an environment conducive to healthy relationships between offenders and their families and friends. The terms of "visitation" should not exclude the concept of conjugal visits where appropriate facilities are available.
 - f. Home furlough should be allowed to qualified offenders to maintain emotional involvement with families.
 - g. Telephone privileges, including reasonable provisions for long-distance calls, should be extended to all inmates.
 - h. No limitation should be imposed upon the amount of mail offenders may send or receive.
4. Each institution should make provision for the unique problems faced by minority offenders and take these problems into consideration in practices and procedures.
 - a. Subcultural groups should be formally recognized and encouraged.
 - b. Ethnic studies courses should be provided.
 - c. Staff members representative of minority groups in the institution should be hired and trained.
 - d. Minority residents of the community should be involved actively in institution programs.
 5. The institution should actively develop the maximum possible interaction between community and institution, including involvement of community members in planning and in intramural and extramural activities.
 - a. Institutionally based work-release and study-release programs with an emphasis on community involvement should be adopted or expanded, but priorities should be given to development of non-secure community based residential settings.
 - b. Ex-offenders and indigenous paraprofessionals should be used wherever feasible and possible both as employees and volunteers.
 - c. Joint programming between the institution and the community should be developed, including such activities as youth and drug counseling sessions, Alcoholics Anonymous meetings, recreation programs, theatre groups, and so on.
 - d. Offenders should be able to participate in educational programs in the community, and community members should be able to participate in educational programs in the institution.
 - e. Law enforcement personnel should become involved in programs and activities and in general play a supportive role.
 - f. Offenders in minimum security institutions should have opportunities to travel to and to participate in worship services of local churches, and representatives of the churches should participate in institutional services.
 - g. The institution should cultivate active participation of civic groups, and encourage the groups to invite offenders to become members.
 - h. It should be mandated by State government that representatives of government agencies shall render services to offenders by traveling to the institution or by enabling offenders to appear at agency offices.
 - i. The institution should obtain the participation of business and labor in intramural and extramural programs and activities.
 - j. The institution should seek the participation of volunteers with reasonable limitations of numbers in institutional programs and activities. Volunteers should not necessarily exclude offenders currently on parole.
6. The institutions should apply only the minimum amount of security measures, both physical and procedural, that are necessary for the protection of the public, the staff, and inmates, and its disciplinary measures should emphasize rewards for more positive behavior rather than the threat of punishment for misbehavior.
 - a. Committed offenders initially should be assigned the least restrictive custodial level possible, as determined by the classification process.
 - b. Only those mechanical devices absolutely necessary for security purposes should be utilized.
 - c. Institutional regulations affecting inmate movements and activities should not be so restrictive and burdensome as to discourage participation in program activities and to give offenders a sense of oppression.
 - d. Disciplinary procedures should be adopted, including the promulgation of reasonable rules of conduct and disciplinary hearings and decisions respecting the rights of offenders. (See Standard 1.16.)
 - e. An incentive system should be developed to reward positive behavior and to reinforce desired behavioral objectives.
 - f. Security and disciplinary policies and methods should be geared to support the objective of social reintegration of the offender rather than simply to maintain order and serve administrative convenience.

COMMENTARY

It is the responsibility of correctional administrators to maintain an orderly and reasonably safe institution. In doing so, they must establish policies that protect each inmate and insure the security of the institution and society. These policies usually result in a tightly controlled environment in which inmate and staff tension, frustration and resentment tend to prevail. Therefore, it is recommended that the social environment of the correctional institution be made as normal as possible.

The purpose of this standard is to set forth guidelines that will produce an institutional environment that will motivate offenders to change their behavior and to participate in correctional programs designed to diminish offender alienation and to aid in reintegration.

Conference participants endorse the National Advisory Commission position that the entire institutional stay should be oriented toward the offender's return to the community and the problems existing there. (NAC, **Corrections**, 364 (1973).) Participants feel that whenever possible, emphasis should be placed on the needs of the individual rather than security requirements.

The standard outlines six objectives that are directed at normalizing the institutional environment. First, institutions must be opened up and fresh points of view obtained in the decision-making process. (Id.) Participants believe a democratic management policy is necessary in correctional institutions to gain input from inmates and staff. Conference participants also recognize that an ombudsman independent of institutional administration provides a check on administrative policies, practices and procedures. To remain objective, participants believe the independent ombudsman should be limited to hearing inmate complaints and should not handle staff complaints.

Second, "...a priority of institutional programs must be a clear statement of purpose.... Without a clear and precise definition of goals, it is unrealistic to expect organizational structures, personnel practices, program resources, and decision-making procedures to accomplish a specific purpose." (Id.) Moreover, conference participants believe that the purpose should be made explicit by legislation.

Third, action should be taken to preserve the individual identity of the institutionalized offender. Self-concept is an essential element in human behavior and must be considered in the operation of any correctional system.

Through the years, prison standards have had negative effects on offenders' feelings and attitudes about identity.... Institutional regimentation produces a loss of individual identity and opportunity for individual decision making and choice. Initiative and the

will to change also are negated.... Prison disturbances exemplify the negative forces that develop within the walls. Identity and positive change can develop when inmates are involved in the correctional system's programs, when they have reasonable freedom of choice, and when they have positive incentives - all aimed at normalizing the institution. (NAC, **Corrections**, 365 (1973).)

Conference participants conclude that the use of prison numbers are essential for recordkeeping purposes and that inmates generally do not object to the assignment of a prison number. However, participants believe all inmates should be addressed and identified by their name.

Conferees believe inmates should be able to express individual choice in personal appearance and mode of dress. Prisoners in Iowa's correctional institutions are not required to wear uniforms.

The standard recommends that conjugal visitation should not be excluded where appropriate facilities are available. Conference participants recognize that conjugal visitation is a controversial issue and may create problems in its administration. However, participants endorse the concept believing that conjugal visitation will contribute to the rehabilitation process.

Fourth, correctional institutions should respond constructively to the cultural and behavior needs of minority residents. There is a definite necessity for administrative concern in this area because "[m]inority groups have consistently been disproportionately represented in correctional institutions as compared to their overall representation in society." (NAC, **Corrections**, 365 (1973).)

Fifth, the correctional institution should seek the involvement of the community. Although conference participants believe that institutional programming should involve the community, the major emphasis should be on development of non-secure community-based residential settings for offenders. Participants also recommend that other state governmental agencies should be required to provide services to correctional institutions.

The use of community volunteers should be encouraged. The standard specifies that volunteers may include offenders currently on parole. Conference participants believe that it is beneficial for inmates "still inside the walls to see successful paroled offenders who are making it in the community."

Sixth, custody, discipline and security should be deemphasized to the least restrictive level feasible. Security has become a self-perpetuating phenomenon. Intense security creates an atmosphere conducive to offender behavior that requires still more security. Rigid restrictions not only arouse feelings of resentment among inmates but also effectively discourage their willing participa-

tion in institutional programs. (NAC, Corrections, 366 (1973).)

"Both security and disciplinary measures in the institution should be designed to support the development of a social environment as normal as possible. This involves the development of positive incentives for inmates to comply with necessary security restrictions and behavioral requirements. The traditional objective of administrative convenience should be a subordinate consideration. When infractions occur, they should be dealt with under the procedures prescribed in [Iowa] Standard 1.16, which are intended to insure fair decisions arrived at with due respect to the rights of offenders." (Id.)

COMPARATIVE ANALYSIS REFERENCE NAC Corrections 11.3.

STANDARD 9.4 Education and Vocational Training

Each institution for juveniles or adults should reexamine immediately its educational and vocational training programs to insure that they meet standards that will individualize education and training. These programs should be geared directly to the reintegration of the offender into the community. It is recognized that techniques and practices for juveniles may be somewhat different from those required for adults, but the principles are similar. All programs for offenders should be adequately equipped and staffed and the programs should be compatible with the intended purpose and objectives of the institution.

1. Each institution should have a comprehensive, continuous educational program for inmates.
 - a. The educational department of the institution should establish a system of accountability to include:
 - (1) An annual internal evaluation of achievement data to measure the effectiveness of the instruction program against stated performance objectives.
 - (2) An appraisal comparable to an accreditation process, employing community representatives, educational department staff, and inmate students to evaluate the system against specific objectives. This appraisal should be repeated at least every 3 years.

- b. The educational curriculum should be developed with inmate involvement and should provide for basic educational skill development. Individualized and personalized programming should be provided.
 - c. Occupational education should be correlated and integrated with basic academic subjects.
 - d. In addition to meeting State certification requirements, teachers should have additional course work in the behavioral sciences. Teachers in institutions should be certified to teach exceptional individuals. Where appropriate, the teacher should have experience teaching inner city children and minorities and have expertise in educational technology.
 - e. Each educational department should make arrangements for education programs at local colleges where possible, using educational opportunities programs, work-study programs for continuing education, and work-furlough programs.
 - f. Each educational department should have accessibility to a guidance counselor (preferably a certificated school psychologist or an appropriately qualified specialist in this area). School records should be available to these persons at the time of commitment.
 - g. Social and coping skills should be part of the educational curriculum, particularly consumer and family life education.
2. Each institution should have or have access to prevocational and vocational training programs to enhance the offender's marketable skills.
 - a. The vocational training program should be part of a reintegrative continuum, which includes determination of needs, establishment of program objectives, vocational training, and assimilation into the labor market.
 - b. The vocational training curriculum should be designed in short, intensive training modules.
 - c. Individual prescriptions for vocational training programs should include integration of academic work, remedial reading and math, high school graduation, and strong emphasis on the socialization of the individual as well as development of trade skills and knowledge.
 - d. Vocational programs for offenders should be intended to meet their individual needs and not the needs of the instructor or the institution. Individual programs should be developed in cooperation with each inmate.

- e. An incentive pay scale should be a part of all on-the-job training programs for inmates.
 - f. Vocational programs should be selected on the basis of the following factors related to increasing offenders' marketable skills:
 - (1) Vocational needs analysis of the inmate populations.
 - (2) Job market analysis of existing or emerging occupations.
 - (3) Job performance or specification analysis, including skills and knowledge needed to acquire the occupation.
 - g. Vocational education and training programs should be made relevant to the employment world.
 - (1) Programs of study about the work world and job readiness should be included in prevocational or orientation courses.
 - (2) Work sampling and tool technology programs should be completed before assignment to a training program.
 - (3) Use of vocational skill clusters, which provide the student with the opportunity to obtain basic skills and knowledge for job entry into several related occupations, should be incorporated into vocational training programs.
 - h. All vocational training programs should have a set of measurable behavioral objectives appropriate to the program. These objectives should comprise a portion of the instructor's performance evaluation.
 - i. Vocational instructors should be licensed or credentialed under rules and regulations for public education in the State or jurisdiction.
 - j. Active inservice instructor training programs should provide vocational staff with information on the latest trends, methods, and innovations in their fields.
 - k. Class size should be based on a ratio of 12 students to 1 teacher.
 - l. Equipment should require the same range and level of skills to operate as that used by private industry.
 - m. Trades advisory councils should involve labor and management to assist and advise in the ongoing growth and development of the vocational program.
 - n. Private industry should be encouraged to establish training programs within the residential facility and to commit certain numbers of jobs to graduates from these training programs.
 - o. The institution should seek active cooperative programs and community resources in vocational fields with community colleges, federally funded projects such as Job Corps, Neighborhood Youth Corps, and Manpower Development Training Act programs, and private community action groups.
 - p. On-the-job training and work release or work furloughs should be used to the fullest extent possible.
 - q. An active job placement program should be established to help residents find employment related to skills training received.
3. Features applicable both to educational and vocational training programs should include the following:
- a. Emphasis should be placed on programmed instruction, which allows maximum flexibility in scheduling, enables students to proceed at their own pace, gives immediate feedback, and permits individualized instruction.
 - b. A variety of instructional materials—including audio tapes, teaching machines, books, computers, and television—should be used to stimulate individual motivation and interest.
 - c. Selected offenders should participate in instructional roles.
 - d. Community resources should be fully utilized.
 - e. Correspondence courses should be incorporated into educational and vocational training programs to make available to inmates specialized instruction that cannot be obtained in the institution or the community.
 - f. Credit should be awarded for educational and vocational programs equivalent to or the same as that associated with these programs in the free world.

COMMENTARY

The standard stresses the importance of educational and vocational training programs in correctional institutions. "The role, quality, and relevance of educational programs in major institutions have not kept pace with the social, economic, political, and technological changes and expectations of society. Traditionally, education is only one part of a larger program in the correctional institution and generally must compete for the individual's time during the standard working hours." (NAC, *Corrections*, 370 (1973).)

The standard directs that both educational and vocational training programs should be modernized. Programs should be available within the institution or inmates should have access to programs in the community. "Credit for the completion of educational and vocational programs

will help offenders compete for jobs on release and add credibility to their training." (NAC, Corrections, 371 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.4

STANDARD 9.5

Special Offender Types

Each correctional agency operating major institutions, and each institution, should reexamine immediately its policies, procedures, and programs for the handling of special problem offenders—the addict, the recalcitrant offender, the emotionally disturbed—and implement substantially the following:

1. The commitment of addicts to correctional institutions should be discouraged, and correctional administrators should actively press for the development of alternative methods of dealing with addicts, preferably community-based alternatives. Recognizing, however, that some addicts will commit crimes sufficiently serious to warrant a formal sentence and commitment, each institution must experiment with and work toward the development of institutional programs that can be related eventually to community programs following parole or release and that have more promise in dealing effectively with addiction.

a. Specially trained and qualified staff should be assigned to design and supervise drug offender programs, staff orientation, involvement of offenders in working out their own programs, and coordination of institutional and community drug programs.

b. Former drug offenders should not be excluded from being recruited and trained as change agents solely on that basis.

c. In addition to the development of social, medical, and psychological information prepared by qualified mental health professionals or medical personnel or under their direct supervision, the classification process should identify motivations for change and realistic goals for the reintegration of the offender with a drug problem.

d. A variety of approaches should provide flexibility to meet the varying needs of

different offenders. These should include individual counseling, family counseling, group approaches, and crisis intervention provided by qualified mental health professionals, or under their direct supervision.

e. Programs should emphasize "alternatives" to drugs. These should include opportunities to affiliate with cultural and sub-cultural groups, social action alliances, and similar groups that provide meaningful group identification and new social roles which decrease the desire to rely on drugs. Methadone and other drug maintenance programs are not appropriate in institutions, but appropriate detoxification services should be available under medical supervision.

f. The major emphasis in institutional programs for drug users should be the eventual involvement of the users in community drug treatment programs upon their parole or release.

g. Because of the inherent limitations and past failure of institutions to deal effectively with drug addiction, research and experimentation should be an indispensable element of institutional drug treatment programs. Priorities include:

(1) Development of techniques for the evaluation of correctional therapeutic communities.

(2) Development of methods for surveying inmates to determine the extent of drug abuse and treatment needs.

(3) Evaluation of program effectiveness with different offender types.

h. Each institution should make every possible effort to apprehend and to refer with recommendation to prosecute all persons attempting to introduce contraband narcotics into the institution.

2. Each institution should make special provisions other than mere segregation for inmates who are serious behavior problems and an immediate danger to others.

a. The classification process should be used to attempt to obtain understanding of the recalcitrant offender and to work out performance objectives with him/her.

b. A variety of staff should be provided to meet the different needs of these offenders.

(1) Staff selections should be made through in-depth interviews. In addition to broad education and experience backgrounds, personal qualities of tolerance and maturity are essential.

(2) Continuous on-the-job staff evaluation and administrative flexibility in removing ineffective staff are needed to meet the stringent demands of these positions.

- (3) Training programs designed to implement new knowledge and techniques are mandatory.
- c. Recalcitrant offenders who are too dangerous to be kept in the general institutional population should be housed in a unit of not more than 26 individual rooms providing safety and comfort.
- (1) Good surveillance and perimeter security should be provided to permit staff time and efforts to be concentrated on the offenders' problems.
 - (2) No individual should remain in the unit longer than is absolutely necessary for the safety of himself/herself or others.
 - (3) Wherever possible the inmate of the special unit should participate in regular recreation, school, training, visiting and other institution programs. Individual tutorial or intensive case-work services should also be available.
 - (4) Tranquilizers and other medications should be used only under medical direction and supervision.
- d. Procedures should be established to monitor the programs and services for recalcitrant offenders, and evaluation and research should be conducted by both internal staff and outside personnel.
3. In addition to diagnostic evaluation, each correctional agency should provide for the psychiatric treatment of emotionally disturbed offenders. Psychotic offenders should be transferred to mental health facilities. Correctional institution treatment of the emotionally disturbed should be under the supervision and direction of qualified mental health professionals.
- a. Program policies and procedures should be clearly defined and specified in a plan outlining a continuum of diagnosis, treatment, and aftercare.
 - b. A diagnostic report including a physical examination, medical history, and tentative diagnosis of the nature of the emotional disturbance should be developed. Diagnosis should be a continuing process.
 - c. There should be a program plan for each offender based on diagnostic evaluation; assessment of current needs, priorities, and strengths; and the resources available within both the program and the correctional system. The plan should specify use of specific activities; for example, individual, group, and family therapy. Need for medication, educational and occupational approaches, and recreational therapy should be identified. The plan should be evaluated through frequent interaction between diagnostic and treatment staff.
 - d. All psychiatric programs should have access to a qualified neurologist and essential radiological and laboratory services, by contractual or other agreement.
 - e. In addition to basic medical services, psychiatric programs should provide for education, occupational therapy, recreation, and psychological and social services.
 - f. On transfer from diagnostic to treatment status, the diagnostic report, program prescription, and all case material should be reviewed within 2 working days.
 - g. Within 4 working days of the transfer, case management responsibility should be assigned and a case conference held with all involved, including the offender. At this time, treatment and planning objectives should be developed consistent with the diagnostic program prescription.
 - h. Cases should be reviewed each month to reassess original treatment goals, evaluate progress, and modify program as needed.
 - i. All staff responsible for providing services in a living unit should be integrated into a multidisciplinary team and should be under the direction and supervision of a professionally trained staff member.
 - j. Each case should have one staff member (counselor, teacher, caseworker, or psychologist), assigned to provide casework services. The psychologist or caseworker should provide intensive services to those offenders whose mental or emotional disabilities are more severe.
 - k. Reintegration of the offender into the community or program from which he/she came should be established as the primary objective.
 - l. When an offender is released from a psychiatric treatment program directly to the community, continued involvement of a trained therapist during the first 6 months of the patient's reintegration should be provided, at least on a pilot basis.
4. The State should provide a secure medical facility which places major emphasis on the treatment of mentally ill and special offender types.

COMMENTARY

The standard focuses attention on special problem offenders—the addict, the recalcitrant offender and the emotionally disturbed—who are found in virtually every correctional institution. The standard recommends ways to deal effectively with these special offender types.

Drug Abusers

"In recent years penalties for narcotics violators have grown more severe. The result has been a large commitment of offenders with drug problems to penal institutions. In addition, many offenders confined for offenses not related to narcotics are drug users.... As long as drug users are sentenced and committed to institutions, correctional agencies and institutions must attempt to devise programs that will deal with the problem and provide the basis for later treatment in a more appropriate community setting." (NAC, **Corrections** 375 (1973).)

Conference participants believe that the correctional institution is not the proper setting for methadone and other long-term drug maintenance programs. The National Advisory Commission observes that drug abuse treatment in the institutional setting has yielded little success. The only type of drug program participants endorse is detoxification treatment, which is a short-term program. To control the illicit use of drugs, conference participants propose that every attempt should be made to apprehend and prosecute persons bringing narcotic contraband into the correctional institution.

Recalcitrant and Emotionally Disturbed Offenders

The standard calls for provision of a secure medical facility which emphasizes treatment of mentally ill and special offender types. Conference participants point out that the Iowa Security Medical Facility (ISMF) is unable to provide long term psychiatric treatment services; ISMF operates at capacity much of the time performing psychiatric evaluation services. This problem is compounded because the courts and other State institutions also refer individuals for psychiatric evaluation. Participants observe that, as a result, the correctional institutions are forced to attempt to control mentally disturbed and dangerous offenders. Conference participants believe these individuals who do not belong in a maximum security correctional facility pose a major control problem in such institutions. Moreover, untreated disturbed individuals are continually reprocessed in and out of the system.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.5.

STANDARD 9.6

Women in Major Institutions

Each State correctional agency operating institutions to which women offenders are committed should reexamine immediately its policies, procedures, and programs for women offenders, and make such adjustments as may be indicated to make these policies, procedures, and programs more relevant to the problems and needs of women.

1. Facilities for women offenders should be considered an integral part of the overall corrections system, rather than an isolated activity or the responsibility of an unrelated agency.
2. Comprehensive evaluation of the woman offender should be developed through research. Iowa should determine differences in the needs between male and female offenders and implement differential programming.
3. Appropriate vocational training programs should be implemented. Vocational programs that promote dependency and exist solely for administrative ease should be abolished. A comprehensive research effort should be initiated to determine the aptitudes and abilities of the female institutional population. This information should be coordinated with labor statistics predicting job availability. From data so obtained, creative vocational training should be developed which will provide a woman with skills necessary to allow independence.
4. Classification systems should be investigated to determine their applicability to the female offender. If necessary, systems should be modified or completely restructured to provide information necessary for an adequate program. Classification should be in the community.
5. Adequate diversionary methods for female offenders should be implemented. Community programs should be available to women. Special attempts should be made to create alternative programs in community centers and halfway houses or other arrangements, allowing the woman to keep her family with her.
6. Legal services including law library facilities and legal counsel should be provided to female inmates on a basis adequate to meet their needs in both civil matters and in disputes with the institutions.
7. As a 5-year objective, male and female institutions of adaptable design and comparable populations should be studied to determine whether coeducational facilities would be a desirable alternative to separate facilities.

- a. If coeducational facilities were then adopted, classification and diagnostic procedures should give consideration to offenders' problems with relation to the opposite sex, and coeducational programs should be provided to meet those needs.
- b. If adopted, programs within the facility would be open to both sexes.
- c. Staff of both sexes should be hired who have interest, ability, and training in coping with the problems of both male and female offenders. Assignments of staff and offenders to programs and activities should not be based on the sex of either.

COMMENTARY

Standard 9.6, Women in Major Institutions, is for the purpose of developing meaningful programs relevant to the problems and needs of women offenders. Because of their relatively small population and lack of influence, women's institutions have not received the attention accorded male facilities and programming. The rapidly changing role of women in our society has made visible the neglect that has characterized female corrections and the lack of meaningful programming in women's prisons. (NAC, *Corrections*, 379 (1973).) Traditionally, focus has been on the needs of the adult male offender. The treatment given to female offenders by the criminal justice system is different from that given male offenders. Inconsistencies exist in sentencing practices, the use of imprisonment and community and institutional correctional programming.

Conference participants endorse the National Advisory Commission (NAC) position that correctional programs for women should be assessed and made relevant to the problems and needs of women. Ironically, not only does it seem that female offenders may have more problems than male offenders, but also it appears that the problems are ignored more. Conferees believe that institutional and community correctional programs should be developed to provide a continuum of services for female offenders where service gaps may exist. For example, community residential facilities for women should be considered for more wide-spread implementation.

Conference participants endorse the NAC recommendation that prisons should develop meaningful programs for women. Conferees remark that society tends to look upon the incarcerated female as having reached the depths of degradation. Institutional programs should place an emphasis on an approach "that will prepare the woman to deal with society without a reliance

on a welfare system or a temporary male guardian." (Id.) Participants also believe that community residential facilities should be developed which would allow the female offender to have her family with her. No such facility exists in the State for female or male offenders.

Participants reject the idea that women should be allowed to have their children living with them in the institution. Several reasons were offered for this stance. First, the institution climate is not conducive to normal family activities. Moreover, participants recognize that some individuals who have children are not responsible mothers. Also some persons, such as child abusers, should not have children around them.

Conference participants propose that a study should be conducted into the feasibility and desirability of coeducational institutions. "The coeducational program can be an invaluable tool for exploring and dealing with social and emotional problems related to identity conflicts that many offenders experience." (Id.)

Of particular concern to conference participants is the lack of legal resources available to women in a correctional institution. In Iowa, the legal services that are routinely made available to offenders in the Men's Reformatory and Penitentiary are not available to offenders in the Women's Reformatory. Conference participants remark that institutionalized males are provided legal counsel in connection with civil legal affairs and in-house matters with the correctional administration; similar legal assistance is not provided to institutionalized females. Conferees note that the problem is further compounded because the classic jail-house lawyer found in the male institutions is not found in the client population of the female institution. Institutionalized females have civil legal problems which necessitate professional legal assistance. Most institutionalized female offenders have children and require help in the area of child custody. Conference participants remark that civil legal problems, especially in the area of child custody, are overwhelming and unending for women offenders. Therefore, conference participants recommend that legal services and counsel should be provided to female inmates on a basis adequate to meet their needs.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.6.

STANDARD 9.7

Religious Programs

Each institution should immediately adopt policies and practices to insure the development of a full range of voluntary religious programs.

1. Program planning procedures should include religious history and practices of the individual, to maximize his/her opportunities to pursue the religious faith of his/her choice while confined.
2. The chaplain should play an integral part in institutional programs.
3. To prevent the chaplain from becoming institutionalized and losing touch with the significance of religion in free society, sabbaticals should be required. The chaplain should return to the community and participate in religious activities during the sabbatical. Sabbatical leave also should include further studies, including study of religions and sects alien to the chaplain but existing in his/her institution. Funds should be provided for this purpose.
4. The chaplain should locate religious resources in the civilian community for those offenders who desire assistance on release.
5. Community representatives should be encouraged to participate in religious services and other activities within the institution.

COMMENTARY

Standard 9.7 addresses the development of religious programs in correctional institutions. "The constitutional right to freedom of religion requires that those denied free access to the religious worship of their choice by virtue of their confinement by the state must be afforded all reasonable assistance in pursuing their faith while confined.... An increase in the number of confined persons identifying with religious groups or sects associated with ethnic, cultural, or subcultural groups increases the responsibility of existing chaplains and administrators to provide all reasonable assistance to satisfy this diversity." (NAC Corrections 381, 382 (1973).)

The institutional chaplain serves a major function in the delivery of religious and other programs for the facility's population. Participants observe that the chaplain also assists the administration in the identification and resolution of internal problems which may lead to inmate unrest.

A minority of participants believe that the chaplain should not be involved in correctional programs other than providing religious services.

These participants object to the chaplain's participation in decision making regarding discipline and parole. They contend that the chaplain would then be perceived by the inmates as just another administrative person.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.7.

STANDARD 9.8

Recreation Programs

Each institution should develop and implement immediately policies and practices for the provision of recreation activities as an important resource for changing behavior patterns of offenders.

1. Every institution should have a full-time trained and qualified recreation director with responsibility for the total recreation program of that facility. He/she also should be responsible for integration of the program with the total planning for the offender.
2. Program planning for every offender should include specific information concerning interests and capabilities related to leisure-time activities.
3. Recreation should provide ongoing interaction with the community while the offender is incarcerated. This can be accomplished by bringing volunteers and community members into the institution and taking offenders into the community for recreational activities. Institutional restriction in policy and practice which bars use of community recreational resources should be relaxed to the extent possible.
4. The range of recreational activities to be made available to inmates should be broad in order to meet a wide range of interests and talents and stimulate the development of the constructive use of leisure time that can be followed when the offender is reintegrated into the community. Recreational activities to be offered inmates should include music, athletics, painting, writing, drama, handcrafts, and similar pursuits that reflect the legitimate leisure-time activities of free citizens.

COMMENTARY

Standard 9.8, Recreation Programs, speaks to the provision of recreation activities in major institutions. Conference participants endorse the position of the National Advisory Commission that recreational activities can be a means of alleviating the monotony of prison life and can be a safety valve to release pent-up emotions. In addition, they have added significance as a potential resource for helping offenders face personal problems and learn new behavior patterns. (NAC, **Corrections**, 383 (1973).)

The standard recommends that recreation programs should provide ongoing interaction with the community. Conference participants believe that interchange with the community has therapeutic value and promotes motivation on the part of the offender. Participants comment that it is beneficial whenever inmates in correctional institutions can be exposed to members of the free community who are not institutional staff. Conferencees explain that community contact allows inmates to feel wanted and needed and therefore, gives them a reason to want to change their behavior and work toward release.

The standard proposes that a wide range of recreational activities should be made available to inmates. Conference participants conclude that while correctional administrative staff may teach recreation skills, participation in recreation programs must be voluntary.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.8.

STANDARD 9.9

Counseling Programs

Each institution should begin immediately to develop planned, organized, ongoing counseling programs, in conjunction with the implementation of Standard 9.3, Social Environment of Institutions, which is intended to provide a social-emotional climate conducive to the motivation of behavioral change and interpersonal growth.

1. Three levels of counseling programs should be provided:
 - a. Individual, for self-discovery in a one-to-one relationship.

- b. Small group, for self-discovery in an intimate group setting with open communication.
- c. Large group, for self-discovery as a member of a living unit community with responsibility for the welfare of that community.

Utilization of self-help group counseling should be considered as part of the overall counseling program.

2. Institutional organization should support counseling programs by coordinating group living, education, work, and recreational programs to maintain an overall supportive climate. This should be accomplished through a participative management approach.
3. Each institution should have a full-time counseling supervisor responsible for developing and maintaining an overall institutional program through training and supervising staff and volunteers. A bachelor's degree with training in social work, group work, and counseling psychology should be required. Each institution should have at least one qualified counselor to train and supervise nonprofessional staff. Trained ex-offenders and paraprofessionals with well-defined roles should be used.
4. Counseling within institutions should be given priority in resources and time.

COMMENTARY

Standard 9.9 seeks to insure that a wide range of counseling programs are available in correctional institutions. The National Advisory Commission on Criminal Justice Standards and Goals identifies problems and states how counseling can help solve these problems.

Offenders' social and emotional adjustments frequently suffer from very limited and often damaging interpersonal experiences. Conflicts in the struggle to resolve problems of identity and interpersonal relationships often lead to frustration and stress. These pressures frequently produce anger, hostility, and aggressive behavior and are major contributing factors to delinquency and crime....

Counseling programs should provide a variety of opportunities for offenders based on their individual needs as determined by the individual himself and competent differential diagnosis. Any counseling experience should offer the opportunity to ventilate troublesome feelings verbally and to develop feelings of self-esteem by being treated as a worthwhile person whose opinions are respected....

Group counseling experiences give offenders the chance to observe that others share

similar problems and that these problems can be resolved. Group sessions also allow experimentation with new social behaviors and roles in a nonthreatening setting. They provide feedback to the individual on how he is perceived by his peers and how his own comments and behaviors affect the way in which others view and treat him. Finally, all offenders should be given the opportunity to interact in counseling situations with members of the outside social world, including family members and volunteers, to humanize and normalize the institutional experience as much as possible. (NAC, **Corrections**, 385, 386 (1973).)

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.9.

STANDARD 9.10

Prison Labor and Industries

Each correctional agency and each institution operating industrial and labor programs should take steps immediately to reorganize their programs to support the reintegration purpose of correctional institutions.

1. Prison industries should be diversified and job specifications defined to fit work assignments to offenders' needs as determined by release planning.
2. All work should form part of a designed training program with provisions for:
 - a. Involving the offender in the decision concerning his/her assignment.
 - b. Giving him/her the opportunity to achieve on a productive job to further his/her confidence in his/her ability to work.
 - c. Assisting him/her to learn and develop his/her skills in a number of job areas.
 - d. Instilling good working habits by providing incentives.
3. Joint bodies consisting of institution management, inmates, labor organizations, and industry should be responsible for planning and implementing a work program useful to the offender, efficient, and closely related to skills in demand outside the prison.
4. Training modules integrated into a total training plan for individual offenders should be provided. Such plans must be periodically monitored and flexible enough to provide for modification in line with individuals' needs.

5. Where job training needs cannot be met within the institution, placement in private industry on work-furlough programs should be implemented consistent with security needs.

COMMENTARY

Standard 9.10 concerns prison industry and the work experiences made available to institutionalized persons. It recommends that prison industry and employment programs be reorganized to help the inmate acquire skills and abilities relevant to the kind of work he/she will do after release into the community.

The functions of prison labor have been to punish and keep the committed offender busy, to promote discipline, to maintain the institution, to defray some operating costs of the prison, and to provide training and wages for the offender. To accomplish any one function, it has been necessary to sacrifice one or more of the others. (NAC, **Corrections**, 387 (1973).)

Conference participants express the view that although prison industry should provide job training for inmates, the needs of the State should not be ignored. The State has a need for prison-made products.

Conference participants conclude that all inmates should be compensated for whatever work performed. A sizable minority of the participants contend that private industry should be allowed to establish programs in correctional institutions. Under this program, the inmate would be compensated at the prevailing wage rate in the community. In return, the inmate would be required to reimburse the State for a reasonable share of its cost for maintaining him/her. It was the belief of these participants that not only does this type of program provide job training, it also gives the inmate a feeling of self worth.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 11.10.



Photo Credit: Fifth Judicial District Department of Court Services

Chapter Ten

Probation and Parole

Goal: To develop an effective probation service delivery system that provides information to the court and that insures that offenders receive the support and services they need.

Goal: To insure that the parole process is reasonable and fair and that services and resources are provided that will enable the offender, upon release, to successfully re-enter the community.

Probation and Parole

Parole determination is a complex process involving the courts, legislative mandates, correctional authorities, and the parole board. Parole is both a procedure and a service. It is a crucial procedure by which release from correctional institutions is determined. It is also an aftercare service which provides assistance and controls after release into the community. A balance of concerns must be carefully weighed in deciding when to release an individual from a correctional institution.

Probation is similar to parole in being both a procedure and a service. In both probation and parole, information is gathered and presented to a decision making authority who evaluates the information and determines whether the offender is to be released with supervision into the community. Probation differs significantly from parole in two ways. First, the decision making authority granting probation is usually the court. Whereas, for parole, the decision making authority is the parole board. Therefore, probation is organizationally in the judicial branch of State government and parole is in the executive branch. Second, probation is usually granted by a judge in lieu of confinement, while parole denotes release after incarceration in a correctional institution.

Although probation is not a new concept, its use as a sentencing alternative by the courts in Iowa has increased rapidly in recent years with the growth of community-based corrections. The Iowa standards recommend that probation be the preferred sentence for offenders unless protection of the public is required or the individual is considered a persistent felony offender. (See Sentencing Standards 5.2 and 5.3.) Probation is considered a more effective disposition. It keeps the offender in the community and supplies him/her with supportive services. It is believed that the negative aspects of institutionalization impede rehabilitation. Moreover, institutionalization is more costly than probation.

The Iowa Parole standards address structure and composition of the parole board, proper procedures for granting and revocation, appropriate workloads, linkage with community resources, conditions of parole, and staff recruitment and training.

The Iowa Probation standards address unification of supervision over probation services, liaison with community services, misdemeanor probation, staff functions and workloads, staff recruitment, and pretrial release probation programs.

STANDARD 10.1

Organization of Probation

Iowa should take action, in implementing Standard 2.1, Unifying Correctional Programs, to place supervision of probation organizationally in the executive branch of State government.

The State correctional agency should be given responsibility for:

- 1. Establishing statewide goals, policies, and priorities that can be translated into measurable objectives by those delivering services.**
- 2. Program planning and development of innovative service strategies.**
- 3. Staff development and training.**
- 4. Planning for manpower needs and recruitment.**
- 5. Collecting statistics, monitoring services, and conducting research and evaluation.**
- 6. Offering consultation to courts, legislative bodies, and local executives.**
- 7. Coordinating the activities for delivery of services to the courts and probationers.**

The State correctional agency should be given authority to supervise judicial district units. In addition to the responsibilities previously listed, the State correctional agency should be given responsibility for:

- 1. Establishing standards relating to personnel, services to courts, services to probationers, and records to be maintained, including format of reports to courts, statistics, and fiscal controls.**
- 2. Consultation to local probation agencies, including evaluation of services with recommendations for improvement; assisting local systems to develop uniform record and statistical reporting procedures conforming to State standards; and aiding in local staff development efforts.**
- 3. Assistance in evaluating the number and types of staff needed in each jurisdiction.**
- 4. Financial assistance through reimbursement or subsidy to those probation agencies meeting standards set forth.**

COMMENTARY

Standard 10.1, Organization Of Probation, defines which branch of State government should have the responsibility for the administration of probation and what specific responsibilities such administration should have. The standard recommends that supervision of probation services be placed in the State executive branch of government. Rather than total State administration,

the standard advocates that a State correctional agency should supervise probation units. Conference participants believe that such an administrative arrangement will facilitate planning and improve the services provided to offenders. It will allow establishment of uniform statewide guidelines or standards for programs and services, staffing, training, monitoring, evaluation, and research.

In Iowa, the Department of Social Services' Bureau of Community Correctional Services has statutory authority to provide assistance, support and guidelines for the establishment and operation of judicial district-wide community-based corrections programs and services. Probation services are a component of community-based corrections. Organizationally, there are ten community corrections projects operating in the eight judicial districts in Iowa. The projects operate in a complex administrative structure. Some projects are administered through the State by the Bureau of Community Correctional Services. Other projects are locally administered, while some projects have a combination of state and local administration. Because of the differences in administration, the level and type of probation services provided are not consistent throughout the State. The Iowa standard does not preclude local administration. However, the standard directs that the State correctional agency should be authorized to supervise judicial district units.

Conference participants conclude that a more coordinated continuum of services and better services will be provided through State leadership. In addition, it will promote cooperation among judicial district projects that are providing probation services.

The standard proposes that one of the responsibilities of the State correctional agency will be coordination of activities for delivery of services to the courts and for delivery of services to probationers. Conference participants construe coordination to mean that both services should be provided by the same correctional staff rather than separate staffs for each function. Participants conclude that there are several advantages in having the same correctional personnel deliver both services. First, participants recognize that fewer correctional personnel will be required to perform the services. In rural areas in Iowa, staff limitations will not permit separate staffs. Participants also believe it is beneficial both to staff and the offender to have staff who are familiar with the case carry through processing before and after adjudication. A minority of participants believe that this type of probation delivery system has its disadvantages. They believe the staff performing services for the court should not supervise offenders subsequently placed on probation. Their contention is that the distinct and different functions place correctional staff in conflicting roles. In providing services to probationers, the staff are performing an advisory and

surveillance role. Whereas, in preparing presentence reports and making recommendations to the courts, the staff can be in an adversary role.

Another responsibility of the State correctional agency outlined in the standard is the establishment of State standards relating to records to be maintained and format of reports. Conference participants believe standardization of forms will insure uniform and complete reports. Participants note that with the inclusion of necessary information in reports, confusion and delay in processing of offenders should be reduced.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 10.1.

STANDARD 10.2

Organization of Paroling Authorities

Iowa should maintain a parole decision making body for adult offenders that is independent of correctional institutions. The Board should be autonomous in its decision making authority and separate from field services. The board should have jurisdiction over felons. Parole of misdemeanants should be structured administratively under the courts.

- 1. The board should be specifically responsible for articulating and fixing policy, for acting on appeals by correctional authorities or inmates on decisions made by liaison officers, and for issuing and signing warrants to arrest and hold alleged parole violators.**
- 2. The board should establish clearly defined procedures for hearings and appeals.**
- 3. Liaison officers should be empowered to hear and make initial decisions in parole revocation cases under the specific policies of the parole board. The report of the hearing examiner should contain a summary of the hearing and the evidence. The hearing should be recorded or reported, and the recording or notes of the hearing should be available for appeal. The report of the hearing examiner should be forwarded to the parole board for the final revocation hearing.**
- 4. Both board members and hearing examiners should have close understanding of correctional institutions and be fully aware of the nature of their programs and the activities of offenders within the institution.**
- 5. A citizen committee, broadly representative of the community and including ex-offenders,**

should be developed to advise the board on the development of policies.

COMMENTARY

Standard 10.2, Organization of Paroling Authorities, addresses the authority of the parole board and the board's organizational position in relation to correctional institutions. The standard directs that the parole decision making body should be completely autonomous. "Among the most essential requisites is that the organizational structure of parole authorities should foster close coordination between parole decision makers and the increasingly complex set of programs throughout the correctional network. Yet sufficient autonomy should be preserved to permit parole boards to act as a check on the system." (NAC, **Corrections**, 397 (1973).) Under the recommended organizational structure, the parole board will be totally independent of correctional institutions and will not be administratively a part of any State correctional agency or department. Conference participants believe that a totally autonomous board greatly increases its capacity for fairness and objectivity. The Iowa Board of Parole currently reflects the organizational setting recommended by the standard.

The Iowa standard proposes that the parole board should have jurisdiction for parole decision making over felons only and designates the court, rather than the parole board, as the appropriate administrative structure for parole of misdemeanants. The courts in Iowa retain jurisdiction over convicted misdemeanants. Although probation services are being provided in the State, conference participants comment that there is no specific authority responsible for parole of misdemeanants or provision of services for misdemeanants. Conference participants feel that designation of the court as the responsible entity will insure coordination and provision of services for misdemeanants. Participants believe that services may be extended to areas within the State where they are not presently available. Moreover, conferees state that the extension of parole services to misdemeanants may deter crime. Conference participants reflect that misdemeanor offenders have problems similar to felony offenders. Providing guidance at the misdemeanor level may prevent the occurrence of more serious offenses in the future.

The standard lists the responsibilities of the parole board. The standard directs that preliminary parole revocation hearings will be conducted by liaison officers under policies promulgated by the parole board. In **Morrissey v. Brewer**, 408 U.S. 471 (1972), the Supreme Court held that due process requirements for parole revocation include a preliminary inquiry in the

nature of a preliminary hearing to determine probable cause and a revocation hearing. This standard and Standard 10.5, Parole Revocation Hearings, incorporate this judicial requirement. This standard further recommends that the report of the hearing examiner should contain a summary of the hearing and the evidence. Although revocation hearings may be lengthy, conference participants feel that it is important to insure that a verbatim record of revocation hearings is made. Participants state that if excluded, evidence can never be reviewed or be made available.

Conference participants agree that increased citizen involvement is necessary in all correctional programs. To foster community participation in the parole decision making function, the Iowa standard recommends development of a citizens advisory committee to confer with the parole board on the development of policies. A parole board advisory committee does not currently exist in Iowa. Although participants express concern about the make-up of the committee, the standard does not address the mechanics of how the citizens advisory committee should be formed or what the composition of its membership should be.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 12.1.

STANDARD 10.3

Parole Authority Personnel

Iowa should specify by statute by 1977 the qualifications and conditions of appointment of parole board members.

1. Parole boards for adult offenders should be part time.
2. Members should have the ability to comprehend legal and social issues and statistical information and to develop and promulgate policy.
3. Members should be appointed by the governor for six-year terms from a panel of nominees selected by an advisory group broadly representative of the community. Besides being representative of relevant professional organizations, the advisory group should include all significant ethnic and socio-economic groups.
4. The Iowa Parole Board should not exceed five members. Of these five members, not more than three should be of the same sex, ethnic, racial, or political group.

5. **Recognizing that service on the parole board will entail a substantial commitment of private time, parole board members should be compensated at a rate at least one half and no more than three quarters of the salary of that of a judge of a court of general jurisdiction.**
6. **The education and experiential qualifications of liaison officers should allow them to understand programs, to relate to people, and to make sound and reasonable decisions.**
7. **Parole board members and staff should participate in conferences and training institutes regarding parole matters on a national basis.**

COMMENTARY

Standard 10.3, Parole Authority Personnel, defines the qualifications, terms of office, salary, and selection procedure for parole board members.

The Iowa standard recommends that the parole board be part time. Conference participants reason that the parole board should be part time to insure citizen participation. It is particularly important that the parole board be representative of the community. Conference participants believe that if parole authority positions are required to be full time, the result will be a staff of professional personnel and, therefore, a loss of actual citizen participation and responsiveness to the community. Conference participants recognize that the responsibilities of parole membership require substantial demands of time and effort by members and that the recommendations made by the Iowa parole standards may increase responsibilities. However, conferees feel that the inclusion of citizen participation is vital and that a part time board with an adequate staff should be able to effectively handle the required functions.

The standard does not specify academic requirements for parole board members. The National Advisory Commission recognizes that no single profession or discipline can be recommended as qualifying an individual for the role of parole board member. The variety of roles requires a variety of skills. (NAC, **Corrections**, 421 (1973).) Conference participants believe that requiring academic training in certain fields excludes too many relevant groups. Instead, the Iowa standard makes the distinction that members should be able to comprehend legal and social issues and to utilize statistical materials. However, the standard does recommend representation of professional organizations on the panel selecting parole board nominees. Similarly, the standard does not recommend specific educational or experiential qualifications for parole board staff liaison officers. In making this recommendation,

conference participants conclude that the role of the liaison officer is important, but appointment requirements for the position should be kept as broad as possible. To keep abreast of issues, the standard endorses training for both parole board members and staff.

To improve the parole board appointment process, the standard recommends use of an advisory group for selection of nominees. The standard directs the Governor to appoint members from the list of nominees. The standard suggests that representation on the selection advisory group include basic professional fields and all significant ethnic and socio-economic groups. Some conference participants had reservations about the broad membership definition and felt that problems will be encountered in implementation. Conference participants feel that a selection advisory group will reduce political influence in the selection process and secure appointment of knowledgeable individuals. Currently in Iowa, the Governor appoints members but a selection advisory group does not exist.

The standard recommends that the parole board be limited to five members. Currently, the Iowa Board of Parole has three members. However, the recently enacted Revised Criminal Code raises the membership to five. (See Revised Criminal Code, ch. 3 sec. 401.) To discourage discriminatory representation, the Iowa standard places additional restrictions on the number of members of the same sex, ethnic, racial, or political group.

To attract competent and qualified persons to parole positions, the standard recommends that compensation be commensurate with the salary of a judge of a court of general jurisdiction. Conference participants conclude that the decision making role of parole board members is equally important as that of a judge. Therefore, the status of the position should reflect an equivalent salary. The standard proposes that although the board should be part time, compensation should reflect that impact of board membership extends beyond time spent in session.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 12.2.

STANDARD 10.4

The Parole Grant Hearing

Each parole jurisdiction immediately should develop policies for parole release hearings that include opportunities for personal and adequate participation by the inmates concerned; procedural guidelines to insure proper, fair, and thorough consideration of every case; prompt decisions and personal notification of decisions to inmates; and provision for accurate records of deliberations and conclusions.

A proper parole grant process should have the following characteristics:

1. Hearings should be scheduled with all inmates within one year after they are received in an institution and at least annually thereafter. Inmates should appear personally at hearings.
2. At these hearings, decisions should be directed toward the quality and pertinence of program objectives agreed upon by the inmate and the institution staff. The parole board should design with the institution staff guidelines for establishing workable programs directed at qualifying the inmate for parole release.
3. Board representatives should monitor and approve programs that can have the effect of releasing the inmate without further board hearings.
4. When a release date is not agreed upon, a further hearing date within one year should be set.
5. A parole board member or hearing examiner should hold no more than 20 hearings in any full day.
6. A majority of the parole board should conduct hearings. Their findings should be final unless appealed to the full parole board by the correctional authority, the ombudsman, or the inmate.
7. Inmates should be notified of any decision directly and personally by the board before leaving the institution.
8. The parole board should, in addition to oral communication, specify in detail in writing particularized to the individual case the reason for the decision whether to grant parole or deny or defer it and a copy of which should be delivered to the inmate.
9. Parole procedures should require disclosure of information to be considered in the parole grant decision. All information should be disclosed except when disclosure would endanger the life of the informant. In such case, the name of the informant should be withheld. No information from a fellow inmate should be considered by the Parole Board. The disclosure should be made at

least 3 days prior to the hearing and the inmate should be given an opportunity to challenge all information and present information on his own behalf.

10. Parole procedures should permit representation of offenders under appropriate conditions, if required. Such representation should confirm generally to Standard 1.2, Access to Legal Services. This standard affirms the right of offenders to have access to legal assistance through attorney representation or certified law students in parole grant and revocation proceedings.
11. Chaplains would not be a part of the parole process.

COMMENTARY

Standard 10.4, The Parole Grant Hearing, defines policies and procedures that should structure parole release.

The standard recommends that all inmates should have a hearing within a year after commitment and annually thereafter. The standard also directs that hearings should be conducted by a majority of the parole board. Conference participants believe that all inmates, including lifers, should have a hearing with the board on a regular basis. Existing Iowa law does not require review of inmates serving life sentences until fifteen years of the sentence has been served. (See IOWA CODE sec. 247.5 (1975).) The Revised Criminal Code requires a parole board interview with an inmate serving a life sentence within five years of his/her confinement and regularly thereafter. (See Revised Criminal Code, ch. 3, sec. 201, 202.) The Iowa Board of Parole annually reviews reports on inmates except lifers, those individuals on inmate status at the Iowa Security Medical Facility, and those inmates on work release. However, at the present time, annual formal hearings are not scheduled with the board. Conference participants believe that there is value in building a record of the lifer through annual board hearings over a period of years. Because that individual would then have a documented record, participants note that at some point, if feasible, that individual could be brought to the attention of the Governor for consideration for commutation of sentence to a term of years.

The standard recommends holding no more than 20 parole review hearings a day. Conference participants emphasize that at least 30 minutes is required to have a full and fair hearing and to allow communication between the board and the inmate. Participants remark that limiting the number of hearings will insure that parole review does not become a rubber stamp process. Participants state that the board generally grants

5-10 minute interviews only in those cases where the board following review of the file has tacitly agreed that parole will be granted.

"Perhaps the most pervasive shortcomings are the undue emphasis in parole hearings on past events and the extreme vagueness about the necessary steps to achieve parole". (NAC, **Corrections**, 423 (1973).) In order to set up realistic objectives for attainment of parole, the standard directs that the parole board should work with the institutional staff in developing the type and quality of programs to be undertaken by inmates. Conference participants feel this is vitally important for two reasons. First, it establishes a line of communication because it forces the parole board and the top and middle management of the institution to talk to each other. Participants comment that if the parole board is going to have an interest in putting people back on the street, the board should have some functional input into the administration of programs in the institution. Second, it commits the parole board to a basis for decision making. In addition, this recommendation purports to be a more realistic, honest and humanizing approach for the inmate. Participants note that on a broader basis, the parole board can lend additional support to the institution's program and budget recommendations to the Legislature.

The standard directs that a written copy of the reasons for the parole grant decision be given to the inmate. Conference participants were adamant that this should not be a form letter but should be written specifically for each individual case. Participants state that notifying the inmate of the reasons for the decision promotes fairness and allows the inmate to have a basis for appeal.

The standard advocates prior disclosure of all information to be considered in the parole grant decision except when disclosure would endanger the life of the informant. Conference participants consider the disclosure of information very significant. Participants reason that the more open the system, the better it works. Conferees relate that, presently, information usually withheld from the inmate at the institution includes psychiatric or psychological reports, letters from individuals in the community, presentence reports, and information received from other inmates. Also, there is presently no provision for the inmate to have access to information prior to the parole grant hearing. Conference participants offer several reasons for advance disclosure of all information except where the informant's life would be endangered. First, instead of being based on possibly erroneous information, it is more likely decisions will be based on verified information. Second, the inmate should have an opportunity to respond to the information in writing and to have that response included in the docket for future consideration. Third, the inmate should be confronted with the facts upon which the parole decision

was made so that the inmate can correct perceived problems. Fourth, the usage of "snitch information" should be reduced. Participants state that this should prove beneficial to inmates and to the institutional staff because "snitch information" tends to be used by the inmate governing body as a basis for power. Some participants disagree that privileged or confidential information should be shared with the inmate. Sharing sensitive information is seen as fostering retaliation among inmates and toward the establishment.

The standard proposes that under appropriate conditions, the offenders should have attorney representation in the parole grant process. Conference participants note that, presently, neither is the inmate informed of his/her right to representation nor is he/she allowed actual representation at the parole grant hearing. The first point of attorney representation is at the appeal stage. "If the offender can have a representative who is free to pursue information, develop resources, and raise questions, decisions are more likely to be made on fair and reasonable grounds. Furthermore, such representation would do much to increase the credibility of the parole system in the public's view." (NAC, **Corrections**, 423 (1973).) Conference participants note that personal appearance by a lawyer may not be as important an assistance with a written presentation. However, some individuals are unable to effectively articulate and communicate with the parole board and need someone to speak for them.

The standard directs that information from chaplains should not be considered in the parole grant process. This recommendation speaks primarily to protection of first amendment constitutional rights. Conference participants believe that if the chaplain is involved in the parole decision making process, it jeopardizes the privileged relationship between the chaplain and the inmate. Furthermore, conferees remark that if the chaplain is involved in the parole grant process, it creates subtle pressure upon inmates to participate in religious programs in which they might not otherwise participate.

COMPARATIVE ANALYSIS REFERENCE NAC Corrections 12.3.

STANDARD 10.5

Parole Revocation Hearings

Each parole jurisdiction immediately should develop and implement a system of revocation procedures to permit the prompt confinement of parolees exhibiting behavior that poses a serious threat to others. At the same time, it should provide careful controls, methods of fact-finding, and possible alternatives to keep as many offenders as possible in the community. Return to the institution should be used as a last resort, even when a factual basis for revocation can be demonstrated.

1. Warrants to arrest and hold alleged parole violators should be issued and signed by parole board members. Tight control should be developed over the process of issuing such warrants. They should never be issued unless there is sufficient evidence of probable serious violation. In some instances, there may be a need to detain alleged parole violators. In general, however, detention is not required and is to be discouraged. Any parolee who is detained should be granted a prompt preliminary hearing. Administrative arrest and detention should never be used simply to permit investigation of possible violations.
2. Parolees alleged to have committed a new crime but without other violations of conditions sufficient to require parole revocation should be eligible for bail or other release pending the outcome of the new charges, as determined by the court.
3. A preliminary hearing conducted by an individual not previously directly involved in the case should be held promptly on all alleged parole violations, including conviction of new crimes, in or near the community in which the violation occurred unless waived by the parolee after the due notification of his/her rights.

The purpose should be to determine whether there is probable cause or reasonable grounds to believe that the arrested parolee has committed acts that would constitute a violation of parole conditions and a determination of the value question of whether the case should be carried further, even if probable cause exists. The parolee should be given notice that the hearing will take place and of what parole violations have been alleged. He/she should have the right to present evidence, to confront and cross-examine witnesses, and to be represented by counsel. The person who conducts the hearing should make a summary of what transpired at the hearing and the information he/she used to determine whether probable cause existed to hold the parolee for the final decision of

the parole board on revocation. If the evidence is insufficient to support a further hearing, or if it is otherwise determined that revocation would not be desirable, the offender should be released to the community immediately.

4. At parole revocation hearings, the parolee should have written notice of the alleged infractions of his/her rules or conditions; access to official records regarding his/her case; the right to be represented by counsel, including the right to appointed counsel if he/she is indigent; the opportunity to be heard in person; the right to subpoena witnesses in his/her own behalf; and the right to cross-examine witnesses or otherwise to challenge allegations or evidence held by the State. Parole should not be revoked unless there is substantial evidence of a violation of one of the conditions of parole. The parole board should provide a written statement of findings, the reasons for the decision, and the evidence relied upon.
5. The parole board should develop alternatives to parole revocation, such as warnings, short-time local confinement, special conditions of future parole, variations in intensity of supervision or surveillance, and referral to other community resources. Such alternative measures should be utilized as often as is practicable.
6. If return to a correctional institution is warranted, the offender should be scheduled for subsequent appearances for parole considerations when appropriate. There should be no automatic prohibition against reparole of a parole violator.

COMMENTARY

Standard 10.5 addresses the establishment of formalized procedures for parole revocation. The procedures outlined in this standard reflect U.S. Supreme Court decisions, *Morrissey v. Brewer*, 92 S.Ct. 2593 (1972) and *Gagnon v. Scarpelli*, 93 S.Ct. 1756 (1973). These cases recognize that recommitment of a parolee or revocation of a probationer represents substantial loss of liberty and, therefore, direct that formalized procedures should be followed for revocation or recommitment.

The standard specifically recommends formalized procedures in four areas: how a parolee is taken and held in custody, when and where he/she is heard, what procedures are employed at revocation hearings, and what the nature of the disposition is. (NAC, *Corrections*, 426 (1973).) Conference participants acknowledge that the procedures detailed in the standard are, for the most part, being carried out in Iowa at the present time.

Several of the conferees observe that parole should only be revoked upon the conviction of a new offense as opposed to revocation resulting from a technical violation of parole conditions. It is their contention that parolees should not be subject to any restrictions or limitations beyond that of the average citizen. Parole revocation should only result from a judicial determination rather than administrative action. Taking away a parolee's liberty must result from a determination that the violation is a criminal act rather than a reflection of administrative practices. In this model, the parole officer should function as a counselor and a resource manager; he/she should not have the authority to revoke on technical violations. The parole environment should be supportive and non-coercive. This model was accepted by a substantial minority of the conference participants.

COMPARATIVE ANALYSIS REFERENCE NAC Corrections 12.4.

STANDARD 10.6 **Services to Probationers**

Each probation system should develop a goal-oriented service delivery system that seeks to remove or reduce barriers confronting probationers. The needs of probationers should be identified, priorities established, and resources allocated based on established goals of the probation system.

1. Services provided directly should be limited to those which are not effectively available in the community. Services which are available in the community should be procured from other agencies that have primary responsibility for them. It is essential that funds be provided for purchase of services.
2. The staff delivering services to probationers should be located in the communities where a majority of probationers live whenever possible.
3. The probation system should be organized to deliver to probationers a range of services by a range of staff. Various modules or techniques should be used for organizing staff and probationers into workloads or caseloads. Programs developed should be based on offender needs.

STANDARD 10.7 **Organization of Parole Field Services**

Iowa should provide by 1978 for the consolidation of institutional and parole field services in departments or divisions of correctional services. Such consolidations should occur as closely as possible to operational levels.

1. Institutional and field services should be coordinated at the program level.
2. Joint training programs for institutional and field staffs should be undertaken, and transfers of personnel between the two programs should be encouraged.
3. Parole services should be delivered, wherever practical, under a team system in which a variety of persons including parolees, parole managers, and community representatives participate.
4. Teams should be located, whenever practical, in the neighborhoods where parolees reside. Specific team members should be assigned to specific community groups and institutions designated by the team as especially significant.
5. Organizational and administrative practices should be altered to provide greatly increased autonomy and decision making power to the parole teams.

COMMENTARY

Standards 10.6 and 10.7, Services to Probationers and Organization of Parole Field Services, address the type of systems to be used for delivery of probation and parole services. Both standards recommend development of goal oriented delivery systems. Conference participants conclude that it may be beneficial to both the probationer or parolee and the probation/parole officer to articulate goals to be accomplished during the probation or parole period.

The standards focus on development of a team approach for delivery of probation and parole services. The team method differs from the traditional caseload method based on a single probation or parole officer being responsible for a specific caseload of probationers or parolees. With the team approach, the probation or parole officer will be primarily a resource facilitator working with community representatives. Tasks will be assigned on the basis of needs of the individual probationer or parolee and the staff or resource agency better able to provide the services.

Conference participants believe the team approach offers several advantages. First, many more

services can be made available to the probationer or parolee. Second, some type of assistance will be available to the individual at all times, which is particularly important in a crisis situation. Third, flexibility can be introduced by permitting the probationer or parolee access to a number of people. Fourth, the typically large unmanageable caseload of probation and parole officers can be reduced. Fifth, innovative ideas and new avenues of assistance can be generated. Overall, conference participants conclude the team approach allows development of the widest range of programs and services to meet specific needs of the offender.

Some disadvantages of the team approach are also identified. The first disadvantage recognized by conference participants is multiple management—having a multiple number of persons making differing and possibly conflicting decisions regarding a specific case. However, participants believe this can be resolved by having a team leader. The team leader will be the final decision maker and will be responsible for coordination of the case. Another disadvantage of the team approach identified by conference participants is the loose control. Participants state that some individuals need close supervision. The parole or probation officer provides this supervision. Conference participants note that the probation or parole officer is also responsible for the protection of society.

Standard 10.7 recommends that institutional and field services should be coordinated. Participants stress that institutional and parole field services should be more closely tied together through pre-parole planning relying on the team approach. To put together a workable pre-parole plan, input is needed from the area where the parolee wants to go upon release.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 10.2, 12.5.

STANDARD 10.8

Misdemeanant Probation

Iowa should develop additional probation manpower and resources to assure that the courts may use probation for persons convicted of misdemeanors in all cases for which this disposition may be appropriate. All standards of this report that apply to probation are intended to cover both misdemeanor and felony probation. Other than the possible length of probation terms, there should be no distinction between

misdemeanant and felony probation as to organization, manpower, or services.

COMMENTARY

Standard 10.8 addresses the extension of probation services to misdemeanants. "The failure to provide probation staff, funds, and resources to misdemeanants results in the needless jailing of these offenders and, in too many cases, their eventual graduation to the ranks of felony offenders." (NAC, **Corrections**, 335 (1973).) Conference participants remark that the traditional alternatives—fines, jails, or workhouse—used by the courts for misdemeanants offer little rehabilitative value.

The standard recommends that probation services made available to felony offenders should likewise be provided to misdemeanants. Participants acknowledge that a major stumbling block has been that the offense has been the determining factor rather than the offender. Conference participants conclude that misdemeanants have the same problem as felons and, therefore, should have the same assistance made available to them.

A minority of participants oppose extending services to misdemeanants. These participants contend that placing individuals under supervision at the misdemeanor level is advocacy of a police state with social control. They contend that the impact is therapeutic and unnecessary control of individuals for what is judged slight antisocial acts or offenses.

In Iowa, probation has been increasingly used as a sentencing disposition by the courts. With the development and implementation of community corrections, probation services have been greatly expanded in the last few years. However, probation services are not available in some rural areas of the State, and where available, services have not been extended to all misdemeanants.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 10.3.

STANDARD 10.9

Probation In Release On Recognizance Programs

Every judicial district of Iowa that does not already have an effective release on recognizance program should immediately develop, in cooperation with the court, additional staff and procedures to investigate arrested adult defendants for possible release on recognizance (ROR) while awaiting trial, to avoid unnecessary use of detention in jail.

1. The staff used in the ROR investigations should be trained in interviewing, investigation techniques, and report preparation.
2. The staff should collect information relating to defendant's residence, past and present; employment status; financial condition; prior record if any; and family, relatives, or others, particularly those living in the immediate area who may assist him/her in attending court at the proper time.
3. Where appropriate, staff making the investigation should recommend to the court any conditions that should be imposed on the defendant if released on recognizance. Such conditions should be no more restrictive than is necessary to assure the defendant's appearance at trial and should be directed solely to that purpose.
4. The probation agency should provide on a voluntary basis pretrial intervention services to persons released on recognizance.

COMMENTARY

Standard 10.9, Probation In Release On Recognizance Programs, seeks to generate release on recognizance (ROR) programs in those areas of the State where programs have not been established. The standard details the services the probation agency should provide to the court and to persons released on recognizance. The standard proposes that the probation agency should provide intervention services to the person released on recognizance. Conference participants emphasize that the defendant's participation in pretrial programs must be voluntary. Participants remark that other than making certain the defendant will appear for trial, the State has no interest in interfering with the defendant's life or curtailing his/her liberty.

Pretrial programs can be beneficial to the defendant. Participants acknowledge that release on recognizance oftentimes has a positive effect on final disposition. In many cases, the defendant is given a more lenient sentence. The same type of

pretrial services should be available in all localities, both rural and urban. Conferees note that currently, in Iowa, pretrial services are not provided in some locations, primarily rural areas. In those areas where services are offered, there is a wide variance among program components. Conference participants remark that both the services and the level of services differ.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 10.5.

STANDARD 10.10

Community Services For Parolees

Iowa should begin immediately to develop a diverse range of programs to meet the needs of parolees. These services should be drawn to the greatest extent possible from community programs available to all citizens, with parole staff providing linkage between services and the parolees needing or desiring them.

1. Stringent review procedures should be adopted, so that parolees not requiring supervision are released from supervision immediately and those requiring minimal attention are placed in minimum supervision caseloads.
2. Parole officers should be selected and trained to fulfill the role of community resource facilitator.
3. Parole staff should participate fully in developing coordinated delivery systems of human services.
4. Funds should be made available for parolees without interest charge. Parole staff should have authority to waive repayment to fit the individual case.
5. State funds should be available to offenders, so that some mechanism similar to unemployment benefits may be available to inmates at the time of their release, in order to tide them over until they find a job.
6. Iowa should use, as much as possible, a requirement that offenders have a visible means of support, rather than a promise of a specific job, before authorizing their release on parole.
7. Parole and State employment staffs should develop effective communication systems at the local level. Joint meetings and training sessions should be undertaken.

8. The Iowa parole agency should have one or more persons attached to the central office to act as liaison with major program agencies, such as the Office of Economic Opportunity, Office of Vocational Rehabilitation, and Department of Labor.
9. Institutional vocational training tied directly to specific subsequent job placements should be supported.
10. The Iowa Parole Board should encourage institutions to maintain effective quality control over programs.
11. Small community-based group homes should be available to community corrections staff including parole staff for their use for parolees for prerelease programs, for crises, and as a substitute to recommitment to an institution in appropriately reviewed cases of parole violation.
12. Funds should be made available to parole staffs to purchase needed community resources for parolees when those resources are available to the community only on a fee basis.
13. Where population concentrations permit, special caseloads should be established for offenders with specific types of problems, such as drug abuse.

set up and maintained to meet the needs of the offender. Efforts must be made to assist the offender before he/she formally leaves an institution. Participants believe emphasis should be placed on development of programs, training and jobs with adequate pay within the institution.

Next, to insure that persons recently released have adequate financial support, the standard proposes making funds available for parolees. Iowa presently has a emergency fund for parolees established by law. Conference participants reflect that the amount allowable per individual (maximum of \$25), however, is totally inadequate. In addition, conference participants state that there are many administrative obstacles, such as lengthy time period in processing, which prevent the parolee from obtaining the money when it is most needed. Therefore, participants believe that adequate funds should be made available to parolees who are earnestly trying to support themselves and who encounter situations such as physical disability or economic mishap.

Lastly, to alleviate the immediate need for money, the standard recommends that funds, similar to unemployment benefits, be available to the parolee to allow release into the community until employment is secured. Conference participants reason that release on parole should not be contingent upon whether the person has secure employment. Participants contend that a poor job market should not be the index as to whether a person is incarcerated or released on parole. The basis should be whether the individual can be reintegrated into society. Some conference participants had reservations about unemployment funds for parolees and felt that the State does not want individuals being released on parole who do not know what they want to do or where they are going to go. These participants believe that furloughs that are available prior to release on parole are adequate for the purpose of seeking employment.

COMPARATIVE ANALYSIS REFERENCE NAC Corrections 12.6.

COMMENTARY

The purpose of Standard 10.10, Community Services for Parolees, is to develop a wide range of programs that will assist the parolee in his/her reintegration into the community. The standard recommends that services should be provided through corrections agencies and should be secured through existing community resources.

"A parole staff has a specific task: to assist parolees in availing themselves of community resources and to counsel them regarding their parole obligation. Parole staff also must take responsibility for finding needed resources for parolees in the community." (NAC, **Corrections**, 431 (1973).) Conferencees state that by taking an active role, parole staff can help remove community barriers, such as hiring practices and other discriminatory roadblocks, parolees may encounter.

The chief problem facing a parolee upon release is the need for money for financial support. Conference participants state that another problem compounding the situation is that many persons being released do not know how to make or manage a budget. The standard recommends several ways to help alleviate these problems. First, the standard recommends that parole personnel should work with institutional staff to assure that realistic institutional programs are

STANDARD 10.11

Measures of Control

Iowa should assure that parole rules be kept at an absolute minimum, retaining only those critical in the individual case, and should provide for effective means of enforcing the conditions established.

1. After considering suggestions from correctional staff and preferences of the individual, the Iowa Parole Board should establish in each case the specific parole conditions appropriate for the individual offender.
2. Parole staff should be able to request the board to amend rules to fit the needs of each case and should be empowered to require the parolee to obey any such rule when put in writing, pending a final approval by the parole board within 30 days.
3. Special caseloads for intensive supervision should be established and staffed by personnel of suitable skill and temperament. Careful review procedures should be established to determine which offenders should be assigned or removed from such caseloads.
4. Parole officers should develop close liaison with police agencies, so that any formal arrests necessary can be made by police. Parole officers, therefore, would not need to be armed.

COMMENTARY

Standard 10.11, Measures of Control, addresses the formulation of parole conditions and their enforcement. Parole rules govern the conduct of parolees and, therefore, dictate the enforcement power of parole staff.

Parole conditions should be fair, reasonable and specifically related to each parolee's case. Conference participants maintain that parole rules invite violation if unreasonably restrictive. The establishment of realistic workable conditions affords the parolee the opportunity to lead a successful and law-abiding life in the community.

The standard directs that the parole board should initially determine the conditions necessary to place the person back into the community. Although parole staff will be able to add special conditions, which must be put in writing, these added conditions will be subject to approval by the parole board within a specific time period. Conference participants believe such a procedure will prevent unduly restrictive conditions being placed on parolees. It will also allow the parolee to present arguments to the parole board if he/she

believes the conditions imposed are unreasonable. Currently in Iowa, both the Board of Parole and the Department of Social Services (State agency administering parole supervision) have statutory authority to establish rules and conditions of parole. (See IOWA CODE sec. 247.6 (1975).)

The standard recommends measures for enforcement of parole rules. Conference participants conclude that although high surveillance and intensive supervision may be necessary for some parolees, it is not necessary for parole officers to assume the police function. Instead of using coercive measures, parole staff should assist the parolee in finding solutions to his/her problems.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 12.7.

STANDARD 10.12

Manpower for Parole

By 1977, Iowa should develop a comprehensive manpower and training program which would make it possible to recruit persons with a wide variety of skills, including significant numbers of minority group members and volunteers, and use them effectively in parole programs.

Among the elements of State manpower and training programs for corrections that are prescribed in Chapter 12, the following apply with specific force to parole.

1. A functional workload system linking specific tasks to different categories of parolees should be instituted by Iowa and should form the basis of allocating manpower resources.
2. The beginning parole officer should have the educational and experiential background equivalent to a college degree in the behavioral sciences.
3. Career ladders that offer opportunities for advancement of persons with less than college degrees should be provided.
4. Recruitment efforts should be designed to produce a staff roughly proportional in ethnic background to the offender population being served.
5. Ex-offenders should not be excluded from consideration for employment in parole agencies.
6. Use of volunteers should be extended substantially.

7. Training programs designed to deal with the organizational issues and the kinds of personnel required by the program should be established in Iowa.

STANDARD 10.13

Probation Manpower

Iowa immediately should develop a comprehensive manpower development and training program to recruit, screen, utilize, train, educate, and evaluate a full range of probation personnel, including volunteers, women, and ex-offenders.

The program should range from entry level to top level positions and should include the following:

1. Provision should be made for effective utilization of a range of manpower on a full or part-time basis by using a systems approach to identify service objectives and by specifying job tasks and range of personnel necessary to meet the objectives. Jobs should be reexamined periodically to insure that organizational objectives are being met.
2. Advancement (salary and status) should be along two tracks: service delivery and administration.

COMMENTARY

Standards 10.12 and 10.13, Manpower for Parole and Probation Manpower, address manpower recruitment and training programs for probation and parole personnel. The standards recommend allocation of manpower by using a workload system approach whereby personnel are linked to job tasks and objectives of the correctional agency.

The standards recommend utilizing a full range of personnel, particularly minorities, women, ex-offenders, and volunteers in probation and parole programs. Conference participants conclude that to effectively recruit persons from these sectors, job qualifications and restrictions should be relaxed. Therefore, training programs should be developed to make it possible to initially hire unqualified personnel.

The standards differ in recommendations for qualifications of probation and parole officers. Standard 10.12 does not set any requirements for probation officers. Participants reason that setting specific educational requirements for pro-

bation officers will constitute invidious discrimination. Those groups that the standard directs should be recruited, such as ex-offenders and minorities, tend not to have a college education. Standard 10.13 recommends educational and experience requirements with specification as to the type of education for the entrance level parole officer position. However, the standard also recommends advancement opportunities for those not having educational qualifications. Conference participants conclude that both education and experience are important and necessary qualifications for parole officers. Education not only provides knowledge in specific areas but tends to broaden the perspective of the individual. However, participants relate that practical experience is essential and can qualify an individual as well as education.

Standard 10.12 recommends that efforts in recruitment should be made to secure a staff somewhat comparable in ethnic background to the parolee population. Recognizing that the ethnic background of staff and offenders is very disproportionate, conference participants believe special endeavors should be made to recruit minority groups.

Conferees propose that ex-offenders not be excluded from consideration for parole jobs. Conference participants conclude that ex-offenders should be considered for parole jobs but should not receive high priority consideration. However, a minority of participants feel that ex-offenders should be sought out and favorably encouraged to apply for parole positions because of their experience.

Standard 10.13 proposes that staff have a choice of career tracks—either direct service to probationers or administration with salary and status advancement along both. Conference participants believe that if complementary salaries are provided along both tracks, competent service delivery staff are more likely to be retained on that level rather than advanced to administration where salaries tend to be higher.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 12.6, 10.4.

Chapter Eleven

Organization and Administration

Goal: To develop and improve organizational arrangements and managerial approaches of correctional agencies.

STANDARD 11.1

Professional Correctional Management

Each corrections agency should begin immediately to train a management staff that can provide, at minimum, the following system capabilities:

1. Managerial attitude and administrative procedures permitting each employee to have more say about what he/she does, including more responsibility for deciding how to proceed for setting goals and producing effective rehabilitation programs.
2. A management philosophy encouraging delegation of work-related authority to the employee level and acceptance of employee decisions, with the recognition that such diffusion of authority does not mean managerial abdication but rather that decisions can be made by the persons most involved and thus presumably best qualified.
3. Administrative flexibility to organize employees into teams or groups, recognizing that individuals involved in small working units become concerned with helping their teammates and achieving common goals.
4. The capability of accomplishing promotion from within the system through a carefully designed and properly implemented career development program.

STANDARD 11.2

Planning and Organization

Each correctional agency should begin immediately to develop an operational, integrated process of long-, intermediate-, and short-range planning for administrative and operation functions. This should include:

1. An established procedure open to as many employees as possible for establishing and reviewing organizational goals and objectives at least annually.
2. A research capability for adequately identifying the key social, economic, and functional influences impinging on that agency and for predicting the future impact of each influence.
3. The capability to monitor, at least annually, progress toward previously specified objectives.
4. An administrative capability for properly assessing the future support services required

for effective implementation of formulated plans.

These functions should be combined in one organizational unit responsible to the chief executive officer but drawing heavily on objectives, plans, and information from each organizational subunit.

Each agency should have an operating cost-accounting system by 1980 which should include the following capabilities:

1. Classification of all offender functions and activities in terms of specific action programs.
2. Allocation of costs to specific action programs.
3. Administrative conduct, through program analysis, of ongoing programmatic analysis for management.

STANDARD 11.3

Employee-Offender-Management Relations

Each correctional agency should begin immediately to develop the capability to relate effectively to and negotiate with employees and offenders. This labor-offender-management relations capability should consist, at minimum, of the following elements:

1. All management levels should receive in-depth management training designed to reduce interpersonal friction and employee-offender alienation. Such training specifically should include methods of conflict resolution, psychology, group dynamics, human relations, interpersonal communication, motivation of employees, and relations with minority and disadvantaged groups.
2. All nonmanagement personnel in direct, continuing contact with offenders should receive training in psychology, basic counseling, group dynamics, human relations, interpersonal communication, motivation with emphasis on indirect offender rehabilitation, and relations with minority groups and the disadvantaged.
3. All system personnel, including executives and supervisors, should be evaluated, in part, on their interpersonal competence and human sensitivity.
4. All managers should receive training in the strategy and tactics of union organization, managerial strategies, tactical responses to such organizational efforts, labor law and legislation with emphasis on the public sector, and the collective bargaining process.

5. Top management should have carefully developed and detailed procedures for responding immediately and effectively to problems that may develop in the labor-management or inmate-management relations. These should include specific assignment of responsibility and precise delegation of authority for action, sequenced steps for resolving grievances and adverse actions, and an appeal procedure from agency decisions.
6. Each such system should have, designated and functioning, a trained, compensated, and organizationally experienced ombudsman. He/she would hear complaints of employees or inmates who feel aggrieved by the organization or its management, or (in the case of offenders) who feel aggrieved by employees or the conditions of their incarceration. Such an ombudsman would be roughly analogous to the inspector general in the military and would require substantially the same degree of authority to stimulate changes, ameliorate problem situations, and render satisfactory responses to legitimate problems. The ombudsman should be located organizationally in the office of the top administrator and should not hold any other administrative position. Nothing in this section should be interpreted as conflicting, affecting, or negating the function of the present Office of the Citizens' Aide (prison ombudsman). His/her powers and duties should remain as an outside reviewer. The ombudsman's function being addressed in this section is for an additional ombudsman-grievance process within the correctional system.

STANDARD 11.4

Work Stoppages and Job Actions

Correctional administrators should immediately make preparations to be able to deal with any concerted work stoppage or job action by correctional employees. Such planning should have the principles outlined in Standard 11.3 as its primary components. In addition, further steps may be necessary to insure that the public, other correctional staff, or inmates are not endangered or denied necessary services because of a work stoppage.

1. Every State should enact legislation by 1978 that specifically prohibits correctional employees from participating in any concerted work stoppage or job action.
2. Every correctional agency should establish formal written policy prohibiting employees

from engaging in any concerted work stoppage. Such policy should specify the alternatives available to employees for resolving grievances. It should delineate internal disciplinary actions that may result from participation in concerted work stoppages.

3. Every correctional agency should develop a plan which will provide for continuing correctional operations in the event of a concerted employee work stoppage.

COMMENTARY

A broad spectrum of organizational arrangements and management processes characterizes the correctional system. "The range includes huge, centralized departmental complexes and autonomous one-man probation offices; separation of corrections from other governmental functions and combination of corrections with law enforcement, mental health, and social welfare; highly professionalized management methods and strikingly primitive ones." (NAC, *Corrections*, 439 (1973).)

However, a number of similar organizational problems confront correctional agencies. Major organizational problems include fragmentation, isolation, multiple levels of delivery of services, and financing.

The National Advisory Commission states that "...unification of all correctional programs within a State will allow it to coordinate programs that are essentially interdependent, better utilize scarce human and fiscal resources, and develop more effective programs across the spectrum of corrections." (NAC, *Corrections*, 441 (1973).) Corrections Standard 2.1 affirms this concept.

This chapter sets forth recommendations to improve the administration of Iowa correctional agencies. The standards incorporate ways to secure organizational growth and change. Standard topics are professional correctional management, planning and organization, employee-offender-management relations, and work stoppages and job actions.

Standard 11.1 seeks to secure professional management personnel and to improve management processes in correctional agencies. Conference participants agree that correctional agencies need trained management staff. Participants state that a multitude of approaches to management now exists among institutional, State and locally administered correctional programs. Another problem identified by conference participants is that seniority and experience tend to be advancement criteria for management positions with little emphasis placed on professional training.

"The magnitude and complexity of the tasks confronting the field of corrections demand the highest levels of professional competence and managerial expertise. (NAC, **Corrections**, 456 (1973).)

Standard 11.2, Planning and Organization, addresses development of a full planning process for the complete spectrum of correctional administrative and operational functions. Conference participants agree that correctional agencies need to operate with a consideration for future needs. Participants state that the lack of a State department of corrections to coordinate and implement planning contributes to the problem of inadequate planning. Nevertheless, participants recognize that public criticism and the news media will always affect correctional planning.

The National Advisory Commission states that "[p]lanning is even more important at a time when an organization's basic assumptions and objectives are being critically questioned. Reform can and should be a continuing process...." (NAC, **Corrections**, 457 (1973).) "Even the best plan, however, is of little value if the organization's climate, structure and employee resistance obstruct its implementation. Employees react negatively to changes imposed from above. So access to decisionmaking is important...." (NAC **Corrections**, 449 (1973).) A participatory and non-threatening leadership style is required in which employee, offender, and the organization needs are met in a compatible way. (Id.)

Standard 11.3, Employee-Offender-Management Relations, describes measures that correctional management should take to relate effectively to and negotiate with employees and offenders. It is believed this action will decrease the likelihood of strikes. However, the possibility of a work stoppage or job action exists; therefore, Standard 11.4, Work Stoppages and Job Actions, calls for administrative policy and legislation prohibiting correctional employees from striking and for a contingency plan in the event of an employee strike.

Standard 11.3 recommends the establishment of an ombudsman as one method of ameliorating employee and inmate grievances. Iowa has a prison ombudsman who is completely independent of any State agency. The prison ombudsman has the power to investigate any administrative action of any agency except an employee's employment relationship with an agency. (See IOWA CODE ch. 601G (1975).) The existing prison ombudsman, therefore, hears inmate complaints but does not process staff complaints. Participants state that the failure to provide employees with access to an ombudsman creates an imbalance in the system. Moreover, participants remark that because inmates have access to grievance resolution through the ombudsman and correctional staff do not, the imbalance hinders employee positive attitudes towards inmates. Therefore, participants believe that there should be an ombudsman

located organizationally within the correctional agency to hear employee and inmate complaints in addition to the existing independent ombudsman.

Inmates are exempted by Iowa law from organizing and bargaining collectively. (See IOWA CODE sec. 20.4 (8) (1975).) Participants remark, however, that de facto inmate organizations do exist in correctional institutions and that the correctional management does negotiate with such organizations. Moreover, participants state that the courts are deliberating whether inmates should have a limited right to organize on the basis of the first amendment constitutional right of freedom of association. Therefore, conferees conclude that correctional management should prepare to cope with the probability of inmate union organization.

The majority of conference participants conclude that, due to the potential gravity of a correctional employee strike in a security institution, legislation should be enacted to prohibit correctional personnel from engaging in a work stoppage or job action. In addition, participants believe that correctional agencies should establish policy prohibiting employees from engaging in work stoppages, and the policy should define the administrative disciplinary actions that may be taken against employees participating in work stoppages. The standard does not specify the types of administrative actions. At the present time, Iowa public employees are prohibited from participating in a strike against any public employer, and upon conviction of participating in a strike, are to be discharged. (See IOWA CODE sec. 20.12 (1975).) However, public employees have alternatives for resolving grievances through collective bargaining grievance procedures or State merit system grievance procedures. (See IOWA CODE ch. 19A; sec. 20.18 (1975).)

A minority of participants disagree that correctional employees should be prohibited from striking. It is their contention that if the right to strike is taken away, it gives the employer an unfair advantage in the bargaining process. In addition, these participants argue that no-strike provisions of the law are many times circumvented. They believe the most effective strike provisions are those that are negotiated in the contract rather than prohibited by law.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 13.1, 13.2, 13.3, 13.4.

Chapter Twelve

Manpower for Corrections

Goal: To insure that correctional personnel have the skills necessary to competently perform correctional functions.

STANDARD 12.1

Recruitment of Correctional Staff

Correctional agencies should begin immediately to develop personnel policies and practices that will improve the image of corrections and facilitate the fair and effective selection of qualified or qualified persons for correctional positions.

To improve the image of corrections, agencies should:

1. Replace all military titles with names appropriate to the correctional task.
2. Discontinue, except where absolutely necessary, the carrying of weapons and the use of uniforms.
3. Abolish such military terms as company, mess hall, drill, inspection, and gig list.
4. De-emphasize regimented behavior in all facilities, both for personnel and for inmates.

In the recruitment of personnel, agencies should:

1. Eliminate all political patronage for staff selection.
2. Eliminate such personnel practices as:
 - a. Age or sex restrictions except where prescribed by law.
 - b. Physical restrictions (e.g., height, weight) except where prescribed by law.
 - c. Barriers to hiring physically handicapped.
 - d. Questionable personality tests.
 - e. Legal or administrative barriers to hiring ex-offenders.
 - f. Unnecessarily long requirements for experience in correctional work.
 - g. Residency requirements.
 - h. Specific academic requirements without provisions for substitution of relevant training and experience qualifications.
3. Actively recruit from minority groups, women, young persons, and prospective indigenous workers, and see that employment announcements reach these groups and the general public.
4. Make a task analysis of each correctional position (to be updated periodically) to determine those tasks, skills, and qualities needed. Testing based solely on these relevant features should be designed to assure that proper qualifications are considered for each position.
5. Use an open system of selection in which any testing device used is related to a specific job and is a practical test of a person's ability to perform that job.

STANDARD 12.2

Recruitment from Minority Groups

Correctional agencies should take immediate affirmative action to recruit and employ minority group individuals (Black, Chicano, American Indian, Puerto Rican, and others) for all positions.

1. All job qualifications and hiring policies should be reexamined with the assistance of equal employment specialists from outside the hiring agency. All assumptions (implicit and explicit) in qualifications and policies should be reviewed for demonstrated relationship to successful job performance. Particular attention should be devoted to the meaning and relevance of such criteria as age, educational background, specified experience requirements, physical characteristics, prior criminal record or "good moral character" specifications, and "sensitive job" designations. All arbitrary obstacles to employment should be eliminated.
2. If examinations are deemed necessary, outside assistance should be enlisted to insure that all tests, written and oral, are related significantly to the work to be performed and are not culturally biased.
3. Training programs, more intensive and comprehensive than standard programs, should be designed to replace educational and previous experience requirements. Training programs should be concerned also with improving relationships among culturally diverse staff and clients.
4. Recruitment should involve a community relations effort in areas where the general population does not reflect the ethnic and cultural diversity of the correctional population. Agencies should develop suitable housing, transportation, education, and other arrangements for minority staff, where these factors are such as to discourage their recruitment.

STANDARD 12.3

Employment of Women

Correctional agencies immediately should develop policies and implement practices to recruit and hire more women for all types of positions in corrections, to include the following:

1. Change in correctional agency policy to eliminate discrimination against women for correctional work.
2. Provision for lateral entry to allow immediate placement of women in administrative positions.
3. Development of better criteria for selection of staff for correctional work, removing unreasonable obstacles to employment of women.
4. Assumption by the personnel system of aggressive leadership in giving women a full role in corrections.

- and to acquaint them with the objectives and problems of corrections.
3. A paid volunteer coordinator should be provided for efficient program operation.
 4. Administrators should plan for and bring about appropriate participation of volunteers in their programs; volunteers should be included in organizational development efforts.
 5. Insurance plans should be available to protect the volunteer, client, and agency from any mishaps experienced during participation in the program.
 6. Honorary recognition should be given to volunteers making exceptional contribution to an agency.

STANDARD 12.4

Employment of Persons with Criminal Records

Correctional agencies should take immediate action to employ capable and qualified persons with criminal records in correctional roles.

1. Policies and practices restricting the hiring of persons with criminal records should be reviewed and, where found unreasonable, eliminated or changed.
2. Training programs should be developed to prepare persons with criminal records to work in various correctional positions, and career development should be extended to them so they can advance in the system.

STANDARD 12.5

Utilization of Volunteers

Correctional agencies immediately should begin to recruit and use volunteers from all ranks of life as a valuable additional resource in correctional programs and operations, as follows:

1. Volunteers should be recruited from the ranks of minority groups, the poor, inner-city residents, ex-offenders who can serve as success models, and professionals who can bring special expertise to the field.
2. Training should be provided to volunteers to give them an understanding of the needs and life-styles common among offenders

STANDARD 12.6

Personnel Practices for Retaining Staff

Correctional agencies should immediately re-examine and revise personnel practices to create a favorable organizational climate and eliminate legitimate causes of employee dissatisfaction in order to retain capable staff. Policies should be developed that would provide:

1. Salaries for all personnel that are competitive with other parts of the criminal justice system as well with comparable occupation groups of the private sector of the local economy. An annual cost-of-living adjustment should be mandatory.
2. Opportunities for staff advancement within the system. The system also should be opened to provide opportunities for lateral entry with relevant experience and promotional mobility within jurisdictions and across jurisdictional lines.
3. Elimination of excessive and unnecessary paperwork and chains of command that are too rigidly structured and bureaucratic in function, with the objective of facilitating communication and decision making so as to encourage innovation and initiative.
4. Appropriate recognition for jobs well done.
5. Workload distribution and schedules based on flexible staffing arrangements. Size of the workload should be only one determinant. Also to be included should be such others as nature of cases, team assignments, and the needs of offenders and the community.
6. A criminal justice career pension system to include investment in an annuity and equity system for each correctional worker. The system should permit movement within elements of the criminal justice system and from

one corrections agency to another without loss of benefits.

3. A process of updating information on program effectiveness and needed role changes for correctional staff working in community-based programs.
4. Methods for formal, official corrections to cooperate effectively with informal and private correctional efforts found increasingly in the community. Both should develop collaboratively rather than competitively.

STANDARD 12.7

Participatory Management

Correctional agencies should adopt immediately a program of participatory management in which everyone involved—managers, staff and offenders—shares in identifying problems, finding mutually agreeable solutions, setting goals and objectives, defining new roles for participants, and evaluating effectiveness of these processes. Authority and responsibility for decision making ultimately rests with the appropriate legally designated administrator.

This program should include the following:

1. Training and development sessions to prepare managers, staff, and offenders for their new roles in organizational development.
2. An ongoing evaluation process to determine progress toward participatory management and role changes of managers, staff, and offenders.
3. A procedure for the participation of other elements of the criminal justice system in long-range planning for the correctional system.
4. A change of manpower utilization from traditional roles to those keeping with new management and correctional concepts.

STANDARD 12.9

Coordinated State Plan for Criminal Justice Education

Each State should establish by 1978 a State plan for coordinating criminal justice education to assure a sound academic continuum from an associate of arts through graduate studies in criminal justice, to allocate education resources to sections of the State with defined needs, and to work toward proper placement of persons completing these programs.

1. A State higher education coordinating agency should be utilized to formulate and implement the plan.
2. Educational leaders, State planners, and criminal justice staff members should meet to chart current and future statewide distribution and location of academic programs, based on proven needs and resources.
3. Award of Law Enforcement Education Program funds should be based on a sound educational plan.
4. Preservice graduates of criminal justice education programs should be assisted in finding proper employment.

Each correctional agency should ensure that proper incentives are provided for participation in higher education programs.

1. Inservice graduates of criminal justice education programs should be aided in proper job advancement or reassignment.
2. Rewards (either increased salary or new work assignments) should be provided to encourage inservice staff to pursue these educational opportunities.

STANDARD 12.8

Distribution of Correctional Manpower and Monetary Resources

Correctional and other agencies, in implementing the recommendations for reducing the use of major institutions and increasing the use of community resources for correctional purposes, should undertake immediate cooperative studies to determine proper distribution of manpower in institutional and community-based programs. This plan should include the following:

1. Development of a statewide correctional manpower profile including appropriate data on each worker.
2. Proposals for retraining staff relocated by institutional closures.

STANDARD 12.10

Intern and Work-Study Programs

Correctional agencies should immediately begin to plan, support, and implement internship and work-study programs to attract students to corrections as a career and improve the relationship between educational institutions and the field of practice.

These programs should include the following:

1. Recruitment efforts concentrating on minority groups, women, and socially concerned students.
2. Careful linking between the academic component, work assignments, and practical experiences for the students.
3. Collaborative planning for program objectives and execution agreeable to university faculty, student interns, and agency staff.
4. Evaluation of each program.
5. Realistic pay for students.
6. Followup with participating students to encourage entrance into correctional work.

STANDARD 12.11

Staff Development

Correctional agencies immediately should plan and implement a staff development program that prepares and sustains all-staff members.

1. Qualified trainers should develop and direct the program.
2. Training should be the responsibility of management and should provide staff with skills and knowledge to fulfill organizational goals and objectives.
3. To the fullest extent possible, training should include all members of the organization.
4. Training should be conducted at the organization site and also in community settings reflecting the context of crime and community resources.
 - a. All top and middle managers should have at least 40 hours a year of executive development training, including training in the operations of police, courts, prosecution, and defense attorneys.
 - b. All new staff members should have at least 40 hours of orientation training during their first week on the job and at least 60 hours additional training during their first year.

c. All staff members, after their first year, should have at least 40 hours of additional training a year to keep them abreast of the changing nature of their work and introduce them to current issues affecting corrections.

5. Financial support for staff development should continue from the Law Enforcement Assistance Administration, but State and local correctional agencies must assume support as rapidly as possible.
6. Trainers should cooperate with their counterparts in the private sector and draw resources from higher education.
7. Sabbatical leaves should be granted for correctional personnel to teach or attend courses in colleges and universities.

COMMENTARY

The field of corrections is increasingly being scrutinized for its recruitment and hiring practices. To insure open recruitment opportunities and selection of qualified professional staff, correctional agencies should attempt to recruit highly qualified personnel and should take affirmative action to eliminate discrimination in hiring.

One problem in corrections has been lack of sufficient finances to provide adequate manpower and to promote careers in the field. Poor working conditions, poor utilization of resources, and lack of training contribute to manpower difficulties.

In addition, women, members of ethnic minorities, ex-offenders, and volunteers are generally underutilized as correctional manpower. (NAC, *Corrections*, 463 (1973).)

Problems shared by all areas of corrections—its poor image and conflict among personnel as to its mission—also complicate solution of manpower difficulties.... People who work in corrections—and the public which employs them—are uncertain as to whether the system is supposed to punish lawbreakers or to rehabilitate them, to protect society or to change social conditions, or to do some or all of these things under varying circumstances. Employees who have no clear concept of their roles—and disagree among themselves as to what their role should be—are unlikely to perform well or to find satisfaction in their work. This state of affairs can only be made worse as the public holds them increasingly accountable for the failures of the system. (NAC, *Corrections*, 463, 464 (1973).)

Of all the factors in rehabilitation, the personal dimension is probably the most crucial. In many respects, the forgotten element in the concern

for correctional progress has been the correctional staff. Upgrading the working conditions, qualifications and capabilities of staff will increase the opportunity for correctional effectiveness.

The field of corrections should begin to analyze the manpower needs and to establish new techniques and management policies based on this analysis. Efforts must be made to recruit and retain staff, to train personnel, and to allow personnel to participate in program and agency management.

This chapter is designed to help remedy correctional manpower problems. Basically, the standards focus on systematic long-range planning to meet manpower needs. The standards address recruitment with emphasis on utilizing women, minorities, ex-offenders and volunteers; personnel and management practices; training; and education and work study programs.

Recruitment

To insure that selection criteria are not arbitrary or discriminatory, Standard 12.1 proposes that personnel policies and practices should reflect that qualified and qualifiable persons should be recruited for correctional positions. Conference participants believe that if selection is limited to "qualified" persons, it permits an artificial barrier to employment. Participants recognize that there are some persons who may be identified as being "qualifiable" but may not initially be "qualified" by having the required educational or professional experience. Unbiased selection criteria make it far easier to administer fair hiring practices and to insure that qualified staff are retained.

To deemphasize the militaristic and authoritative image of corrections, Standard 12.1 calls for a number of measures that affect the appearance, terminology and practices of correctional agencies. These measures should make corrections a more attractive career field.

One of the measures proposing to diminish the authoritarian image of corrections is to discontinue the use of uniforms. Conference participants have vastly differing viewpoints regarding whether some type of uniform should be worn by correctional staff in correctional institutions. Participants conclude that the use of uniforms should be discontinued except where absolutely necessary. Some participants believe that uniforms should be worn by staff and that a certain degree of authority is necessary in a mass population correctional institution for order, control and safety. These participants state that from past experimentation with and without staff uniforms in Iowa's major correctional institutions, some uniform designation of clothing is necessary. They remark that uniforms are needed to make visual identification of staff possible because inmates are not required to wear uniforms. In addition, it was their contention that without uniforms, staff dress, morale, and relationships between correctional officers and inmates deteriorated.

Standards 12.1 through 12.5 urge all correctional agencies to recruit minorities, women, offenders and ex-offenders, and volunteers for use in a variety of roles. Utilization of these manpower resources should help insure that correctional staff is reflective of the client population with whom they are dealing as well as reflective of the communities which they serve.

To facilitate employment of offenders and ex-offenders, conference participants believe that training for correctional positions should extend to offenders while they are incarcerated in institutions. Therefore, the standard specifies that persons with criminal records, including both offenders and ex-offenders, should be considered for employment as correctional employees. Ex-offenders have knowledge of corrections and often have rapport with the offender population that gives them special value as correctional employees. (NAC, **Corrections**, 478 (1973).)

Conference participants believe that volunteers should be integrated under administrative control so they can be an efficient manpower resource and do not drain existing resources. "Volunteers require supervision, direction, and guidance, just as other correctional employees do, and staff should be provided to manage their programs and activities." (NAC, **Corrections**, 481 (1973).) Not only can volunteers be an added manpower resource, they can serve as a bridge between corrections and the community.

Conferees believe that insurance coverage that will provide liability protection for the volunteer, client, and agency from any actions involving the volunteer in correctional programs is decidedly needed.

Management and Personnel Practices

Standards 12.6, 12.7, and 12.8 are directed at determining correctional manpower needs and developing ways to retain capable staff. Salaries and benefits are important to attract and to keep persons in correctional work and to create a favorable organizational climate. Another necessary element for retaining capable staff is job satisfaction which can result from organizational cohesion and intensity of commitment on the part of all personnel. Participatory management is designed to involve all persons in the planning, operation, decision making and evaluation of the organization. Conference participants believe that it is beneficial to all concerned to have managers, staff and offenders contributing to the organization's direction and operation. However, participants agree that ultimate decision making and control of operational procedures should remain with the management.

Conference participants agree that it would be beneficial to undertake studies of monetary and manpower resources of institutional and community-based programs. Conferees comment that the increased development of community corrections in Iowa has not resulted in a lesser need

for correctional staff in institutions. As new manpower programs and assignments are implemented, evaluation components should be included that will provide feedback on actual services performed, additional services needed, and problems encountered as a basis for continuing planning and training. (NAC, **Corrections**, 488 (1973).)

Education and Training

Standards 12.9, 12.10, and 12.11 address education and training programs for correctional personnel. Conference participants observe that education and pre-service and in-service training are vital to manpower development in the criminal justice system. Through the development of a coordinated educational curriculum, internships, work-study programs and staff training, a more adequately trained staff can deliver better and more effective services to offenders. Participants emphasize that development of a coordinated education plan should be for the entire criminal justice field and not solely for corrections. Participants comment that a Correctional Education Advisory Committee has been organized to coordinate correctional education programs in colleges and universities in Iowa. As a result of this committee's action, a basic core curriculum has been developed. The committee was composed of educators from colleges and universities and of corrections practitioners from institutions and the field.

Participants conclude that a problem with criminal justice education programs is that study ostensibly has been in preparation of careers in law enforcement rather than corrections. A well developed coordinated education plan should remedy this situation.

While staff training programs have been developed for correctional employees, some personnel have not participated in training. Participants relate that the emphasis has been on training for correctional institutional personnel in Iowa. Conferencees conclude that all correctional personnel should have training to impart knowledge and skills to fill organizational goals.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 14.1, 14.2, 14.3, 14.4, 14.5, 14.6, 14.7, 14.8, 14.9, 14.10, 14.11.

Chapter Thirteen

Correctional Information System

Goal: To develop and maintain a correctional information system that will produce accurate, timely, and complete data needed for operational and administrative decision making, planning and research.

STANDARD 13.1

State Correctional Information System

By 1978, Iowa should develop and maintain a correctional information system to collect, store, analyze, and display information for planning, operational control, offender tracking only within the corrections system, and program review for all State and judicial district correctional programs.

1. Local and central correctional components (facilities, branch offices, programs) of all sizes should be included in this system.
2. In all cases, the State should store local data, with access provided through terminals at various points throughout the State. Control of the system should be in the hands of participating agency representatives to the extent permitted by law. Until a unified correctional system is established, admission to the information system should be voluntary, but benefits should be clear enough to encourage membership. A share of the development costs should be borne by the State.
3. If data processing for the department of corrections must be done on a shared computer facility under the administration of some other agency, the programmers and analysts for the department should be assigned full time to it and should be under the complete administrative control of the department of corrections.
4. The department of corrections should be responsible for maintaining the security and privacy of records in its data base and should allow data processing of its records only under its guidance and administrative authority. This should not be construed as prohibitive, as the department of corrections should encourage research in the correctional system and provide easy access to authorized social science researchers. (Only information that would identify individuals should be withheld.)
5. The information-statistics function should be placed organizationally so as to have direct access to the top administrators of the department.
6. The mission of the information-statistics function should be broad enough to assume informational and research support to all divisions within the department of corrections and to support development of an offender-based transaction system. Priorities of activity undertaken should be established by top administrators in consultation with the director of the information system.
7. This system should collect only specified data for specific purposes. Caution should be exerted to prevent the collection of data for unspecified purposes.

STANDARD 13.2

Staffing for a Correctional Research and Information System

Iowa in the implementation of Standard 13.1, should provide minimum capabilities for analysis and interpretation of information. For all but the largest components (facilities, branch offices, programs), a small information and statistics section capable of periodic reports on the consequences of policy and decision making will suffice. Larger components will benefit from having a professional staff capable of designing and executing special assessment studies to amplify and explicate reports generated by the information system. Staffing for research and information functions should reflect these considerations:

1. Where the component's size is sufficient to support one or more full-time positions, priority should be given to assigning an information manager who should have minimum qualifications as a statistician. The manager who should have responsibility for coordination and supervision of inputs into the system. He/she also should edit, analyze, and interpret all output material, preparing tables and interpretive reports as indicated.
2. Where the size of the component does not warrant the allocation of full-time positions to information and statistics, one professional staff member should be designated to perform the functions outlined above on a part-time basis.
3. The manager of the State information system should use members of his/her staff as training officers and technical consultants. Where unification has not been achieved, these persons should be responsible for familiarizing county and local correctional administrative and information staff with system requirements and the advantageous use of output.
4. Other steps to achieve effective communication of information include the following:
 - a. Researchers and analysts should be given formal training in communication of results to administrators. Such training should include both oral and written communications.
 - b. The training program of the National Institute of Corrections should include a session for administrators that covers new techniques in the use of computers, information, and statistics.
 - c. Where feasible, management display centers should be constructed for communication of information to administrators. The center should have facilities for graphic presentation of analyses and other information.

STANDARD 13.3

Design Characteristics of a Correctional Information System

Iowa, in the establishment of its information system under Standard 13.1, should design it to facilitate four distinct functions:

1. Offender accounting.
2. Administrative-management decision making.
3. Ongoing departmental research.
4. Rapid response to ad hoc inquiries.

The design of the correctional information system should insure capability for provision of the following kinds of information and analysis:

1. Point-in-time net results—routine analysis of program status, such as:
 - a. Basic population characteristics.
 - b. Program definition and participants.
 - c. Organizational units, if any.
 - d. Personal characteristics.
 - e. Fiscal data.
2. Period-in-time reports—a statement of flow and change over a specified period for the same items available in the point-in-time net results report. The following kinds of data should be stored:
 - a. Summary of offender events and results of events.
 - b. Personnel summaries.
 - c. Event summaries by population characteristics.
 - d. Event summaries by personnel characteristics.
 - e. Fiscal events summarized by programs.
3. Automatic notifications—the system should be designed to generate exception reports for immediate delivery. Four kinds of exception reports are basic:
 - a. Volume of assignments to programs or units varying from a standard capacity.
 - b. Movement of any type that varies from planned movement.
 - c. Noncompliance with established decision criteria.
 - d. Excessive time in process.
4. Statistical-analytical relationships—reports of correlations between certain variables and outcomes, analysis of statistical results for a particular program or group of offenders, etc.

STANDARD 13.4

Development of a Correctional Data Base

Iowa, in the establishment of its information system under Standard 13.1, should design its data base to satisfy the following requirements:

1. The information-statistics functions of offender accounting, administrative decision making, ongoing research, and rapid response to questions should be reflected in the design.
2. The data base should allow easy compilation of an annual statistical report, including sections on population characteristics tabulated for given points in time, a recapitulation of population movement for the full year, and an analysis of recidivism by offense and other characteristics.
3. The data base should include all data required at decision points. The information useful to corrections personnel at each decision point in the corrections system should be ascertained in designing the data base.
4. The requirements of other criminal justice information systems for corrections data should be considered in the design, and an interface between the corrections system and other criminal justice information systems developed, including support of offender-based transaction systems.
5. All data base records should be individual-based and contain elements that are objectively codable by a clerk. The procedures for coding data should be established uniformly.
6. The integrity and quality of data in each record is the responsibility of the information group. Periodic audits should be made and quality control procedures established.
7. The corrections information-statistics system should be designed and implemented modularly to accommodate expansion of the data base. Techniques should be established for pilot testing new modules without disrupting ongoing operations of the system. Interactions with planners and administrators should occur before introduction of innovations.
8. Data bases should be designed for future analyses, recognizing the lag between program implementation and evaluation.
9. The results of policies (in terms of evaluation) should be reported to administrators, and data base content should be responsive to the needs of changing practices and policies to guarantee that the all-important feedback loop will not be broken.
10. The initial design of the corrections data base should recognize that change will be continual. Procedures to assure smooth transitions should be established.

STANDARD 13.5

Evaluating the Performance of the Correctional System

Each correctional agency immediately should begin to make performance measurements on two evaluative levels—overall performance or system reviews as measured by recidivism, and program reviews that emphasize measurement of more immediate program goal achievement. Agencies allocating funds for correctional programs should require such measurements. Measurement and review should reflect these considerations:

1. For system reviews, measurement of recidivism should be the primary evaluative criterion. The following definition of recidivism should be adopted nationally by all correctional agencies to facilitate comparisons among jurisdictions and compilation of national figures:

Recidivism is measured by (1) criminal acts that resulted in conviction by a court, when committed by individuals who are under correctional supervision or who have been released from correctional supervision within the previous three years, and by (2) technical violations of probation or parole in which a sentencing or paroling authority took action that resulted in an adverse change in the offender's legal status.

Technical violations should be maintained separately from data on reconvictions. Also, recidivism should be reported in a manner to discern patterns of change. At a minimum, statistical tables should be prepared every 6 months during the 3 year followup period, showing the number of recidivists. Discriminations by age, offense, length of sentence, and disposition should be provided.

2. Program review is a more specific type of evaluation that should entail these five criteria of measurement:
 - a. Measurement of effort, in terms of cost, time, and types of personnel employed in the project in question.
 - b. Measurement of performance, in terms of whether immediate goals of the program have been achieved.
 - c. Determination of adequacy of performance, in terms of the program's value for offenders exposed to it as shown by individual followup.
 - d. Determination of efficiency, assessing effort and performance for various programs to see which are most effective with comparable groups and at what cost.
 - e. Study of process to determine the relative contributions of process to goal achievement, such as attributes of the program

related to success or failure, recipients of the program who are more or less benefited, conditions affecting program delivery, and effects produced by the program. Program reviews should provide for classification of offenders by relevant types (age, offense category, base expectancy rating, psychological state or type, etc.) Evaluative measurement should be applied to discrete and defined cohorts. Where recidivism data are to be used, classifications should be related to reconvictions and technical violations of probation or parole as required in systems reviews.

3. Assertions of system or program success should not be based on unprocessed percentages of offenders not reported in recidivism figures. That is, for individuals to be claimed as successes, their success must be clearly related in some demonstrable way to the program to which they are exposed.

COMMENTARY

There are increasing demands for more information to facilitate correctional decision making. Adequate and reliable information is necessary for correctional planning, research and daily decision making. Effective collection and dissemination of large amounts of information require a capability to gather, process and transmit data. Computers and other automated technology provide the capability to supply more information at a faster response rate.

The standards in this chapter provide a foundation for the development and maintenance of a comprehensive correctional information system. The standards address the actual development of a State correctional information system; staffing, design and data base for a correctional information system; and evaluation of correctional programs and the correctional system.

Standard 13.1, State Correctional Information Systems, concerns the function and operational control of a correctional information system. "The major purpose of a corrections information and statistics function is to support administrative decisionmaking." (NAC, *Corrections*, 520 (1973).) Because information requirements in corrections differ from those of other criminal justice areas, it is recommended that an independent information system be designed and implemented to serve specific needs of corrections for Iowa. (*id.*)

Iowa is currently studying the feasibility of a comprehensive correctional information system. The feasibility study is being conducted through the State Department of Social Services.

Conference participants raise several questions that cannot be answered at the present time concerning access to records, confidentiality, and record storage. However, to safeguard individual rights, participants believe that data should be limited and the purposes of information going into the information system should be defined. Because it is not known if the use of a computer must be shared with other agencies, the standard directs that the analysis and programming staff should be under the administrative control of the department of corrections. For economic reasons, participants state that it is likely several data gathering systems will be stored within a computer. For this reason, participants believe access to the corrections data base should be limited to corrections agencies. Furthermore, participants conclude that the system should collect only limited defined data for specific purposes.

Standard 13.2 describes the staff responsibilities and requirements for a correctional information system.

Analysis of statistical information concerning correctional operations will be of little use unless it is interpreted for administrative review and action. Each correctional agency with access to an information system should have assigned staff members capable of reviewing processed information and interpreting it for administrative and managerial staff.... As important as it is to provide timely information, it is more important to communicate the results and disseminate the analysis in a form that can be understood and used by those who make policy decisions. (NAC, **Corrections**, 522 (1973).)

Standard 13.3, Design of a Correctional Information System, describes the functions and the corresponding capabilities of a correctional information system.

Correctional agencies typically make decisions from a cumbersome, usually disorganized file. The information in the file is so confused that it often must be supplanted by intuition. Clearly, if more knowledgeable decisions are to be made, more readily usable information must be provided. An information system includes the concepts, personnel, and supporting technology for the collection, organization, and delivery of information for administrative use. An information system should be capable of collecting data for statistical use and providing itemized listings for administrative action. (NAC, **Corrections**, 523, 524 (1973).)

Standard 13.4 details data base requirements of a correctional information system.

Development of the data base is the key to a successful information-statistics function in corrections. The data base must contain elements that produce information

necessary for decisions. To satisfy the service needs, the data base should be composed of individual records, each made up of standardized elements of codable data....

The information-statistics system must provide feedback to administrators on the results of their policies and actions. It must foretell how decisions might be made differently. As administrators and planners develop new methods and programs in response to the feedback they are receiving, other data will be needed to continue this feedback process. (NAC, **Corrections**, 525, 526, 527 (1973).)

Standard 13.5, Evaluating the Performance of the Correctional System, sets forth criteria for measurement of the performance of correctional agencies. "Standards of performance in corrections previously have been based largely on the collective subjective opinions and judgments of administrators. While elements of subjective consensus should not be eliminated entirely from the process of standard setting, objective statistical measurement could provide more guidance. Research to validate measurement and to determine optimum performance standards should be expedited in the interest of improving sentencing policy, setting expenditure priorities, and providing more effective services to offenders." (NAC, **Corrections**, 529 (1973).)

The standard makes a distinction between system review and program review. In a system review, performance of the entire system in achieving its goal is the object of measurement. In a program review, effectiveness of the program in the achievement of an immediate objective must be measured. Unless these measurements are based on standard criteria, reviews cannot be valid, nor can comparison be made when necessary. (Id.)

"Recidivism is recognized universally as a useful criterion for correctional measurement, but there has been considerable variation in the way recidivism has been measured." (Id.) The standard sets forth a definition of recidivism and the factors that should be considered in developing recidivism statistics. Conference participants believe that a consistent definition of recidivism will clarify measurements of correctional successes and failures so that valid comparisons can be made throughout Iowa and throughout the country.

COMPARATIVE ANALYSIS REFERENCE

NAC Corrections 15.1, 15.2, 15.3, 15.4, 15.5

Comparative Analysis

The second section of this report contains a comparative analysis between the National Advisory Commission's (NAC) **Report on Corrections** and the Iowa criminal justice system (ICJS). The study was undertaken to compare the operation of Iowa's criminal justice system to the national standards. The analysis was conducted prior to actual formulation of Iowa's standards and goals.

Originally, the comparative analysis was intended to show the status of the Iowa system in comparison to the national standards and to provide guidance in the development of the Iowa standards and goals. However, the analysis, read in conjunction with the adopted Iowa standards, serves to assist the reader in understanding the origins of the Iowa standards. In addition, it pinpoints issues and problems and indicates those areas in need of change in the Iowa system.

The comparative analysis is composed of three parts. It contains: the verbatim National Advisory Commission standard; a description of the related Iowa criminal justice system (Iowa statute, decisional law, administrative and operational policy and procedure, and informal practice); and the analysis indicating the similarities and differences between the NAC's recommendation and the existing Iowa system. To facilitate reader comprehension of the study, the ICJS description and analyses of each NAC standard are indented from the extreme left of the page. The related Iowa standard, if any, is indicated to the right of the title of the NAC standard. A cross reference to the comparative analysis follows the commentary of the Iowa standard(s).

**NAC CORRECTIONS STANDARD 2.1
ACCESS TO COURTS**

**RELATED IOWA STANDARD
1.1 ACCESS TO COURTS**

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of persons under correctional supervision to have access to courts to present any issue cognizable therein, including (1) challenging the legality of their conviction or confinement; (2) seeking redress for illegal conditions or treatment while incarcerated or under correctional control; (3) pursuing remedies in connection with civil legal problems; and (4) asserting against correctional or other governmental authority any other rights protected by constitutional or statutory provision or common law.

1. The State should make available to persons under correctional authority for each of the purposes enumerated herein adequate remedies that permit, and are administered to provide, prompt resolution of suits, claims, and petitions. Where adequate remedies already exist, they should be available to offenders, including pretrial detainees, on the same basis as to citizens generally.
2. There should be no necessity for an inmate to wait until termination of confinement for access to the courts.
3. Where complaints are filed against conditions of correctional control or against the administrative actions or treatment by correctional or other governmental authorities, offenders may be required first to seek recourse under established administrative procedures and appeals and to exhaust their administrative remedies. Administrative remedies should be operative within 30 days and not in a way that would unduly delay or hamper their use by aggrieved offenders. Where no reasonable administrative means is available for presenting and resolving disputes or where past practice demonstrates the futility of such means, the doctrine of exhaustion should not apply.
4. Offenders should not be prevented by correctional authority administrative policies or actions from filing timely appeals of convictions or other judgments; from transmitting pleadings and engaging in correspondence with judges, other court officials, and attorneys; or from instituting suits and actions. Nor should they be penalized for so doing.
5. Transportation to and attendance at court proceedings may be subject to reasonable requirements of correctional security and scheduling. Courts dealing with offender matters and suits should cooperate in formulating arrangements to accommodate both offenders and correctional management.
6. Access to legal services and materials appropriate to the kind of action or remedy being pursued should be provided as an integral element of the offender's right to access to the courts. The right of offenders to have access to legal materials was affirmed in *Younger v. Gilmore*, 404 U.S. 15 (1971), which is discussed in Standard 2.3.

**NAC CORRECTIONS STANDARD 2.2
ACCESS TO LEGAL SERVICES**

**RELATED IOWA STANDARD
1.2 ACCESS TO LEGAL SERVICES**

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of offenders to have access to legal assistance, through counsel or counsel substitute, with problems or proceedings relating to their custody, control, management, or legal affairs while under correctional authority. Correctional authorities should facilitate access to such assistance and assist offenders affirmatively in pursuing their legal rights. Governmental authority should furnish adequate attorney representation and, where appropriate, lay representation to meet the needs of offenders without the financial resources to retain such assistance privately.

The proceedings or matters to which this standard applies include the following:

1. Postconviction proceedings testing the legality of conviction or confinement.
2. Proceedings challenging conditions or treatment under confinement or other correctional supervision.
3. Probation revocation and parole grant and revocation proceedings.
4. Disciplinary proceedings in a correctional facility that impose major penalties and deprivations.
5. Proceedings or consultation in connection with civil legal problems relating to debts, marital status, property, or other personal affairs of the offender.

In the exercise of the foregoing rights:

1. Attorney representation should be required for all proceedings or matters related to the foregoing items 1 to 3, except that law students, if approved by rule of court or other proper authority, may provide

consultation, advice, and initial representation to offenders in presentation of pro se postconviction petitions.

2. In all proceedings or matters described herein, counsel substitutes (law students, correctional staff, inmate paraprofessionals, or other trained paralegal persons) may be used to provide assistance to attorneys of record or supervising attorneys.

3. Counsel substitutes may provide representation in proceedings or matters described in foregoing items 4 and 5, provided the counsel substitute has been oriented and trained by qualified attorneys or educational institutions and receives continuing supervision from qualified attorneys.

4. Major deprivations or penalties should include loss of "good time," assignment to isolation status, transfer to another institution, transfer to higher security or custody status, and fine or forfeiture of inmate earnings. Such proceedings should be deemed to include administrative classification or reclassification actions essentially disciplinary in nature; that is, in response to specific acts of misconduct by the offender.

5. Assistance from other inmates should be prohibited only if legal counsel is reasonably available in the institution.

6. The access to legal services provided for herein should apply to all juveniles under correctional control.

7. Correctional authorities should assist inmates in making confidential contact with attorneys and lay counsel. This assistance includes visits during normal institutional hours, uncensored correspondence, telephone communication, and special consideration for after-hour visits where requested on the basis of special circumstances.

**NAC CORRECTIONS STANDARD 2.3
ACCESS TO LEGAL MATERIALS**

**RELATED IOWA STANDARD
1.4 ACCESS TO LEGAL MATERIALS**

Each correctional agency, as part of its responsibility to facilitate access to courts for each person under its custody, should immediately establish policies and procedures to fulfill the right of offenders to have reasonable access to legal materials, as follows:

1. An appropriate law library should be established and maintained at each facility with a design capacity of 100 or more. A plan should be developed and implemented for other residential facilities to assure reasonable access to an adequate law library.

2. The library should include:

- a. The State constitution and State statutes, State decisions, State procedural rules and decisions thereon, and legal works discussing the foregoing.
- b. Federal case law materials.
- c. Court rules and practice treatises.
- d. One or more legal periodicals to facilitate current research.
- e. Appropriate digests and indexes for the above.

3. The correctional authority should make arrangements to insure that persons under its supervision but not confined also have access to legal materials.

**NAC CORRECTIONS STANDARD 2.4
PROTECTION AGAINST PERSONAL ABUSE**

**RELATED IOWA STANDARD
1.10 PROTECTION AGAINST PERSONAL ABUSE**

Each correctional agency should establish immediately policies and procedures to fulfill the right of offenders to be free from personal abuse by correctional staff or other offenders. The following should be prohibited:

1. Corporal punishment.
2. The use of physical force by correctional staff except as necessary for self-defense, protection of another person from imminent physical attack, or prevention of riot or escape.
3. Solitary or segregated confinement as a disciplinary or punitive measure except as a last resort and then not extending beyond 10 days' duration.

4. Any deprivation of clothing, bed and bedding, light, ventilation, heat, exercise, balanced diet, or hygienic necessities.
5. Any act or lack of care, whether by willful act or neglect, that injures or significantly impairs the health of any offender.
6. Infliction of mental distress, degradation, or humiliation.

Correctional authorities should:

1. Evaluate their staff periodically to identify persons who may constitute a threat to offenders and where such individuals are identified, reassign or discharge them.
2. Develop institution classification procedures that will identify violence-prone offenders and where such offenders are identified, insure greater supervision.
3. Implement supervision procedures and other techniques that will provide a reasonable measure of safety for offenders from the attacks of other offenders. Technological devices such as closed circuit television should not be exclusively relied upon for such purposes.

Correctional agencies should compensate offenders for injuries suffered because of the intentional or negligent acts or omissions of correctional staff.

**NAC CORRECTIONS STANDARD 2.5
HEALTHFUL SURROUNDINGS**

**RELATED IOWA STANDARD
1.13 HEALTHFUL SURROUNDINGS**

Each correctional agency should immediately examine and take action to fulfill the right of each person in its custody to a healthful place in which to live. After a reasonable time to make changes, a residential facility that does not meet the requirements set forth in State health and sanitation laws should be deemed a nuisance and abated.

The facility should provide each inmate with:

1. His own room or cell of adequate size.
2. Heat or cooling as appropriate to the season to maintain temperature in the comfort range.
3. Natural and artificial light.
4. Clean and decent installations for the maintenance of personal cleanliness.
5. Recreational opportunities and equipment; when climatic conditions permit, recreation or exercise in the open air.

Healthful surroundings, appropriate to the purpose of the area, also should be provided in all other areas of the facility. Cleanliness and occupational health and safety rules should be complied with. Independent comprehensive safety and sanitation inspections should be performed annually by qualified personnel: State or local inspectors of food, medical, housing, and industrial safety who are independent of the correctional agency. Correctional facilities should be subject to applicable State and local statutes or ordinances.

**NAC CORRECTIONS STANDARD 2.6
MEDICAL CARE**

**RELATED IOWA STANDARD
1.14 MEDICAL CARE**

Each correctional agency should take immediate steps to fulfill the right of offenders to medical care. This should include services guaranteeing physical, mental, and social well-being as well as treatment for specific diseases or infirmities. Such medical care should be comparable in quality and availability to that obtainable by the general public and should include at least the following:

1. A prompt examination by a physician upon commitment to a correctional facility.
2. Medical services performed by persons with appropriate training under the supervision of a licensed physician.
3. Emergency medical treatment on a 24-hour basis.
4. Access to an accredited hospital.

Medical problems requiring special diagnosis, services, or equipment should be met by medical

furloughs or purchased services.

A particular offender's need for medical care should be determined by a licensed physician or other appropriately trained person. Correctional personnel should not be authorized or allowed to inhibit an offender's access to medical personnel or to interfere with medical treatment.

Complete and accurate records documenting all medical examinations, medical findings, and medical treatment should be maintained under the supervision of the physician in charge.

The prescription, dispensing, and administration of medication should be under strict medical supervision.

Coverage of any governmental medical or health program should include offenders to the same extent as the general public.

NAC CORRECTIONS STANDARD 2.7 SEARCHES

RELATED IOWA STANDARD 1.6 SEARCHES

Each correctional agency should immediately develop and implement policies and procedures governing searches and seizures to insure that the rights of person under their authority are observed.

1. Unless specifically authorized by the court as a condition of release, persons supervised by correctional authorities in the community should be subject to the same rules governing searches and seizures that are applicable to the general public.

2. Correctional agencies operating institutions should develop and present to the appropriate judicial authority or the officer charged with providing legal advice to the corrections department for approval a plan for making regular administrative searches of facilities and persons confined in correctional institutions.

a. The plan should provide for:

- (1) Avoiding undue or unnecessary force, embarrassment, or indignity to the individual.
- (2) Using non-intensive sensors and other technological advances instead of body searches wherever feasible.
- (3) Conducting searches no more frequently than reasonably necessary to control contraband in the institution or to recover missing or stolen property.
- (4) Respecting an inmate's rights in property owned or under his control, as such property is authorized by institutional regulations.
- (5) Publication of the plan.

Any search for a specific law enforcement purpose or one not otherwise provided for in the plan should be conducted in accordance with specific regulations which detail the officers authorized to order and conduct such a search and the manner in which the search is to be conducted. Only top management officials should be authorized to order such searches.

NAC CORRECTIONS STANDARD 2.8 NONDISCRIMINATORY TREATMENT

RELATED IOWA STANDARD 1.12 NONDISCRIMINATORY TREATMENT

Each correctional agency should immediately develop and implement policies and procedures assuring the right of offenders not to be subjected to discriminatory treatment based on race, religion, nationality, sex, or political beliefs. The policies and procedures should assure:

1. An essential equality of opportunity in being considered for various program options, work assignments, and decisions concerning offender status.
2. An absence of bias in the decision process, either by intent or in result.
3. All remedies available to noninstitutionalized citizens open to prisoners in case of discriminatory treatment.

This standard would not prohibit segregation of juvenile or youthful offenders from mature offenders or male from female offenders in offender management and programming, except where separation of the sexes results in an adverse and discriminatory effect in program availability or institutional conditions.

**NAC CORRECTIONS STANDARD 2.9
REHABILITATION**

**RELATED IOWA STANDARD
1.5 REHABILITATION**

Each correctional agency should immediately develop and implement policies, procedures, and practices to fulfill the right of offenders to rehabilitation programs. A rehabilitative purpose is or ought to be implicit in every sentence of an offender unless ordered otherwise by the sentencing court. A correctional authority should have the affirmative and enforceable duty to provide programs appropriate to the purpose for which a person was sentenced. Where such programs are absent, the correctional authority should (1) establish or provide access to such programs or (2) inform the sentencing court of its inability to comply with the purpose for which sentence was imposed. To further define this right to rehabilitative services:

1. The correctional authority and the governmental body of which it is a part should give first priority to implementation of statutory specifications or statements of purpose on rehabilitative services.
2. Each correctional agency providing parole, probation, or other community supervision, should supplement its rehabilitative services by referring offenders to social services and activities available to citizens generally. The correctional authority should, in planning its total range or rehabilitative programs, establish a presumption in favor of community-based programs to the maximum extent possible.
3. A correctional authority's rehabilitation program should include a mixture of educational, vocational, counseling, and other services appropriate to offender needs. Not every facility need offer the entire range of programs, except that:
 - a. Every system should provide opportunities for basic education up to high school equivalency, on a basis comparable to that available to citizens generally, for offenders capable and desirous of such programs;
 - b. Every system should have a selection of vocational training programs available to adult offenders; and
 - c. A work program involving offender labor on public maintenance, construction, or other projects should not be considered part of an offender's access to rehabilitative services when he requests (and diagnostic efforts indicate that he needs) educational, counseling, or training opportunities.
4. Correctional authorities regularly should advise courts and sentencing judges of the extent and availability of rehabilitative services and programs within the correctional system to permit proper sentencing decisions and realistic evaluation of treatment alternatives.
5. Governmental authorities should be held responsible by courts for meeting the requirements of this standard.
6. No offender should be required or coerced to participate in programs of rehabilitation or treatment nor should the failure or refusal to participate be used to penalize an inmate in any way in the institution.

**NAC CORRECTIONS STANDARD 2.10
RETENTION AND RESTORATION OF RIGHTS**

**RELATED IOWA STANDARD
1.20 RETENTION AND RESTORATION OF RIGHTS**

Each state should enact legislation immediately to assure that no person is deprived of any license, permit, employment, office, post of trust or confidence, or political or judicial rights based solely on an accusation of criminal behavior. Also, in the implementation of Standard 16.17, Collateral consequences of a Criminal Conviction, legislation depriving convicted persons of civil rights should be repealed. This legislation should provide further that a convicted and incarcerated person should have restored to him on release all rights not otherwise retained.

The appropriate correctional authority should:

1. With the permission of an accused person, explain to employers, families, and others the limited meaning of an arrest as it relates to the above rights.
2. Work for the repeal of all laws and regulations depriving accused or convicted persons of civil rights.
3. Provide services to accused or convicted persons to help them retain or exercise their civil rights or to obtain restoration of their rights or any other limiting civil disability that may occur.

**NAC CORRECTIONS STANDARD 2.11
RULES OF CONDUCT**

**RELATED IOWA STANDARD
1.15 RULES OF CONDUCT**

Each correctional agency should immediately promulgate rules of conduct for offenders under its jurisdiction. Such rules should:

1. Be designed to effectuate or protect an important interest of the facility or program for which they are promulgated.
2. Be the least drastic means of achieving that interest.
3. Be specific enough to give offenders adequate notice of what is expected of them.
4. Be accompanied by a statement of the range of sanctions that can be imposed for violations. Such sanctions should be proportionate to the gravity of the rule and the severity of the violation.
5. Be promulgated after appropriate consultation with offenders and other interested parties consistent with procedures recommended in Standard 16.2, Administrative Justice.

Correctional agencies should provide offenders under their jurisdiction with an up-to-date written statement of rules of conduct applicable to them.

Correctional agencies in promulgating rules of conduct should not attempt generally to duplicate the criminal law. Where an act is covered by administrative rules and statutory law the following standards should govern:

1. Acts of violence or other serious misconduct should be prosecuted criminally and not be the subject of administrative sanction.
2. Where the State intends to prosecute, disciplinary action should be deferred.
3. Where the State prosecutes and the offender is found not guilty, the correctional authority should not take further punitive action.

**NAC CORRECTIONS STANDARD 2.12
DISCIPLINARY PROCEDURES**

**RELATED IOWA STANDARD
1.16 DISCIPLINARY PROCEDURES**

Each correctional agency immediately should adopt, consistent with Standard 16.2, disciplinary procedures for each type of residential facility it operates and for the persons residing therein.

Minor violations of rules of conduct are those punishable by no more than a reprimand, or loss of commissary, entertainment, or recreation privileges for not more than 24 hours. Rules governing minor violations should provide that:

1. Staff may impose the prescribed sanctions after informing the offender of the nature of his misconduct and giving him the chance to explain or deny it.
2. If a report of the violation is placed in the offender's file, the offender should be so notified.
3. The offender should be provided with the opportunity to request a review by an impartial officer or board of the appropriateness of the staff action.
4. Where the review indicates that the offender did not commit the violation or the staff's action was not appropriate, all reference to the incident should be removed from the offender's file.

Major violations of rules of conduct are those punishable by sanctions more stringent than those for minor violations, including but not limited to, loss of good time, transfer to segregation or solitary confinement, transfer to a higher level of institutional custody or any other change in status which may tend to affect adversely an offender's time of release or discharge.

Rules governing major violations should provide for the following prehearing procedures:

1. Someone other than the reporting officer should conduct a complete investigation into the facts of the alleged misconduct to determine if there is probable cause to believe the offender committed a violation. If probable cause exists, a hearing date should be set.
2. The offender should receive a copy of any disciplinary report or charges of the alleged violation and notice of the time and place of the hearing.
3. The offender, if he desires, should receive assistance in preparing for the hearing from a member of the correctional staff, another inmate, or other authorized person (including legal counsel if available.)

4. No sanction for the alleged violation should be imposed until after the hearing except that the offender may be segregated from the rest of the population if the head of the institution finds that he constitutes a threat to other inmates, staff members, or himself.

Rules governing major violations should provide for a hearing on the alleged violation which should be conducted as follows:

1. The hearing should be held as quickly as possible, generally not more than 72 hours after the charges are made.
2. The hearing should be before an impartial officer or board.
3. The offender should be allowed to present evidence or witnesses on his behalf.
4. The offender may be allowed to confront and cross-examine the witnesses against him.
5. The offender should be allowed to select someone, including legal counsel, to assist him at the hearing.
6. The hearing officer or board should be required to find substantial evidence of guilt before imposing a sanction.
7. The hearing officer or board should be required to render its decision in writing setting forth its findings as to controverted facts, its conclusion, and the sanction imposed. If the decision finds that the offender did not commit the violation, all reference to the charge should be removed from the offender's file.

Rules governing major violations should provide for internal review of the hearing officer's or board's decision. Such review should be automatic. The reviewing authority should be authorized to accept the decision, order further proceedings, or reduce the sanction imposed.

**NAC CORRECTIONS STANDARD 2.13
PROCEDURES FOR NONDISCIPLINARY
CHANGES OF STATUS**

**RELATED IOWA STANDARD
1.17 PROCEDURES FOR NONDISCIPLINARY
CHANGES OF STATUS**

Each correctional agency should immediately promulgate written rules and regulations to prescribe the procedures for determining and changing offender status, including classification, transfers, and major changes or decisions on participation in treatment, education, and work programs within the same facility.

1. The regulations should:
 - a. Specify criteria for the several classifications to which offenders may be assigned and the privileges and duties of persons in each class.
 - b. Specify frequency of status reviews or the nature of events that prompt such review.
 - c. Be made available to offenders who may be affected by them.
 - d. Provide for notice to the offender when his status is being reviewed.
 - e. Provide for participation of the offender in decisions affecting his program.
2. The offender should be permitted to make his views known regarding the classification, transfer, or program decision under consideration. The offender should have an opportunity to oppose or support proposed changes in status or to initiate a review of his status.
3. Where reviews involving substantially adverse changes in degree, type, location, or level of custody are conducted, an administrative hearing should be held, involving notice to the offender, an opportunity to be heard, and a written report by the correctional authority communicating the final outcome of the review. Where such actions, particularly transfers, must be made on an emergency basis, this procedure should be followed subsequent to the action. In the case of transfers between correctional and mental institutions, whether or not maintained by the correctional authority, such procedures should include specified procedural safeguards available for new or initial commitments to the general population of such institutions.
4. Proceedings for nondisciplinary changes of status should not be used to impose disciplinary sanctions or otherwise punish offenders for violations of rules of conduct or other misbehavior.

**NAC CORRECTIONS STANDARD 2.14
GRIEVANCE PROCEDURE**

**RELATED IOWA STANDARD
1.11 GRIEVANCE PROCEDURES**

Each correctional agency immediately should develop and implement a grievance procedure. The procedure should have the following elements:

1. Each person being supervised by the correctional authority should be able to report a grievance.
2. The grievance should be transmitted without alteration, interference, or delay to the person or entity responsible for receiving and investigating grievances.
 - a. Such person or entity preferably should be independent of the correctional authority. It should not, in any case, be concerned with the day-to-day administration of the corrections function that is the subject of the grievance.
 - b. The person reporting the grievance should not be subject to any adverse action as a result of filing the report.
3. Promptly after receipt, each grievance not patently frivolous should be investigated. A written report should be prepared for the correctional authority and the complaining person. The report should set forth the findings of the investigation and the recommendations of the person or entity responsible for making the investigation.
4. The correctional authority should respond to each such report, indicating what disposition will be made of the recommendations received.

**NAC CORRECTIONS STANDARD 2.15
FREE EXPRESSION AND ASSOCIATION**

**RELATED IOWA STANDARD
1.7 FREE EXPRESSION AND ASSOCIATION**

Each correctional agency should immediately develop policies and procedures to assure that individual offenders are able to exercise their constitutional rights of free expression and association to the same extent and subject to the same limitations as the public at large. Regulations limiting an offender's right of expression and association should be justified by a compelling state interest requiring such limitation. Where such justification exists, the agency should adopt regulations which effectuate the state interest with as little interference with an offender's rights as possible.

Rights of expression and association are involved in the following contexts:

1. Exercise of free speech.
2. Exercise of religious beliefs and practices. (See Standard 2.16).
3. Sending or receipt of mail. (See Standard 2.17).
4. Visitations. (See Standard 2.17).
5. Access to the public through the media. (See Standard 2.17).
6. Engaging in peaceful assemblies.
7. Belonging to and participating in organizations.
8. Preserving identity through distinguishing clothing, hairstyles, and other characteristics related to physical appearance.

Justification for limiting an offender's right of expression or association would include regulations necessary to maintain order or protect other offenders, correctional staff, or other persons from violence, or the clear threat of violence. The existence of a justification for limiting an offender's rights should be determined in light of all the circumstances, including the nature of the correctional program or institutions to which he is assigned.

Ordinarily, the following factors would not constitute sufficient justification for an interference with an offender's rights unless present in a situation which constituted a clear threat to personal or institutional security.

1. Protection of the correctional agency or its staff from criticism, whether or not justified.
2. Protection of other offenders from unpopular ideas.
3. Protection of offenders from views correctional officials deem not conducive to rehabilitation or other correctional treatment.
4. Administrative inconvenience.

5. Administrative cost except where unreasonable and disproportionate to that expended on the other offenders for similar purposes.

Correctional authorities should encourage and facilitate the exercise of the right of expression and association by providing appropriate opportunities and facilities.

**NAC CORRECTIONS STANDARDS 2.16
EXERCISE OF RELIGIOUS BELIEFS
AND PRACTICES**

**RELATED IOWA STANDARD
1.8 EXERCISE OF RELIGIOUS BELIEFS AND PRACTICES**

Each correctional agency immediately should develop and implement policies and procedures that will fulfill the right of offenders to exercise their own religious beliefs. These policies and procedures should allow and facilitate the practice of these beliefs to the maximum extent possible, within reason, consistent with Standard 2.15, and reflect the responsibility of the correctional agency to:

1. Provide access to appropriate facilities for worship or meditation.
2. Enable offenders to adhere to the dietary laws of their faith.
3. Arrange the institution's schedule to the extent reasonably possible so that inmates may worship or meditate at the time prescribed by their faith.
4. Allow access to clergymen or spiritual advisers of all faiths represented in the institution's population.
5. Permit receipt of any religious literature and publications that can be transmitted legally through the United States mails.
6. Allow religious medals and other symbols that are not unduly obtrusive.

Each correctional agency should give equal status and protection to all religions, traditional or unorthodox. In determining whether practices are religiously motivated, the following factors among others should be considered as supporting a religious foundation for the practice in question:

1. Whether there is substantial literature supporting the practice as related to religious principle.
2. Whether there is a formal, organized worship of shared belief by a recognizable and cohesive group supporting the practice.
3. Whether there is a loose and informal association of persons who share common ethical, moral, or intellectual views supporting the practice.
4. Whether the belief is deeply and sincerely held by the offender.

The following factors should not be considered as indicating a lack of religious support for the practice in question:

1. The belief is held by a small number of individuals.
2. The belief is of recent origin.
3. The belief is not based on the concept of a Supreme Being or its equivalent.
4. The belief is unpopular or controversial.

In determining whether practices are religiously motivated, the correctional agency should allow the offender to present evidence of religious foundations to the official making the determination.

The correctional agency should not proselytize persons under its supervision or permit others to do so without the consent of the person concerned. Reasonable opportunity and access should be provided to offenders requesting information about the activities of any religion with which they may not be actively affiliated.

In making judgments regarding the adjustment or rehabilitation of an offender, the correctional agency may consider the attitudes and perceptions of the offender but should not:

1. Consider, in any manner prejudicial to determinations of offender release or status, whether or not such beliefs are religiously motivated.
2. Impose, as a condition of confinement, parole, probation, or release, adherence to the active practice of any religion or religious belief.

**NAC CORRECTIONS STANDARD 2.17
ACCESS TO THE PUBLIC**

**RELATED IOWA STANDARD
1.9 ACCESS TO THE PUBLIC**

Each correctional agency should develop and implement immediately policies and procedures to fulfill the right of offenders to communicate with the public. Correctional regulations limiting such communication should be consistent with Standard 2.15. Questions of right of access to the public arise primarily in the context of regulations affecting mail, personal visitation, and the communications media. MAIL. Offenders should have the right to communicate or correspond with persons or organizations and to send and receive letters, packages, books, periodicals, and any other material that can be lawfully mailed. The following additional guidelines should apply:

1. Correctional authorities should not limit the volume of mail to or from a person under supervision.
2. Correctional authorities should have the right to inspect incoming and outgoing mail, but neither incoming nor outgoing mail should be read or censored. Cash, checks, or money orders should be removed from incoming mail and credited to offenders' accounts. If contraband is discovered in either incoming or outgoing mail, it may be removed. Only illegal items and items which threaten the security of the institution should be considered contraband.

3. Offenders should receive a reasonable postage allowance to maintain community ties.

VISITATION. Offenders should have the right to communicate in person with individuals of their own choosing. The following additional guidelines should apply:

1. Correctional authorities should not limit the number of visitors an offender may receive or the length of such visits except in accordance with regular institutional schedules and requirements.
2. Correctional authorities should facilitate and promote visitation of offenders by the following acts:
 - a. Providing transportation for visitors from terminal points of public transportation. In some instances, the correctional agency may wish to pay the entire transportation costs of family members where the offender and the family are indigent.
 - b. Providing appropriate rooms for visitation that allow ease and informality of communication in a natural environment as free from institutional or custodial attributes as possible.
 - c. Making provisions for family visits in private surroundings conducive to maintaining and strengthening family ties.
3. The correctional agency may supervise the visiting area in an unobtrusive manner but should not eavesdrop on conversations or otherwise interfere with the participants' privacy.

MEDIA. Except in emergencies such as institutional disorders, offenders should be allowed to present their views through the communications media. Correctional authorities should encourage and facilitate the flow of information between the media and offenders by authorizing offenders, among other things, to:

1. Grant confidential and uncensored interviews to representatives of the media. Such interviews should be scheduled not to disrupt regular institutional schedules unduly unless during a newsworthy event.
2. Send uncensored letters and other communications to the media.
3. Publish articles or books on any subject.
4. Display and sell original creative works.

As used in this standard, the term "media" encompasses any printed or electronic means of conveying information to the public including but not limited to newspapers, magazines, books, or other publications regardless of the size or nature of their circulation and licensed radio and television broadcasting. Representatives of the media should be allowed access to all correctional facilities for reporting items of public interest consistent with the preservation of offenders' privacy.

Offenders should be entitled to receive any lawful publication, or radio and television broadcast.

**NAC CORRECTIONS STANDARD 2.18
REMEDIES FOR VIOLATION OF AN
OFFENDER'S RIGHTS**

**RELATED IOWA STANDARD
1.19 REMEDIES FOR VIOLATION OF
AN OFFENDER'S RIGHTS**

Each correctional agency immediately should adopt policies and procedures, and where applicable should seek legislation, to insure proper redress where an offender's rights as enumerated in this chapter are abridged.

1. Administrative remedies, not requiring the intervention of a court, should include at least the following:
 - a. Procedures allowing an offender to seek redress where he believes his rights have been or are about to be violated. Such procedures should be consistent with Standard 2.14, Grievance Procedure.
 - b. Policies of inspection and supervision to assure periodic evaluation of institutional conditions and staff practices that may affect offenders' rights.
 - c. Policies which:
 - (1) Assure wide distribution and understanding of the rights of offenders among both offenders and correctional staff.
 - (2) Provide that the intentional or persistent violation of an offender's rights is justification for removal from office or employment of any correctional worker.
 - (3) Authorize the payment of claims to offenders as compensation for injury caused by a violation of any right.
2. Judicial remedies for violation of rights should include at least the following:
 - a. Authority for an injunction either prohibiting a practice violative of an offender's rights or requiring affirmative action on the part of governmental officials to assure compliance with offenders rights.
 - b. Authority for an award of damages against either the correctional agency or, in appropriate circumstances, the staff member involved to compensate the offender for injury caused by a violation of his rights.
 - c. Authority for the court to exercise continuous supervision of a correctional facility or program including the power to appoint a special master responsible to the court to oversee implementation of offenders' rights.
 - d. Authority for the court to prohibit further commitments to an institution or program.
 - e. Authority for the court to shut down an institution or program and require either the transfer or release of confined or supervised offenders.
 - f. Criminal penalties for intentional violations of an offender's rights.

ICJS - ANALYSIS

The standards for offenders' rights are expressed in terms of the legal norm needed to protect the substantive rights under discussion. The standards presented are meant to cover adults, males, females, probation, parole, institutions, pretrial and posttrial detention, and all community programs.

The standards can be divided into five categories. The first three govern the right of offenders to seek the protection of the law within the judicial system. Access to the courts, and the corollary rights of access to legal services and materials are set forth. These three are fundamental if the remainder of the standards are to be implemented.

Standards 2.4 through 2.10 relate to the conditions under which a sentenced offender lives. Since the greater the level of confinement the more dependent the offender is on the State for basic needs, these standards have special force for institutionalized offenders.

Standards 2.11 through 2.14 speak to the discretionary power which correctional agencies exercise over offenders and how that power is to be regulated and controlled. No system of individualized treatment can avoid discretionary power over those to be treated, but such power must be controlled in order to avoid arbitrary and capricious action.

Standards 2.15 through 2.17 are directed toward implementing the basic first amendment rights of offenders. Full implementation of the offender's right to communicate not only supports the notion that he/she is an individual but likewise assists in bringing the needs of corrections to the public's attention.

Standard 2.18 addresses the question of remedies for violations of rights already declared. It is directed primarily at judicial enforcement.

A comprehensive comparative analysis of the standards for rights of offenders is not included. A significant portion of the information contained herein pertains to the state correctional institutions. The primary source of material was the Policy and Procedure Guidelines Manual, State of Iowa, Department of Social Services, Division of Correctional Institutions (DOC).

In the area of legal services, the Hawkeye Legal Aid Services and the University of Iowa Prisoner Assistance Clinic provide legal assistance to offenders incarcerated in the major state institutions for males. Also, the Lee, Jones, and Calhoun County Bar Associations provide legal counseling services with in-house problems that inmates may have with the administration.

As a result of a court order in 1974 from the U.S. District Court, Southern District of Iowa, finding the legal materials and services available to the inmates of the Iowa State Penitentiary inadequate, provisions were made for a law library and legal services ensuring the inmates access to the courts. A federal grant provided the foundation for assuring access to legal services and materials to inmates housed in the Iowa Women's Reformatory, the Iowa State Penitentiary and the Iowa Men's Reformatory. Delivery of services has been accomplished by:

- (1) by permitting the inmates to select the counsel of his or her choice, and
- (2) by providing expanded law libraries for those inmates who wish to make use of legal materials themselves.

Law books and updates that have been provided to the three institutions include: Iowa Reports, Northwest Reporter, Iowa Digest, Shepard's Citations, Federal Reporter, Federal Supplement, United States Code Annotated, Shepard's Citation-Iowa, and Iowa Code Annotated. The legal counseling services are provided by the Lee, Jones, and Calhoun County Bar Associations. The purpose of the counseling service is to provide assistance in the area of in-house problems that inmates may have with the prison administration. Legal assistance for civil matters such as contracts, family, financial and property problems, etc. are not provided under this grant. Also, legal services for appeals of conviction or post conviction remedy cases are not provided.

Consistent with policy of the Division of Corrections for adult institutions, one inmate may assist another inmate—especially those who are illiterate or physically handicapped—in the preparation of legal documents but may not receive remuneration therefor. No orientation or training by qualified attorneys or educational institutions is required.

By provision of Chapter 601G, Code, Iowa has a prison ombudsman who investigates complaints of offenders. The ombudsman is located independent of any state agency with freedom to investigate complaints without administrative constraint.

Policy and procedure guidelines for adult correctional institutions for security, control of inmates, use of force, and corporal punishment are as follows:

"The institution manager of each adult institution or facility is to establish in writing detailed security regulations and procedures for all areas of his or her institution or facility. Such regulations and procedures will be formulated to ensure maximum protection to the citizens of the State of Iowa and to the employees and inmates of the institution or facility.

In the advent of institutional riots, disturbances, escapes, or walk-aways, the head of the institution has the responsibility to take whatever appropriate action is necessary to gain control of the situation. However, once control is apparent, no acts, conduct or coercion will be permitted which is contrary to the Division of Corrections Philosophy. Retribution, retaliation, or punishment which is contrary to our philosophy of maximum treatment only works contrary to the treatment program. Steps should be taken immediately to re-establish rapport and positive constructive relationships with the inmate or inmates involved."

Policy for use of force is Sections 246.32 and 246.33, Code, as follows:

"Any officer of said institutions and his assistants shall, in case a prisoner resists his lawful authority, or refuses to obey his lawful command, enforce immediate obedience by the use of such weapons or other aids as may be effectual, and if, in so doing, such inmate is wounded or killed, such officer and his assistants shall be justified." Section 246.32, Code.

"Every officer and citizen of the state within reach shall, by every means within their power, suppress and aid in suppressing any insurrection among the convicts in said institution, and prevent and aid in preventing the escape or rescue of any convict therefrom, or from any legal confinement, or from any person in whose custody a convict may be. If in the performance of this duty or in arresting or assisting to arrest a convict who has escaped or been rescued, such officer or person wound or kill the convict, or a person aiding or assisting him, the same shall be held justifiable." Section 246.33, Code.

Corporal punishment or mistreatment of individuals under the custody and control of the Division of Corrections is strictly prohibited.

Corporal punishment is defined as the striking, pushing, or shoving of an individual for the purpose of causing pain, or discomfort; the improper use of chemicals in any of their forms; violence of any nature; the use of profane or abusive language; or any measures which may be injurious to an individual.

This regulation in no way prohibits any staff member from using the necessary force to protect himself from injury; to prevent injury to other employees or inmates; or to prevent property damage or escape.

Policy governing institutional grievance procedures provide that each adult facility has a locked mail box or boxes in an accessible area in which inmates may place written complaints, inquiries, problems and grievances. All communications placed in this box or boxes by inmates are to be collected each working day and routed directly to the addressee within the day collected. Inmates shall receive a written response within five working days after receipt of the inmates communication by the addressee. Inmates are expected to make normal and routine requests to their supervisor or cell-house or dormitory officers. Inmates must file any grievances first through normal channels, secondly with the counselor or counselors so designated, thirdly with the Chairman of the Institutional Inquiry Board, and finally with the Director of the Bureau of Adult Correction Services.

Policy on disciplinary procedures for all adult correctional institutions provides that:

"Inmates are entitled to be clearly informed of the rules and regulations which govern their activities during incarceration. Additionally the inmate shall be made aware of his duties and obligations as an incarcerate. He shall be informed of classification and disciplinary hearing committee composition.

A copy of the aforementioned information shall be furnished each inmate when he enters a correctional institution. Further, these rules and the rationale behind their existence shall be explained to the inmate during the orientation period.

Specific inmate conduct rules shall be formulated and adopted by the Director of the Division of Corrections. Modifications of, and additions to the inmate conduct rules may be recommended by the institution manager of each institution. Such recommendations should be based on consultation with lawyers, psychiatrists, psychologists, case workers, prison administrators, prison security officers and inmates. Participation by inmates in the formulation of institutional rules and regulations is recognized as a positive rehabilitative activity,

In dealing with major rule violations it must be recognized that before being punished, an inmate is entitled (under the Constitution of the United States) to a fair hearing which will insure a thorough examination, accurate determination and appropriate disposition of every alleged incident at issue. The seven steps in the processing of reports in the discipline or adjustment committee process are as follows:

1. Advanced notice be given to the inmate.
2. Prepared investigation of charges.
3. Interview inmate witnesses or get depositions.
4. Have a fair and impartial disciplinary committee.
5. If necessary provide substitute counsel.
6. If necessary allow inmates to call witnesses.
7. Appeal process to the institution manager."

"A report shall be made of the incident and notification be given to the inmate of the infraction within **six hours** after the incident. The report shall include the specific rules alleged violated, the time, date and place of the alleged violation and a detailed description by the reporting officer of the behavior or incident at issue.

The shift captain shall then determine the status of the inmate for whom the disciplinary hearing is pending. The inmate shall be allowed to remain in his current housing and program setting unless it is believed that the inmate is (1) dangerous to himself, (2) dangerous to others, or (3) in serious danger from others. If there is substantial reason to believe that confinement, segregation or isolation is necessary, a written report shall be compiled by the shift captain and forwarded for review to the Officer of the Day or the Chief of Correctional Services. If the inmate is dangerous to himself, dangerous to others or in serious danger from others and is to remain in segregation or isolation he must have a hearing within **48 hours** after the incident. The aforementioned notwithstanding, the inmate who is alleged to have committed a rule infraction shall remain in his current institutional program and retain his current rights and privileges until such time as a disciplinary hearing has been conducted.

The institution manager shall designate an investigation officer who shall investigate the incident promptly and get the actual facts of the incident. Suggested investigation techniques would include interviews with eye-witnesses, parties involved and staff members, review of relevant environmental conditions and assembly of pertinent evidence to the case. The investigator will give only actual facts and no opinions.

The Chief of Correctional Services shall then:

- 1--Remand the report for further investigation.
- 2--Dismiss the report as lacking validity.

3--Amend the report deeming it of minor type, not major.

4--Forward the report to the disciplinary committee and inform the inmate of such action.

A fair and impartial disciplinary committee will be composed of the Correctional Security Director, the Correctional Treatment Director and the third committee member will be designated by the institution manager or by the above committee members. No person shall sit as a member of the disciplinary committee if he is directly involved in the matter, i.e., as a witness, investigator or reporting staff member.

The inmate shall be provided specific notice of the charges within six hours of the alleged incident and be informed of his rights. The hearing shall be held within **four days** of the alleged incident unless the inmate requests a continuance for further preparation or other good cause. This provision should be especially adhered to with inmates who are isolated, confined or restricted from normal privileges and institutional programs while awaiting disciplinary hearing. The inmate may retain substitute staff counsel if the person is willing and available. If an inmate is found to be incompetent, the institution manager or the inmate's counselor must see that he has substitute counsel.

The inmate shall be present at the hearing and shall be read the report and advised of the rule violation. This again insures notice and understanding of the rule violation.

The inmate shall have the opportunity to explain his version of the incident and give information as to the reasons for his behavior. This procedure clarifies the issues and establishes areas of controversy in question.

The inmate or his substitute counsel may be permitted to cross-examine the reporting officer, offer evidence supporting his case, call two witnesses of his own or present depositions that are favorable to his defense. This right to cross-examine may be waived by the inmate.

At the conclusion of testimony the hearing committee shall with or without the inmate present, review the testimony. The committee shall enter a dispositional decision based on evidence given. If the inmate did not commit the rule violation he shall be reinstated to his original status and his record made to show such. If he did commit the rule violation the committee may impose one or more of the following sanctions:

1--Reprimand.

2--Loss of commissary privileges.

3--Loss of movies, television, radio, recreation or athletic privileges or free time activities.

4--Confinement to his own cell with or without job assignment, after work or on week-ends.

5--Transfer to maximum security section (but not isolation) for a period not to exceed 30 days.

6--Transfer to any institution in the Division must be in accordance with Section 813-A.

7--Confinement in isolation for not more than ten days.

8--Withholding or forfeiture of the reduction of sentence awarded for good behavior. In addition, the inmate may be scheduled to additional program, therapy, counseling services, etc.

A full record of the hearing shall be kept and the decision shall be entered upon a standard disciplinary report form along with all pertinent statements made during the hearing. Each disciplinary committee member must sign the form and indicate his concurrence with the decision.

The inmate shall be advised of the committee's decision and the ramifications of the decision.

Prior to the implementation of the action of the committee, where the inmate has violated a rule, the inmate may request the proceedings be reviewed by the institution manager and all such decisions may be appealed.

The institution manager upon receiving the decision shall have the right to:

1--Uphold the decision as it stands.

2--Reduce the decision.

3--Refer the decision back to the committee for review. If the committee makes another decision, it cannot be greater than the first decision given.

The procedure for an inmate to appeal the decision shall be as follows:

1--The inmate shall immediately inform the proper official of his intent to appeal.

2--Within six hours the inmate shall submit a written statement of his reasons for appeal to that official.

3--The appeal shall be reviewed by the proper official and he shall promptly inform the inmate in writing of the action taken. The official may: (1) reduce the action decided,

(2) take the case under advisement, or, (3) affirm the committee's decision.

If the inmate wishes to pursue the appeal further, he may take an adverse decision to the Director, D.O.C. through a written appeal where loss of time or other delays in considerations for parole, work release, furloughs, minimum custody, or transfer to an institution of greater security is involved. A form to be provided by a proper institutional official shall provide the appropriate means to file appeals."

Policy and procedure guidelines for disciplinary isolation for adult correctional institutions provide that,

"No inmates may be placed in disciplinary isolation for more than ten consecutive days or for more than thirty days in any forty-five day period. However, in cases of violence or attempted violence committed against another person or property, an additional period of isolation for disciplinary reasons may be approved by the institution manager and the director, Division of Correctional Institutions.

Before the disciplinary committee or adjustment committee places an inmate in disciplinary isolation, they must review his or her medical records to ensure that there are not medical or psychiatric contradictions to such action.

Pregnant women as well as inmates who suffer from heart disease, asthma, diabetes, or epilepsy shall not be placed in disciplinary isolation. When necessary they may be confined to their rooms or placed in the hospital. They must then be personally observed by a correctional officer at least every two hours and visited by a member of the medical staff at least once every twenty-four hours or as directed by a prison physician.

Any inmate in disciplinary isolation who manifests symptoms of emotional instability is to be promptly referred to the institutional physician for examination. The institutional physician shall refer such inmates to a psychiatrist when he deems such action appropriate.

Inmates who are very belligerent and who are considered a danger to themselves or others and inmates who are potentially suicidal are to be placed in a stripped cell -- a cell without furniture and without articles or equipment which could be used by an inmate to injure himself or others.

Inmates in disciplinary isolation will:

1. Be housed in a location determined by the institution manager.
2. Be unemployed.
3. Receive three meals per day in their cells, unless he or she abuses the food provided. Drinking water is to be provided.
4. Engage in no institutional activities enjoyed by the general population.
5. Receive normal visiting privileges and legal mail privileges. Visits may be in the presence of an officer.
6. Receive routine health services and normal toilet articles. Such toilet articles must meet certain security specifications. Inmates in this status must be showered at least once each week.
7. Be attired in clothing - unless inmate destroys same or is suicidal.
8. Be provided with a mattress, a blanket, and bedding - unless the inmate destroys same or is suicidal.
9. Receive clean bedding and laundry services weekly.
10. Receive no telephone calls except by special permission of the institution manager.
11. Upon request, be visited at least weekly by an institutional chaplain.
12. Be referred to the physician or dentist upon request or for medical emergencies.

When an inmate is released from isolation he is to be shaved, given a bath, issued clothing and returned to his regular assignment - unless he has been otherwise assigned by the classification committee."

Policy and procedure guidelines for segregation for adult correctional institutions provide that,

"Segregation is a classification category for inmates in adult institutions. Inmates may be placed in a segregation classification by the classification committee or program team if they:

1. Indicate a chronic inability to adjust in the general prison population.
2. Constitute a serious threat to the security of the institution.
3. Require maximum protection for themselves or if others require maximum protection from them.

Inmates assigned to a segregation classification are subject to the following controls and privileges:

1. Housing in separate area of the institution determined by institutional manager.
2. Work involving only routine housekeeping duties.
3. Three meals a day - served in cells.
4. Television and/or radio privileges may be denied by the institution manager.
5. No institutional activities enjoyed by the general population.
6. Regular mail privileges.
7. Chaplains will visit the segregation area regularly or upon request.
8. Visits will be in a separate visiting room and will be conducted in the presence of an officer.
9. Showers are to be provided at least one each week, and normal toilet articles are to be provided.
10. Referrals to the physician or dentist upon request or for medical emergencies.
11. The opportunity to exercise for a period of one hour either indoors or outdoors when the security of the institution is not jeopardized.
12. Regular commissary orders - which will be delivered to the segregation unit - unless an inmate is out of grade.
13. Clothing is to be issued.
14. A reasonable amount of reading material and educational materials approved by the Education Department.
15. Bedding is to be changed weekly and weekly laundry services are to be provided.
16. Access to the law library.

Inmates leaving or entering the segregation unit must be thoroughly searched, and they shall be escorted to and from their destination.

The classification committee or program team must review the status of every inmate assigned to the segregation classification at least every 30 days. An inmate may also petition for a classification committee or program team hearing after he has been in the segregation classification for 30 days. If he is not reclassified at that hearing, he may petition for a new hearing if this request includes new information not previously available to the classification committee or program team.

No inmate may remain in a segregation classification for more than one year unless he has been personally interviewed by the institution manager at the end of one year and such action is approved by him. At the end of the second and each additional year that an inmate remains in a segregation classification, he must be personally interviewed by both the institution manager and the Director who will then determine whether or not continuation in that status is necessary and/or appropriate."

Inmates and all areas of all adult institutions and facilities are thoroughly searched for contraband.

A safety and sanitation officer is designated in each institution who periodically inspects all areas of the institution. The safety and sanitation officer will ensure that all buildings are cleaned regularly and properly by individuals trained in the use of cleaning materials and equipment. Said officer will also ensure that adequate ventilation as well as heat suitable to climate and season are provided.

Policy for adult correctional institutions for medical care is consistent with recommendations of the standards. Policy and procedure guidelines of the Division of Correctional Institutions for medical services for adult correctional institutions are as follows:

"Upon admission to any correctional facility, the admitting officer shall determine whether or not the person being admitted should receive immediate medical attention. The admitting officer should inspect the individual for obvious injuries or illness. Also, he should ask the individual if he has any medical problems. Immediate medical attention should be provided if it appears to be needed.

Individuals confined in any correctional facility for as long as seven days should be examined by appropriate health service personnel within that period, and treatment provided as indicated.

Each correctional administrator shall ensure that appropriate health facilities and services are provided to meet the health needs of inmates commensurate with the nature and gravity of any particular health problem. When such services are not available through existing resources, alternative services must be established.

Arrangements for such alternatives shall be made by institutional staff. Medical directors shall develop high standards for medical care for each institution in the state's correctional system, consistent with the needs of the particular inmate body. Each institution's medical services shall be under the supervision of a physician who will ensure that the services

provided are in accordance with accepted medical practice.

Elective medical or surgical procedures of an unusual nature, not considered a part of basic medical care on the part of inmates, is subject to the consent of the institution manager of the institution with consultation of the medical officer.

Elective or corrective surgery and medical care which would contribute to improve social adjustment and/or employability both in prison and upon release will be undertaken, subject to the priority decision of the medical staff.

The institution manager is to ensure that a physician or appropriate health services staff is available to provide emergency treatment to inmates and/or staff on a 24 hour a day call basis.

The institution manager shall exert appropriate direction and control of health services functions. This should include regular reports reflecting work loads providing surveillance of health services activities. Complete, separate and accurate records documenting all medical examinations, medical findings, and medical treatment must be maintained at the institution under the supervision of the chief medical officer. The prescription, dispensing and administration of medication shall be under strict medical supervision. The medical director shall designate who among appropriate health services staff shall be responsible for these functions.

The institution manager of the institution, with the advice of the medical officer, shall provide a written plan which shall be implemented to ensure the safety of inmates who may imperil their own lives through hunger strikes or self-inflicted injuries. The senior administrative officer on duty should be notified immediately.

While we discourage the use of restraints, physical or chemical, if such restraints become necessary they should be under medical supervision.

No diet shall be altered for disciplinary reasons. Whenever administratively or economically possible, special diets for religious purposes should be provided.

Each institution should develop a written policy statement covering consent for medical procedures consistent with the applicable state regulations and laws. We do feel that when an inmate's life is in jeopardy, the institution manager or his designated officer, upon recommendation by appropriate medical personnel, may authorize emergency treatment to protect the inmate's life.

In order to ensure that the health care needs of transferred inmates are adequately met, the transferring institution has the responsibility of transferring pertinent medical information (including dietary, post-surgical, and other) to the receiving institution at the time of transfer or sooner.

Treatment and/or repair of medical abnormalities is a valuable adjunct to successful rehabilitation of an inmate. Each institution should take the initiative in identifying the problem and providing adequate treatment and/or follow-up, rather than relying on inmate initiative.

Every inmate shall be afforded the opportunity to discuss his medical symptoms or other health problems in a private setting with reasonable time and comfort.

Each correctional institution shall develop and be prepared to implement a written medical emergency plan. Such a plan will provide for:

1. Emergency treatment of injuries.
2. Appropriate transfer of victims who cannot be adequately treated at the institution.
3. Procurement and utilization, and coordination of additional medical resources.
4. Coordination of activities of other agencies."

The following are policy and procedure guidelines for adult correctional institutions for mail, visitation and access to the media:

Mail: "Inmates should be permitted to send sealed letters to a specified class of persons and organizations. Mail to these persons shall not be opened, inspected or censored. Mail from these persons may be opened for inspection of contraband only or to be assured the contents are from the return addressee. The following persons or organizations fall under special correspondence:

1. Officers of federal, state and municipal courts.
2. Any federal official.
3. Any state official, elected or appointed.
4. Any official of the Division of Correctional Institutions.
5. Any member of the Board of Parole or official of the Bureau of Community

- Correction Services.
6. The Attorney of Record.
 7. The Citizen's Aid Office (letters received from this office shall not be opened according to law.)
 8. Civil Rights Commission of Iowa.

No mail lists will be maintained restricting persons from writing to inmates or inmates writing to persons in the public. All letters mailed by inmates will be left unsealed for inspection of the contents only. The envelopes will contain letters to the addressee only.

All other correspondence both incoming and outgoing will be opened for inspection to remove items of contraband, such as money, drugs or other items manufactured or printed in the institution.

Persons under the age of 18 must have permission of their parents before correspondence with inmates is allowed.

Letters outgoing should be to friends and relatives. Some judgment should be used by the inmate when writing to members of the opposite sex who are married and living with their spouse. Objectionable reports of this activity will be discussed with the inmate and continued writing will require disciplinary action.

No limit will be placed on the number of letters mailed or received.

The contents of the writer's letters will not be read. If inmates receive letters giving information of family problems such as divorce, adoption, illness or other problems, the inmate should bring this to the attention of his counselor for his aid and help in an attempt to get further information or offer resources for additional information.

All incoming mail will be inspected.

Inmates should be encouraged to maintain correspondence with his family. Requests from families on receiving no mail from the inmate should be answered by the inmate.

The removing of the mail list, leaves the decision up to the inmate on who to write to and for what reason and the inmate will be held responsible to the federal laws on the use of the mails.

Records of incoming and outgoing mail may be kept in the event the inmate wishes to check on when he received mail or when he sent out mail, to a particular person.

Special equipment may be used to review envelopes for items in the envelopes other than the letter.

Assistance may be offered by staff for mail to and from persons or organizations.

POLICY ON HANDLING OF ATTORNEY—CLIENT MAIL

The following procedure will be instituted and complied with as pertaining to confidential attorney client correspondence. If mail is received at the institution without having specific instructions as to the handling of the contents, it will be routinely opened by the mailroom and inspected. If, however, mail is received at the institution and is marked as attorney-client correspondence to be opened and inspected in the presence of the inmate, the following procedure will be in effect:

The mailroom will route all such correspondence to the Record Office where it will be logged as being received. Record Office will cause the mail to be given to the officer who handles parcel post, and at one time each day, he will call the inmate over to the designated area and in the presence of the inmate, open the letter and inspect if for contraband. At no time will he read any of the material enclosed.

If the mail is received after the time that the officer has already handled the situation for that day, then it will be held until the following working day when the officer will follow the above mentioned policy. Phone notification by attorney of need for urgent delivery will be specially handled. Care should be taken by all concerned to make sure that all correspondence is handled appropriately, logged, and routed to the inmate. The parcel post officer will, after delivering the mail to the inmate, note the log that it was given to him at a certain time on a certain date.

All items using parcel post outgoing mail will be packed and sealed by the mail room and postage charged to the sender.

All packages incoming will be opened and inspected for such items as money, drugs, alcohol, weapons and other contraband items.

Misuse of the mails will be reported to the U.S. Mail Inspector and/or other appropriate

state and federal agencies for action as those agencies choose.

Periodicals, newspapers, magazines and books may be received only with advanced approval from the institution. These items when approved must be sent directly to the institution from the publisher. All other subscriptions will be rejected.

Many factors must be considered in magazines, books, and newspapers, such as immaturity of the resident, emotional stability or lack of same, prior behavioral activity, personality deviation, propensity for motivation, prior criminal record, propensity for violence and anti-social conduct.

Basic guidelines for omission of books, magazines, etc. would include, but not necessarily be limited to:

1. Materials which would cause a substantial interference with the orderly functioning of the institution, such as advocacy of violence, riots, overthrow of prison administration, anarchy, violation of laws, etc.
2. Materials which would assist individuals in developing escape plans, making and/or using explosives, weapons, synthetic drugs, or etc.
3. Materials advocating or suggesting injury and/or damage to personnel, property or programs of the institution.
4. Obviously obscene and licentious materials.

A committee of inmates and staff should be responsible for reviewing all newspapers, magazines, books, etc., and determine whether they fit the above criteria. Consideration should be given to poor substitution for developing good reading habits in the decision for the selection of reading material.

Special lists of items which may be sent on holidays will be available from each institution 30 days prior to the holiday."

VISITATION:

"Visiting should be conducted informally and openly, consistent with the security requirements and availability of space in each institution. Identification shall be made and a search of visitors may be made as a protection to the visitors, the inmates, and others in the institution. This should be done as privately as possible to insure good public relations with visitors.

REGULATIONS

The name of each person authorized to visit must be on the inmate's approved visiting list. The list may be comprised of members of the inmate's immediate family, which shall mean spouse, child, parent, brother, sister, grandparent or grandchild of the inmate. Friends and others may be added to the list. This list may be amended consistent with good security and available space. Person not on the approved list may, in special cases, be granted a special visiting pass by the institution manager. Ex-felons may be permitted to visit when prior approval has been granted by the institution manager. Visitors may be excluded in cases not consistent with good security and space availability.

Visitors and inmates are not permitted to directly exchange any object or article. This does not apply to purchases from the canteen which are consumed during the visit.

Visitors will not be admitted when the apparent odor or effect of alcohol or narcotic drugs is detected.

Visits may be denied or terminated for reasons of health of the inmate or visitors.

Any behavior on the part of an inmate or a visitor which is, or may in any way be disruptive to order and control, will result in denial of or termination of the visit.

Visitors will be responsible for keeping their children under control.

Visitors may be requested to submit to a search and/or to a review by electronic device for contraband. Entrance may be rejected if the visitor is not willing to submit.

Each institution, according to the conditions and facilities existing, shall limit the number of visitors an inmate may receive at one time and length of visits.

Each institution shall clearly designate the days of the week and the hours during which visiting will be permitted.

Special visits - Hospitalized inmates should be allowed to receive visitors consistent with security requirements and provided medical authorities approve. Inmates in disciplinary status may be visited only with permission of the institution manager or his designated representative. Visits between an attorney and inmate are permitted during normal business hours. Attorney-client visits during non-business hours may be authorized by appointment.

Visits will be done in the areas provided.

Rules pertaining to visiting should be posted and made readily available for general distribution to visitors and inmates."

MEDIA:

"It is the policy of the DOC to encourage visits by the general public, college students, and the news media to our correctional institutions.

Inmates may be interviewed and photographed in institutional program settings, either singly or as part of a group. Identifiable pictures or interviews would require the written consent of the inmate involved.

Inmates are permitted to forward manuscripts to publishers or serve as book reviewers for newspapers. They may appear on radio or television as someone with a particular talent, or as one involved in a rehabilitative program. Limitations or restrictions should be imposed when correspondence with the media is clearly pornographic or falls in the area of inmate business operation which impedes the orderly operation of the institution. An editorial Board comprised of staff and inmates will make decisions in those cases.

Accredited representatives of the media may interview inmates for the purpose of writing feature stories if the writer does not demean the inmate(s). Media people will be urged to consider staff interviews and tour the institution so that the story will reflect both staff and inmate views.

Media representatives shall be admitted at the institutions during administrative work days; however, limitations may be imposed during major disturbances. Matters of public records, such as terms of sentence, home address, past record, institutional classification, etc., will be given accredited media on request. Medical, psychiatric or confidential law enforcement or court records will not be available.

With respect to requests for personal interviews with inmates, at all times the agreement of the inmate and/or inmate's attorney of record will be necessary. The institution manager, prior to deciding to grant such an interview, will have to take into consideration the effects such an interview would have on the inmate and his personal mental attitude, the effects it would have on other inmates, the effect of such an interview with respect to any pending review by the Parole Board, and the interests of the institution and Division.

Interviews in general should be granted in the interest of the public so as to obtain a better insight into the needs and problems of men in trouble and so as to provide an insight into how the community can be helpful.

Any person under commitment or employed by the Division may accept pay for his services as a writer or reporter to an outside agency. He will, however, notify the information department or institution manager of his institution in writing, setting forth the name of the purchasing agency and a brief but accurate description of the item's topic. The institution has the authority to reject, amend, add, or delete statements which are incomplete in content, do not address the entire subject, and/or reflect the institution ability due to staff, funds or structure, to alter the procedure. Notification will precede or be simultaneous with delivery of material to the purchaser. All such outside efforts will be accomplished on the individual's own time.

Photographic representations are state property if made with state-owned photographic equipment and/or materials. They may not be dispersed to non-governmental agencies without proper authority."

**NAC CORRECTIONS STANDARD 3.1
USE OF DIVERSION**

**RELATED IOWA STANDARD
3.1 DIVERSION**

Each local jurisdiction, in cooperation with related State agencies, should develop and implement by 1975 formally organized programs of diversion that can be applied in the criminal justice process from the time an illegal act occurs to adjudication.

1. The planning process and the identification of diversion services to be provided should follow generally and be associated with "total system planning" as outlined in Standard 9.1.

a. With planning data available, the responsible authorities at each step in the criminal justice process where diversion may occur should develop priorities, lines of responsibilities, courses of

- procedures, and other policies to serve as guidelines to its use.
- b. Mechanisms for review and evaluation of policies and practices should be established.
 - c. Criminal justice agencies should seek the cooperation and resources of other community agencies to which persons can be diverted for services relating to their problems and needs.
2. Each diversion program should operate under a set of written guidelines that insure periodic review of policies and decisions. The guidelines should specify:
 - a. The objectives of the program and the types of cases to which it is to apply.
 - b. The means to be used to evaluate the outcome of diversion decisions.
 - c. A requirement that the official making the diversion decision state in writing as a basis for his determination denying or approving diversion in the case of each offender.
 - d. A requirement that the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decisionmakers.
 3. The factors to be used in determining whether an offender, following arrest but prior to adjudication should be selected for diversion to a noncriminal program, should include the following:
 - a. Prosecution toward conviction may cause undue harm to the defendant or exacerbate the social problems that led to his criminal acts.
 - b. Services to meet the offender's needs and problems are unavailable within the criminal justice system or may be provided more effectively outside the system.
 - c. The arrest has already served as a desired deterrent.
 - d. The needs and interests of the victim and society are served better by diversion than by official processing.
 - e. The offender does not present a substantial danger to others.
 - f. The offender voluntarily accepts the offered alternative to further justice system processing.
 - g. The facts of the case sufficiently establish that the defendant committed the alleged act.

ICJS

Statewide standards have not been developed for formally organized programs of diversion. Although informal diversion techniques and mechanisms are practiced at the local level, this type of diversion follows no organized plan. The informal diversion processes do not have any statutory mandate. Diversion decisions are made at the discretion of the police, prosecutor, or judge depending on the point at which the diversion occurs in the criminal justice process. Written statements are not required for discretionary decisions for diversion processes.

Pursuant to Section 125.17, Code, a peace officer, in lieu of arresting a person for public intoxication, may take a person to an alcoholic treatment center who appears to be intoxicated or incapacitated by alcohol in a public place. However, this is a discretionary decision of the police officer. If the person refuses help, he may be arrested and charged with intoxication.

Analysis

ICJS practice is inconsistent with NAC Standard
 ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 4.1 COMPREHENSIVE PRETRIAL PROCESS PLANNING

RELATED IOWA STANDARD 4.1 COMPREHENSIVE PRETRIAL PROCESS PLANNING

Each criminal justice jurisdiction immediately should begin to develop a comprehensive plan for improving the pretrial process. In the planning process, the following information should be collected:

1. The extent of pretrial detention, including the number of detainees, the number of man-days of detention, and the range of detention by time periods.
2. The cost of pretrial release programs and detention.
3. The disposition of persons awaiting trial, including the number released on bail, released on nonfinancial conditions, and detained.
4. The disposition of such persons after trial including, for each form of pretrial release or detention, the

number of persons who were convicted, who were sentenced to the various available sentencing alternatives, and whose cases were dismissed.

5. Effectiveness of pretrial conditions, including the number of releasees who (a) failed to appear, (b) violated conditions of their release, (c) were arrested during the period of their release, or (d) were convicted during the period of their release.

6. Conditions of local detention facilities, including the extent to which they meet the standards recommended herein.

7. Conditions of treatment and of rules governing persons awaiting trial, including the extent to which such treatment and rules meet the recommendations in Standards 4.8 and 4.9.

8. The need for and availability of resources that could be effectively utilized for persons awaiting trial, including the number of arrested persons suffering from problems relating to alcohol, narcotic addiction, or physical or mental disease or defects, and the extent to which community treatment programs are available.

9. The length of time required for bringing a criminal case to trial and, where such delay is found to be excessive, the factors causing such delay.

ICJS

Currently, most pretrial release programs in Iowa are beyond the planning stage. As components of community based corrections projects, pretrial release programs are in operation in all of the eight judicial districts in Iowa.

Legislation was enacted in 1973 providing for the establishment of community based corrections programs and services, which includes pretrial release (Sections 217.24-217.29, Code). A comprehensive plan specifically for improving the pretrial process has not been developed in each judicial district.

In the planning process, most of the information recommended by the standard was not collected. Prior to implementation of pretrial release programs, informational records had not been kept from which data could be compiled. Although by statute (Section 356.43, Code), an annual inspection and report of all jails and lockups in the state is made, only the number of inmates confined and days served during the year are reported. No differentiation is made between pretrial and post trial detention.

In some areas, prior to implementation of pretrial release programs, limited informal feasibility studies were made. Jail populations were studied and projections were made on the number of detainees that would be eligible for pretrial release programs. In addition, judges were polled on how extensively pretrial release services would be needed.

In most areas prior to implementation, endorsement of programs was sought from judges and county sheriffs. However, approvals were verbal and no written agreement or formalized plan was utilized in the planning process.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 4.1 contd.

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

1. Assessment of the status of programs and facilities relating to pretrial release and detention.
2. A plan for improving the programs and facilities relating to pretrial release and detention, including priorities for implementation of the recommendations in this chapter.

ICJS

The 1973 legislature approved legislation and an appropriation that allowed the Department of Social Services and the Iowa Crime Commission to actively participate in the establishment of unified adult community correctional services in the judicial districts of Iowa. The legislation provided funds to establish community based residential treatment centers and related community correctional programs including pretrial

services.

The community based correctional programs implemented throughout Iowa are largely modeled after and contain components of the model project in the Fifth Judicial District. The pretrial release program in the Fifth Judicial District has been operational since 1964. It was the first type of community based correctional service established in Iowa and was patterned after the Vera Manhattan Project.

Currently, pretrial release programs are in operation in all eight judicial districts.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is similar to NAC

NAC 4.1 contd.

3. A means of implementing the plan and of discouraging the expenditure of funds for, or the continuation of, programs inconsistent with it.

ICJS

Financial assistance is provided for comprehensive community-based treatment by the State and by the Iowa Crime Commission through disbursement of LEAA federal funds to state and local units of government. Cooperation of the police, courts and existing correctional agencies must be shown prior to consideration for funding. Any portion of a correctional treatment program which is considered for LEAA funding must have the potential of becoming an integral part of a total correctional effort in the future.

A plan to assume the cost of the state wide community-based corrections program is being developed as well as an evaluation system that will assess the total impact of this program on the state correctional system.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 4.1 contd.

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

ICJS

The legislation enacted in 1973 that provided for the establishment of unified adult community-based correctional services, also mandated that the Department of Social Services provide for the evaluation of its correctional efforts. In response to this, the research staff of the National Council on Crime and Delinquency (NCCD), with the financial support of the Iowa Crime Commission, developed an evaluation model to be used in the evaluation of the influence and effectiveness of community based corrections in improving the criminal justice process for the state. In 1974, a correctional evaluation unit was established within the Department of Social Services.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 4.1 contd.

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

ICJS

A strategy or plan for processing large numbers of persons awaiting trial in the event of mass disturbances has not been developed in any of the judicial districts.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 4.1 contd.

The comprehensive plan for the pretrial process should be conducted by a group representing all major components of the criminal justice system that operate in the pretrial area. Included should be representatives of the police, sheriffs, prosecution, public defender, private defense bar, judiciary, court management, probation, corrections, and the community.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 4.2
CONSTRUCTION POLICY FOR
PRETRIAL DETENTION FACILITIES****RELATED IOWA STANDARD
4.2 CONSTRUCTION POLICY FOR
PRETRIAL DETENTION FACILITIES**

Each criminal justice jurisdiction, State or local as appropriate, should immediately adopt a policy that no new physical facility for detaining persons awaiting trial should be constructed and no funds should be appropriated or made available for such construction until:

ICJS

No statewide standard or policy has been adopted concerning funding and construction of facilities for detaining persons awaiting trial until other alternatives are explored and pursued.

Federal funding for new construction for detention facilities granted pursuant to the Crime Control Act of 1973 must follow guidelines issued by LEAA and the National Clearinghouse for Criminal Justice Planning and Architecture. However, most local detention facilities (city and county jails) are established by local units of government and are under local operation and control. Construction policy and funding for these local detention facilities rests with the County Board of Supervisors.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 4.2 contd.

1. A comprehensive plan is developed in accordance with Standard 4.1.

ICJS

As indicated in the ICJS commentary in Standard 4.1, although legislation has been enacted providing for pretrial release programs, a comprehensive plan specifically for the pretrial process has not been developed.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 4.2 contd.

2. Alternative means of handling persons awaiting trial as recommended in Standards 4.3 and 4.4 are implemented, adequately funded, and properly evaluated.

ICJS

Legislation has been enacted in Iowa providing for implementation of Standards 4.3 and 4.4. Pretrial release programs have been implemented throughout the state and are presently being funded via federal and state funds. Pursuant to Section 217.28, Code, an evaluation of community corrections programs is underway at this time.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 4.2 contd.

3. The constitutional requirements for a pretrial detention facility are fully examined and planned for.

ICJS

The Constitutional requirement of the Eighth Amendment's prohibition against cruel and unusual punishment is being met by statutory provisions, Section 356.37 to 356.44, Code. Annual state inspection of jails and facilities is made to ensure that safe and suitable facilities are maintained as such. See Section 356.43, Code.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 4.2 contd.

4. The possibilities of regionalization of pretrial detention facilities are pursued.

ICJS

Provision for counties to construct a building outside of the confines of their own county is made under Chapter 28E of the Code, Joint Exercise of Governmental Powers. In the event that two or more counties wish to join together to construct a building for their mutual use, they would be permitted to do so. To date, no counties have exercised this option.

Although not planned regionalization, some counties are presently using the same jail facility. Because jails have been closed in Tama, Boone, Ida, Winnebago and Pottawattamie Counties, jails in adjoining counties are being used.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 4.3
ALTERNATIVES TO ARREST**

**RELATED IOWA STANDARD
4.3 ALTERNATIVES TO ARREST**

Each criminal justice jurisdiction, State or local as appropriate, should immediately develop a policy, and seek enabling legislation where necessary, to encourage the use of citations in lieu of arrest and detention. This policy should provide:

1. Enumeration of minor offenses for which a police officer should be required to issue a citation in lieu of making an arrest or detaining the accused unless:

ICJS

By statute, a police officer is not required but has the discretion to issue a citation in lieu of making an arrest. Section 753.5, Code, provides:

"Whenever it would be lawful for a peace officer to arrest a person without a warrant, he may issue a citation instead of making the arrest and taking the person before a magistrate".

A peace officer may make an arrest without a warrant under Section 755.4.

- "1. For a public offense committed or attempted in his presence.
2. Where a public offense has in fact been committed, and he has reasonable ground for believing that the person to be arrested has committed it.
3. Where he has reasonable ground for believing that an indictable public offense has been committed and has reasonable ground for believing that the person to be arrested has committed it.
4. Where he has received from the department of public safety, or from any other peace officer of this state or any other state or the United States an official communication by bulletin, radio, telegraph, telephone, or otherwise, informing him that a warrant has been issued and is being held for the arrest of the person to be arrested on a designated charge."

Thus, under the Code of Iowa, a peace officer may issue a citation in those instances set out in Section 755.4 where he may arrest without a warrant. Pursuant to Section 753.13, Code, a uniform traffic citation and complaint must be used for charging all traffic violations in Iowa under state law or municipal ordinance. See also Revised Criminal Code, ch. 2, sec. 407, 501.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 4.3 contd.

- a. The accused fails to identify himself or supply required information;
- b. The accused refuses to sign the citation;
- c. The officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to himself or others;
- d. Arrest and detention are necessary to carry out additional legitimate investigative action;
- e. The accused has no ties to the jurisdiction reasonably sufficient to assure his appearance, and there is a substantial risk that he will refuse to respond to the citation; and
- f. It appears the accused has previously failed to respond to a citation or a summons or has violated the conditions of any pretrial release program.

ICJS

The Code does not specify the situations when a citation would not be used. The determination of these situations is within the discretion of the police officer. However, the citation must include the name and address of the person. Section 753.6, Code. The cited person is required to sign the citation before he is released. Section 753.7, Code. See also Revised Criminal Code, ch.2, sec. 502, 503.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 4.3 contd.

2. Discretionary authority for police officers to issue a citation in lieu of arrest in all cases where the officer has reason to believe that the accused will respond to the citation and does not represent a clear threat to himself or others.

ICJS

A peace officer has the discretion to issue a citation whenever an arrest without warrant would be appropriate. Section 753.5, Code. Before being released, the cited person must sign the citation as a written promise to appear in court at the time and place specified. Section 753.7, Code. Section 753.5 authorizes peace officers to issue citations for misdemeanors and felonies. The police officer has the discretion to determine whether physical arrest is necessary to protect himself and others. See also Revised Criminal Code, ch. 2, sec. 501-505.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 4.3 contd.

3. A requirement that a police officer making an arrest rather than issuing a citation specify the reason for doing so in writing. Superior officers should be authorized to reevaluate a decision to arrest and to issue a citation at the police station in lieu of detention.

ICJS

No code requirement exists that when a police officer does not issue a citation and makes a physical arrest, he must indicate in writing his reasons for doing so. Superior officers have not been authorized by the Code to reevaluate a decision to arrest and issue a citation at the police station and release the accused.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 4.3 contd.

4. Criminal penalties for willful failure to respond to a citation.

ICJS

Section 753.9, Code, provides:

"Except for citations for traffic violations, any person who willfully fails to appear in court as specified by the citation shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment. Failure to appear in response to a citation for a traffic violation shall be governed by section 321.487." But see Revised Criminal Code, ch.2, sec. 505.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 4.3 contd.

5. Authority to make lawful search incident to an arrest where a citation is issued in lieu of arrest.

ICJS

There are no Code provisions giving police officers authority to make lawful search incident to an arrest where a citation is issued in lieu of arrest.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 4.3 contd.

Similar steps should be taken to establish policy encouraging the issuance of summons in lieu of arrest warrants where an accused is not in police custody. This policy should provide:

1. An enumeration of minor offenses for which a judicial officer should be required to issue a summons in lieu of an arrest warrant unless he finds that:
 - a. The accused has previously willfully failed to respond to a citation or summons or has violated the conditions of any pretrial release program.
 - b. The accused has no ties to the community and there is a reasonable likelihood that he will fail to respond to a summons.
 - c. The whereabouts of the accused is unknown or the arrest warrant is necessary to subject him to the jurisdiction of the court.
 - d. Arrest and detention are necessary to carry out additional legitimate investigative action.

ICJS

Pursuant to Section 754.3, Code, a magistrate, district court clerk or his deputy is not required but may, in his discretion, issue a citation instead of an arrest warrant whenever the preliminary information or complaint charges a misdemeanor. A complaint or preliminary information is a statement in writing accusing someone of the commission or threatened commission of a public offense. (Section 754.1, Code).

Except for citations for traffic violations, if the magistrate, or district court clerk or his deputy after issuing a citation, becomes satisfied the cited person will not appear, he may issue a warrant for the arrest of the person without waiting for the appearance date mentioned in the citation.

The Code does not specify the situations, other than refusal to sign and the likelihood of nonappearance, in which the citation would not be used. The determination of these situations is within the discretion of the judicial officer. But see Revised Criminal Code, ch.2, sec. 401.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 4.3 contd.

2. Discretionary authority for judicial officers to issue a summons in lieu of an arrest warrant in all cases

where the officer has reason to believe that the accused will respond to the summons.

ICJS

When a preliminary information is made before a magistrate, district court clerk or his deputy, and it charges a public offense triable on indictment, either a felony or an indictable misdemeanor, the magistrate, district court clerk or his deputy, may issue an arrest warrant. Section 754.3, Code. Whenever the complaint or preliminary information charges a misdemeanor, the magistrate, district court clerk or his deputy may, in his discretion, issue a citation instead of an arrest warrant. **Id.**

Similarly, Chapter 762, Trial of Nonindictable Offenses, Code, provides that upon the filing of an information charging a nonindictable offense, the magistrate, district court clerk or his deputy may issue a warrant for the arrest of the defendant. Section 762.6. This action is discretionary; therefore, a citation may be issued under Section 754.3 in lieu of the arrest warrant.

The citation commands the person against whom the complaint was made to appear before the magistrate issuing the citation at a time and place stated therein. Section 754.3, Code. But see Revised Criminal Code, ch.2, sec. 401; Rule 38.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 4.3 contd.

3. A requirement that a judicial officer issuing a warrant instead of a summons state his reason for doing so in writing.

ICJS

There is no Code provisions requiring a judicial officer issuing a warrant instead of a summons state his reason for doing so in writing.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 4.3 contd.

4. Criminal penalties for willful failure to respond to a summons.

ICJS

Section 754.3 provides that if the person named in the citation is actually served in the same manner as an original notice in a civil action and fails without good cause to appear as commanded by the citation, he is guilty of a misdemeanor, and upon conviction, shall be punished as provided in Section 753.9. See also Revised Criminal Code, ch. 2, sec. 401.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle meets NAC

NAC 4.3 contd.

To facilitate the use of citations and summons in lieu of arrests, police agencies should:

1. Develop through administrative rules specific criteria for police officers for determining whether to issue citations or to request issuance of a summons in lieu of arrest.
2. Develop training programs to instruct their officers in the need for and use of the citation and summons in lieu of arrest.
3. Develop a method of quickly verifying factual information given to police officers which if true would justify the issuance of a citation in lieu of arrest.
4. Develop a method of conducting a reasonable investigation concerning the defendant's ties to the community to present to the judicial officer at the time of application for a summons or an arrest warrant.

ICJS

Except for traffic violations, statewide standards have not been developed for police agencies regarding the use of citations and summons in lieu of arrest.

However, the Des Moines Police Department has effectuated a trial program of issuing the Police Citation for specified misdemeanors. The citation is to be used on a limited basis for the following charges:

Violation of Sound Ordinance, Littering, Unauthorized Swimming, False Police report, Railroad Train Blocking Street, Depositing Snow on Public Property, and Unauthorized Water Skiing.

A training bulletin has been issued with roll call training which is a 15 minute briefing period before an officer goes on duty. The usual method of conducting an investigation of the offender is used. The officer will talk to witnesses, call to the dispatcher to verify information on background of offender, attempt to locate personnel, and have witnesses listed.

In Iowa, personnel of community based corrections projects, not police officers, conduct investigations concerning defendant's ties to the community. This function is performed after arrest and formal charges have been filed to determine if offenders qualify for pretrial release programs.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 4.4 ALTERNATIVES TO PRETRIAL DETENTION

RELATED IOWA STANDARD 4.4 ALTERNATIVES TO PRETRIAL DETENTION

Each criminal justice jurisdiction, State or local as appropriate, should immediately seek enabling legislation and develop, authorize, and encourage the use of a variety of alternatives to the detention of persons awaiting trial. The use of these alternatives should be governed by the following:

1. Judicial officers on the basis of information available to them should select from the list of the following alternatives the first one that will reasonably assure the appearance of the accused for trial or, if no single condition gives that assurance, a combination of the following:

- a. Release on recognizance without further conditions.
- b. Release on the execution of an unsecured appearance bond in an amount specified.
- c. Release into the care of a qualified person or organization reasonably capable of assisting the accused to appear at trial.
- d. Release to the supervision of a probation officer or some other public official.
- e. Release with imposition of restrictions on activities, associations, movements, and residence reasonably related to securing the appearance of the accused.
- f. Release on the basis of financial security to be provided by the accused.
- g. Imposition of any other restrictions other than detention reasonably related to securing the appearance of the accused.
- h. Detention, with release during certain hours for specified purposes.
- i. Detention of the accused.

2. Judicial officers in selecting the form of pretrial release should consider the nature and circumstances of the offense charged, the weight of the evidence against the accused, his ties to the community, his

record of convictions, if any, and his record of appearance at court proceedings or of flight to avoid prosecution.

ICJS

A variety of alternatives to the detention of persons awaiting trial are authorized by statute in Iowa. Release on 10-percent cash bonds and pretrial release (release on recognizance) programs are being used as alternatives to pretrial detention.

All defendants are bailable before and after conviction except for murder in the first degree, kidnapping, and treason. Sections 763.1, .2, Code. But see Revised Criminal Code, ch.2, sec. 1101; Rule 43.

Section 763.17, Code, sets forth the conditions of release the judicial officer may impose that will assure the appearance of the person for trial:

- “1. All bailable defendants shall be ordered released from custody pending judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the defendant as required. When such determination is made, the magistrate shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:
 - a. Place the defendant in the custody of a designated person or organization agreeing to supervise him;
 - b. Place restrictions on the travel, association or place of abode of the defendant during the period of release;
 - c. Require the execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash or other qualified security of a sum not to exceed ten percent of the amount of the bond, such deposit to be returned to the defendant upon the performance of the appearances of required in section 766.1;
 - d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu thereof, provided that, except as provided in section 763.2, bail initially given shall remain valid until final disposition of the offense. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase thereof and the defendant must provide the additional undertaking, written or cash, to secure his release.
 - e. Impose any other condition deemed reasonably necessary to assure appearances as required, including a condition requiring that the defendant return to custody after specified hours.
2. In determining which conditions of release will reasonably assure appearance, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.” But see Revised Criminal Code, ch.2, sec. 1102.

In accordance with Section 763.17, pretrial service programs are operational or being planned in all eight judicial districts in Iowa. As components of community based corrections projects, pretrial release and pretrial release with supervision programs allow for release on personal recognizance of persons awaiting trial.

The first pretrial release program in Iowa, patterned after the Vera-Manhattan Project, was implemented in the city of Des Moines in 1964 and has been incorporated as a component of the 5th Judicial District community based corrections project. Pursuant to legislation enacted in 1973 providing for the establishment of judicial district-wide community based correctional programs and services, pretrial release programs were developed and expanded throughout the state. (See Section 217.24-217.29, Code).

The pretrial release program provides for release without money bail of adult criminal offenders who qualify for release based on an objective community stability rating scale. Arrested persons are interviewed at the jails by staff of the community corrections project who obtain and verify information regarding the accused. The information sought concerns the offender's community ties - employment, family, length of residence and prior

criminal record to determine whether the defendant will appear for trial and if release would be dangerous to the community. Through the use of a point rating scale, which places values on ties to the community, a recommendation is made by staff of the project to the court as to whether the accused qualifies for release on recognizance. The judge at arraignment can either accept or reject the recommendation. In practice, judges have, in most cases, accepted the recommendations and released qualifying defendants on their own recognizance. After release, the pretrial release unit does not provide continuing services to the defendant other than notification of scheduled court appearances. Currently, there are ten community based corrections projects in the state that have pretrial release programs.

The supervised pretrial release program, unlike the pretrial release program, is a program of release with supervision, without money bail, of defendants to the staff community-based corrections project. The staff further interviews defendants who do not qualify initially for unsupervised pretrial release and thoroughly verifies information collected. Subjective evaluations are made of the defendant's ability to refrain from criminal activity and his willingness to cooperate with staff members and benefit from services provided. A recommendation is made to the court as to whether the defendant should be released under the project staff's supervision. After release, practical services are offered to the defendant such as counseling, referral to community resources, and job placement. Currently, all projects in the state are providing supervised pretrial release services.

Analysis

ICJS practice meets NAC Standard

ICJS principle is the same as NAC

NAC 4.4 contd.

3. No person should be allowed to act as surety for compensation.

ICJS

Under Section 763.17(d), Code, execution of bail bond with sufficient surety may be required as a condition of release. Therefore, a person may act as compensated surety for persons awaiting trial. See Section 763.11 for qualifications of surety. See also Revised Criminal Code, ch.2, sec. 1102, 1103.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 4.4 contd.

4. Willful failure to appear before any court or judicial officer as required should be made a criminal offense.

ICJS

Section 763.19, Code, prescribes the penalty for willful failure to appear before any court or magistrate: "Any defendant who having been released pursuant to sections 763.17 and 763.18 willfully fails to appear before any court or magistrate as required shall, in addition to the forfeiture of any security given or pledged for his release, if he was released in connection with a charge which constitutes a felony, or while awaiting sentence or pending appeal after conviction of any public offense, shall be punished by imprisonment in the penitentiary not more than five years, or by fine not exceeding five thousand dollars. If the defendant was released before conviction or acquittal in connection with a charge which constitutes any public offense not a felony, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding one thousand dollars."

When a magistrate authorizes the release of a defendant under Section 763.17, he informs the defendant of penalties applicable to violation of conditions of release and advises him a warrant for arrest will be issued immediately upon violation. See Section 763.17(3), Code. See also Revised Criminal Code, ch.2, sec. 1102.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC CORRECTIONS STANDARD 4.5 PROCEDURES RELATING TO PRETRIAL RELEASE AND DETENTION DECISIONS

RELATED IOWA STANDARD 4.5 PROCEDURES RELATING TO PRETRIAL RELEASE AND DETENTION DECISIONS

Each criminal justice jurisdiction, State or local as appropriate, should immediately develop procedures governing pretrial release and detention decisions, as follows:

1. A person in the physical custody of a law enforcement agency on the basis of an arrest, with or without a warrant, should be taken before a judicial officer without unnecessary delay. In no case should the delay exceed 6 hours.

ICJS

Sections 757.7 and 758.1, Code, require that in all cases after the defendant has been arrested, with or without a warrant, he must be taken before a magistrate without unnecessary delay. The Code does not define "without unnecessary delay". The Iowa Supreme Court held: "Where defendant's detention for 20 and one-half hours in jail without charge being filed against him and without being taken before magistrate was not for purpose of inducing confession from him, such delay was not unreasonable nor did it make his subsequent statement to police inadmissible." **State v. Hansen**, 225 N.W.2d 343 (Iowa 1975). But see Revised Criminal Code, ch.2, sec. 422, 423, Rule 1 (c), 2 (1). The Revised Criminal Code deems that "unnecessary delay is any unexcused delay longer than 24 hours, and consists of a shorter period whenever a magistrate is accessible and available." Rule (1) (c).

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

When a person is arrested, initial presentation before the magistrate may be delayed for the purpose of determining a proper charge through custodial investigation.

NAC 4.5 contd.

2. When a law enforcement agency decides to take a person accused of crime into custody, it should immediately notify the appropriate judicial officer or agency designated by him. An investigation should commence immediately to gather information relevant to the pretrial release or detention decision. The nature of the investigation should be flexible and generally exploratory in nature and should provide information about the accused including:

- a. Current employment status and employment history.
- b. Present residence and length of stay at such address.
- c. Extent and nature of family relationships.
- d. General reputation and character references.
- e. Present charges against the accused and penalties possible upon conviction.
- f. Likelihood of guilt or weight of evidence against the accused.
- g. Prior criminal record.
- h. Prior record of compliance with or violation of pretrial release conditions.
- i. Other facts relevant to the likelihood that he will appear for trial.

ICJS

There is no Code requirement that a law enforcement or other agency undertake pretrial investigation to gather information relevant to pretrial release or detention. Through pretrial release programs, background information and release recommendations may be available to the magistrate. Section 217.28. The Code provides that the magistrate determine "on the basis of available information" which conditions will reasonably assure appearance. Section 763.17 (2). County boards of supervisors have authority to appropriate funds in order to furnish to district court judge of that county sufficient information for the purposes of determining the amount of bail, if any, that would be necessary in a particular criminal case. Op. Atty. Gen., July 26, 1966.

The pretrial investigative function is being carried out by staff of community based corrections projects in those areas of the state that have these services available. Pretrial release services have not been implemented statewide. Interviews and investigations of the defendant are conducted after the individual has been arrested and formally charged.

The magistrate, in determining which conditions of release will reasonably assure appearance, must, on the basis of available information consider:

1. the nature and circumstances of the offense charged;
2. the defendant's family ties;
3. employment;
4. financial conditions;
5. character and mental condition;
6. the length of his residence in the community;
7. his record of convictions;
8. his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. See Section 763.17(2).

See also Revised Criminal Code, ch.2, sec. 1102 (2).

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

The standard is more explicit than the Code in defining the information to be gathered about the accused. The standard recommends information include "present charges against the accused and penalties possible upon conviction" and "likelihood of guilt or weight of evidence against the accused." Whereas, the Code provides for "the nature and circumstances of the offense charged." Also recommended by the standard but excluded in the Code are "other facts relevant to the likelihood that the defendant will appear for trial."

NAC 4.5 contd.

3. Pretrial detention or conditions substantially infringing on liberty should not be imposed on a person accused of crime unless:

- a. The accused is granted a hearing, as soon as possible, before a judicial officer and is accorded the right to be represented by counsel (appointed counsel if he is indigent), to present evidence on his own behalf, to subpoena witnesses, and to confront and cross-examine the witnesses against him.

ICJS

By statute, all defendants are bailable before and after conviction except for first degree murder, kidnapping, and treason. Section 763.1, .2. It is the discretion of the court whether to allow a defendant to be released prior to trial, and, if so, under what terms and conditions. Section 763.17. But see Revised Criminal Code, ch.2, 1101, 1102.

Under Iowa statutes, there is no provision for a formal bail hearing. Bail or release on recognizance prior to trial is a part of the arraignment or preliminary examination.

Bail is usually set twice during the pretrial process, first at preliminary arraignment upon the informal charge (Section 761.5) and again at the arraignment after the defendant has been formally charged. (Chapter 763).

The Code requires that after the defendant has been arrested, he must be brought before a magistrate without unnecessary delay. At the preliminary arraignment, the accused must be informed of the offense with which he is charged, of his right to counsel in every stage of the proceedings, and must be allowed a reasonable time to send for counsel. Section 761.1. The date for the preliminary examination must be set or the defendant must be allowed to waive the same. **Id.** If the defendant is indigent and is accused of a felony or an indictable misdemeanor, counsel must be appointed for preliminary examination. Op. Attny. Gen. Oct., 1964. The right to appointed counsel for indigents has not been extended to simple misdemeanors. In **Wright v. Denato**, 178 N.W. 2d 339 (Iowa 1970), the Iowa Supreme Court expressly refused to comment on whether indigents charged with simple misdemeanors are entitled to appointive counsel. The U.S. Supreme Court held in **Argersinger v. Hamlin**, 407 U.S. 25 (1972) that counsel is required in any case, including misdemeanors and other petty offenses, if postconviction detention is to be imposed. However, the trial court is not required to appoint counsel on simple misdemeanors. Even though practically all simple misdemeanors are punishable by either a fine or imprisonment or both, a judge may choose not to appoint counsel and only impose a fine if the defendant is subsequently convicted. 58 Iowa L. Rev. 1194 (1973). After an indictment is found, the Code affords the right of appointive counsel to indigents charged with felonies or indictable misdemeanors. Section 775.1, .2, .4, .5. But see Revised Criminal Code, Rule 26 (1).

At the preliminary arraignment, bail must be determined if examination is adjourned. Section 761.6.

The defendant has the right to present evidence on his own behalf, to have witnesses subpoenaed, and witnesses must be examined in the presence of the defendant at the preliminary examination. Section 761.7. But see Revised Criminal Code, ch.2, sec. 1101, 1102; Rule 2, 43.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 4.5 contd.

- b. The judicial officer finds substantial evidence that confinement or restrictive conditions are necessary to insure the presence of the accused for trial.

ICJS

The Code mandates release of bailable defendants either on personal recognizance or upon unsecured appearance bond unless the magistrate determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the defendant as required. When the magistrate has made such a determination, he must then impose statutorily enumerated conditions of release which will reasonably assure the appearance of the person for trial. Section 763.17 (1). "Determination of conditions for release of one charged with public offense is directed to discretion of magistrate whose order must be affirmed if it is supported by record. **State v. Fenton**, 170 N.W. 2d 678 (Iowa 1969). See also Revised Criminal Code, ch.2, sec. 1102.

Analysis

ICJS practice meets NAC Standard

ICJS principle is the same as NAC

NAC 4.5 contd.

- c. The judicial officer provides the defendant with a written statement of his findings of fact, the reasons for imposing detention or conditions, and the evidence relied upon.

ICJS

The magistrate is not required to specify in writing his findings, reasons for decisions, and evidence relied upon where he orders detention or conditions. The Code requires only that the magistrate issue a written order containing a statement of the conditions imposed. Section 763.17 (3). See also Revised Criminal Code, ch. 2, sec. 1102.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 4.5 contd.

4. Where a defendant is detained prior to trial or where conditions substantially infringing on his liberty are imposed, the defendant should be authorized to seek periodic review of that decision by the judicial officer making the original decision. The defendant also should be authorized to seek appellate review of such a decision.

ICJS

Where a defendant remains in custody 24 hours after bail or other conditions of release are imposed or where a defendant is ordered released on a condition which requires return to custody after specified hours, by a magistrate not a district court judge, the defendant is entitled to have said conditions reviewed by the magistrate who imposed the conditions. Section 763.17 (4). But see Revised Criminal Code, ch.2, sec. 1102 (3).

A defendant may, after review of his application of conditions imposed, appeal to the district court having jurisdiction over the county in which the offense is pending to amend the order. Section 763.18 (1). See also Revised Criminal Code, ch.2, sec. 1102 (6).

An appeal may be taken to the Supreme Court in any case in which a court denied a motion to amend an order imposing conditions of release or a defendant is detained after conditions of release have been imposed or amended upon a motion. Section 763.18 (2). See also Revised Criminal Code, ch.2, sec. 1102 (6).

Analysis

ICJS practice meets NAC Standard

ICJS principle is the same as NAC

NAC 4.5 contd.

5. Whenever a defendant is released pending trial subject to conditions, his release should not be revoked unless:

- a. A judicial officer finds after a hearing that there is substantial evidence of a willful violation of one of the conditions of his release or a court or grand jury has found probable cause to believe the defendant has committed a serious crime while on release.
- b. The violation of conditions is of a nature that involves a risk of nonappearance or of criminal activity.
- c. The defendant is granted notice of the alleged violation, access to official records regarding his case, the right to be represented by counsel (appointed counsel if he is indigent), to subpoena witnesses in his own behalf, and to confront and cross-examine witnesses against him.
- d. The judicial officer provides the defendant a written statement of the findings of fact, the reasons for the revocation, and the evidence relied upon.

6. The defendant should be authorized to obtain judicial review of a decision revoking his release while awaiting trial.

7. The judicial officer or the reviewing court should be authorized to impose different or additional conditions in lieu of revoking the release and detaining the defendant.

ICJS

Revocation procedures for pretrial release substantially similar to those required by the courts for parole revocation have not been developed in Iowa.

When bail is allowed or the defendant is released on his own recognizance, the magistrate issues a written order containing a statement of the conditions imposed, if any, and advises the defendant that a warrant for his arrest will be issued immediately upon such violation. Section 763.17 (3).

A magistrate ordering the release of the defendant on conditions may at any time amend his order to impose additional or different conditions. Section 763.1 (5).

If the imposition of conditions results in detention, the defendant must be informed of his right to have said conditions reviewed. Section 763.17 (4). See ICJS commentary Section 4.

If the defendant indicates he desires such a review and is indigent and unable to retain legal counsel, the magistrate shall appoint an attorney to represent the defendant for the purpose of such review. Unless the conditions of release are amended and the defendant is thereupon released, the magistrate shall set forth in writing the reasons for requiring conditions imposed. Section 763.17 (4). See also Revised Criminal Code, ch. 2, sec. 1101, 1102; Rule 2.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 4.6 ORGANIZATION OF PRETRIAL SERVICES

RELATED IOWA STANDARD 4.6 ORGANIZATION OF PRETRIAL SERVICES

Each State should enact by 1975 legislation specifically establishing the administrative authority over and responsibility for persons awaiting trial. Such legislation should provide as follows:

ICJS

Legislation has not been enacted in Iowa specifically establishing the administrative authority over and responsibility for persons awaiting trial. However, legislation was enacted in 1973 for the establishment of comprehensive community based correctional projects that are locally administered. Section 217.24, Code. Local has been interpreted to be city and county units of government as well as private interest groups. However, the local unit of government may exercise the option for state administration. If community based correctional programs and services are not established in a judicial district, or if established are designed to serve only part of the judicial district, the Department of Social Services may provide community based correctional programs and services for the judicial district or parts of the judicial district not served by an established program. Section 217.27. Therefore, at this time, there are locally administered and state administered community based corrections projects in the state. By statute, the Department of Social Services was designated the agency to provide assistance, support and guidelines for the establishment and operation of community-based correctional programs and services. Section 217.26. The guidelines established by the Department of Social Services must include providing for pretrial release. Section 217.28 (3). Pretrial release services are being provided in most areas of the state.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 4.6 contd.

1. The decision to detain a person prior to trial should be made by a judicial officer.

ICJS

The decision to detain a person prior to trial in Iowa is made by a judicial officer. The magistrate has the discretion to determine and impose conditions which will assure the appearance of the defendant as required. Section 763.17 (1). See also Revised Criminal Code, ch.2, sec. 1102; Rule 2 (1).

Magistrates have the power to make commitments and take bail as provided by law. Section 748.2. As defined in Section 748.1, Code, the term "magistrate" includes all judges of the supreme and district courts and all district associate judges and judicial magistrates. But see Revised Criminal Code, ch.2, sec. 104 (6).

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 4.6 contd.

2. Information-gathering services for the judicial officer in making the decision should be provided in the first instance by the law enforcement agency and verified and supplemented by the agency that develops presentence reports.

ICJS

For the most part, information gathering services for the magistrate in making the pretrial release decision are not provided by a law enforcement agency. In areas of the state where pretrial release programs have been implemented, this service is provided by staff of community based correctional projects. Section 217.28, Code, provides for the establishment of pretrial release services. See preceding ICJS commentary of this standard.

Pre-trial release is a component of community based correctional projects that allows the release of an accused person from custody before trial without posting bond. The staff of the project interviews defendants and verifies information through contacts given and from the BCI and police departments. A recommendation is made to the judge or magistrate whether the defendant be released on his own recognizance.

By Iowa Statute, duties of a peace officer include securing evidence of all crimes committed and presenting the same to the magistrate. See Section 748.4, Code.

Presentence investigation reports are made by a probation officer, by the agency in charge of parole agents, or by another appropriate agency, as determined by the court. Section 789A.3, Code; See also Revised Criminal Code, ch.3, sec.102. In practice, presentence investigation reports are usually made by probation/parole personnel of community based correctional projects. Therefore, information gathering for pretrial release and presentence investigation reports may be provided by the same agency.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 4.6 contd.

3. Courts should be authorized to exercise continuing jurisdiction over persons awaiting trial in the same manner and to the same extent as recommended for persons serving sentences after conviction. See Standard 5.9.

ICJS

In Iowa, the courts do exercise continuing jurisdiction over persons awaiting trial. The court, clerk, or magistrate must make an order, either allowing or disallowing bail. See Section 763.14, Code. A magistrate authorizing the release of a defendant must issue a written order containing a statement of the conditions imposed, if any. Section 763.17 (3).

A magistrate ordering the release of the defendant on any specified conditions may at any time amend his order to impose additional or different conditions of release. Section 763.17 (5).

The defendant may request review of conditions of release imposed. Section 763.17 (4). See ICJS commentary, Standard 4.5. See also Revised Criminal Code, ch.2, sec. 1102, 1103.

Analysis

ICJS practice meets NAC Standard

ICJS principle is the same as NAC

NAC 4.6 contd.

4. By 1983, facilities, programs, and services for those awaiting trial should be administered by the State correctional agency under a unified correctional system.

ICJS

At this time, Iowa does not have a unified correctional system. Facilities, programs and services for those awaiting trial are administered by local and State correctional agencies. See ICJS commentary, introduction to this standard.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 4.7 PERSONS INCOMPETENT TO STAND TRIAL

RELATED IOWA STANDARD 4.7 PERSONS INCOMPETENT TO STAND TRIAL

Each criminal justice jurisdiction, State or local as appropriate, should immediately develop procedures and seek enabling legislation, if needed, governing persons awaiting trial who are alleged to be or are adjudicated incompetent to stand trial as follows:

1. Persons awaiting trial for a criminal offense who are alleged to be incompetent to stand trial should be eligible for bail or other alternative forms of release to the same extent as other persons awaiting trial. Where the court orders an examination and diagnosis to determine competency, the court should impose on the person the least restrictive measures required to assure his presence for trial and for effective examination and diagnosis. Outpatient diagnosis should be given preference over inpatient diagnosis.

ICJS

The Code provides that whenever a defendant appears in any stage of a criminal trial and a reasonable doubt arises as to his sanity, the proceedings must be suspended and a trial

had upon the question of his competency to stand trial. See Section 783.1.

All defendants are bailable except for murder in the first degree, kidnapping, and treason. Section 763.1, .2. Therefore, persons awaiting trial for a criminal offense who are alleged to be incompetent to stand trial would be eligible for bail. However, the court has the discretion to determine whether or not release will reasonably assure the appearance of the defendant as required. Section 763.17 (1). But see Revised Criminal Code, ch.2, sec. 1203-1205; ch.3, sec. 210.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 4.7 contd.

2. Persons awaiting trial for a criminal offense who have been adjudicated incompetent to stand trial should be eligible for bail or alternative forms of release to the same extent as other persons awaiting trial. Where the court orders treatment to return the person to competency, it should impose the least restrictive measures appropriate. Outpatient treatment should be given preference over inpatient treatment, and detention should be imposed only upon substantial evidence that:

- a. There is a reasonable probability that the person will regain competency within the time limits recommended herein and detention is required to assure his presence for trial; or
- b. There is a substantial probability that treatment will return the person to competency and such treatment can be administered effectively only if the person is detained.

ICJS

Section 783.3 prescribes the procedure on finding of insanity. "If the accused shall be found insane, no further proceedings shall be taken under the indictment until his reason is restored, and, if his discharge will endanger the public peace or safety, the court must order him committed to the Iowa security medical facility until he becomes sane."

Therefore, if the public peace or safety would be endangered, the adjudicated incompetent would not be eligible for bail or alternative forms of release, but must be committed to the Iowa Security Medical Facility. The Code does not specify other measures of treatment the court must order. But see Revised Criminal Code, sec. 1203, 1204.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 4.7 contd.

3. Each jurisdiction should adopt, through legislation or court rule, provisions which:
- a. Require periodic review of cases of persons adjudged incompetent to stand trial.
 - b. Set a maximum time for the treatment of incompetency. Such maximum limits should not exceed 2 years or the maximum prison sentence for the offense charged, whichever is shorter.
 - c. Provide that when the time limit expires or when it is determined that restoration to competency is unlikely, the person should be released and the criminal charge dismissed.
 - d. Provide that where it is believed that the person adjudicated incompetent is dangerous to himself or others and should be detained, civil commitment procedures should be instituted.

ICJS

There are no Code requirements requiring periodic review of cases of persons adjudged incompetent to stand trial or a maximum time limit for treatment of incompetency. Sections 783.3, 783.4 merely prescribe as soon as mental reason is restored.

The Iowa Supreme Court held; "Where accused had been committed to mental institution following jury trial on issue of sanity, accused was properly held in institution until she

was adjudged sane in habeas corpus proceedings seven years following commitment; thus, accused has not been denied right to speedy trial notwithstanding letter of three institutional psychiatrists approximately 1½ years following commencement of commitment and similar letter from superintendent some two years thereafter that accused was, in writers' opinion, competent to stand trial. **Keever v. Bainter**, 186 N.W. 2d 133, (Iowa 1971).

The court may order a person placed in a hospital for a complete psychiatric evaluation and appropriate treatment when a proceeding arises under Sections 783.5 and 789.8 of the Code. Section 783.5 provides that when insanity is found after conviction for a misdemeanor and judgment of imprisonment in jail, the defendant must be committed to the Iowa Security Medical Facility. Section 789.8 provides that when the defendant appears for judgment, if the court is of the opinion that there is any reasonable ground for believing the defendant insane, the question of insanity must be determined as provided in the Code. See also Revised Criminal Code, ch.2, 1204; Rule 22 (3) (c).

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 4.8 RIGHTS OF PRETRIAL DETAINEES

RELATED IOWA STANDARD 4.8 RIGHTS OF PRETRIAL DETAINEES

Each State, criminal jurisdiction, and facility for the detention of adults should immediately develop policies and procedures to insure that the rights of persons detained while awaiting trial are observed, as follows:

1. Persons detained awaiting trial should be entitled to the same rights as those persons admitted to bail or other form of pretrial release except where the nature of confinement requires modification.
2. Where modification of the rights of persons detained awaiting trial is required by the fact of confinement, such modification should be as limited as possible.
3. The duty of showing that custody requires modification of such rights should be upon the detention agency.
4. Persons detained awaiting trial should be accorded the same rights recommended for persons convicted of crime as set forth in Chapter 2 of this report. In addition, the following rules should govern detention of persons not yet convicted of a criminal offense:
 - a. Treatment, the conditions of confinement, and the rules of conduct authorized for persons awaiting trial should be reasonably and necessarily related to the interest of the state in assuring the person's presence at trial. Any action or omission of governmental officers deriving from the rationales of punishment, retribution, deterrence, or rehabilitation should be prohibited.
 - b. The conditions of confinement should be the least restrictive alternative that will give reasonable assurance that the person will be present for his trial.
 - c. Persons awaiting trial should be kept separate and apart from convicted and sentenced offenders.
 - d. Isolation should be prohibited except where there is clear and convincing evidence of a danger to the staff of the facility, to the detainee, or to other detained persons.
5. Administrative cost or convenience should not be considered a justification for failure to comply with any of the above enumerated rights of persons detained awaiting trial.
6. Persons detained awaiting trial should be authorized to bring class actions to challenge the nature of their detention and alleged violations of their rights.

ICJS

No statewide standards or policies have been developed specifically to insure rights of persons detained awaiting trial.

Persons detained awaiting trial are not kept separate and apart from convicted and sentenced offenders. There are no Code provisions requiring that persons detained awaiting trial not be confined with convicted offenders. But see Revised Criminal Code, ch.3, sec. 306.

Isolation is not prohibited except where there is evidence of danger to other persons or the detainee. Confined persons may be placed in isolation for being disorderly or willfully causing damage to the facility in which confined.

Section 356.14, Code, provides: "If any person confined in a jail is refractory or disorderly, or willfully destroys or injures any part thereof or of its contents, the sheriff may chain or secure such person, or cause him to be kept in solitary confinement, not more than ten days for any one offense, during which time he may be fed with bread and water only, unless other food is necessary for the preservation of his health."

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 4.9 PROGRAMS FOR PRETRIAL DETAINEES

RELATED IOWA STANDARD 4.9 PROGRAMS FOR PRETRIAL DETAINEES

Each State, criminal justice jurisdiction, and agency responsible for the detention of persons awaiting trial immediately should develop and implement programs for these persons as follows:

1. Persons awaiting trial in detention should not be required to participate in any program of work, treatment, or rehabilitation. The following programs and services should be available on a voluntary basis for persons awaiting trial:

- a. Educational, vocational, and recreational programs.
- b. Treatment programs for problems associated with alcoholism, drug addiction, and mental or physical disease or defects.
- c. Counseling programs for problems arising from marital, employment, financial, or social responsibilities.

ICJS

Programs and services for persons detained awaiting trial have been on a very limited basis. Facilities are primarily custodial in nature and offer little, if anything, in the way of rehabilitating or upgrading services.

Persons detained in a county jail or other detention facility are required to do all cleaning, upkeep, maintenance, minor repairs and anything else necessary to properly maintain, operate and preserve the facility. See Sections 356A.1 and 356.44, Code.

For a limited time in the 7th Judicial District, jail services were provided for persons incarcerated in the Scott County jail. However, these services were for convicted offenders as well as persons awaiting trial. The Scott County Jail Education Program provided tutoring, GED preparation classes, and a GED testing program for inmates incarcerated in the Scott County jail. A Job Seeking Skills Class was held as follow-up to the GED class. However, the success rate of individuals completing the class and obtaining a GED certificate was low. This program was phased out with transition to study release and independent study.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 4.9 contd.

2. Participation in voluntary programs should be on a confidential basis, and the fact of participation or statements made during such participation should not be used at trial. Information on participation and progress in such programs should be available to the sentencing judge following conviction for the purpose of determining sentencing.

CONTINUED

2 OF 4

ICJS

As stated previously, in most areas of the state, no programs or services have been developed for persons detained awaiting trial.

Participation in voluntary programs must be on a confidential basis. See Chapter 749B, Code. Evidence presented at trial must be material and relevant and cannot be prejudicial to the defendant. Therefore, information regarding participation in pretrial programs would not be admissible at the trial.

Information on participation and progress in voluntary programs could be made available to the sentencing judge and, where presentence investigations are mandatory, could be included in the presentence report. The presentence investigator must seek information concerning the defendant's characteristics; family and financial circumstances; needs and potentialities; his criminal record and social history; the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, the victim's immediate family, and the community. See Section 789A.4, Code. See also Revised Criminal Code, ch. 3, sec. 103.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 4.10 EXPEDITING CRIMINAL TRIALS

RELATED IOWA STANDARD 4.10 EXPEDITING CRIMINAL TRIALS

Each State should enact legislation, and each criminal justice jurisdiction should develop policies and procedures, to expedite criminal trials and thus minimize pretrial detention. Such legislation and policies and procedures should include:

ICJS

Provisions of Sections 795.1 and 795.2 for dismissal of criminal actions for failure of prompt indictment or speedy trial represent statutory implementation of speedy trial provisions of federal and state Constitutions. **State v. Butterfield**, 136 N.W. 2d 257 (Iowa 1965). But see Revised Criminal Code, Rule 27 (2) (a) (b).

The Iowa Supreme Court has recognized that delay in trial subjects the defendant to emotional stress. In **State v. Johnson**, 217 N.W. 2d 609 (Iowa 1974), the court held, "Constitutional speedy trial guarantee recognizes that prolonged delay may subject accused to emotional stress that can be presumed to result in ordinary person from uncertainties in prospect of facing public trial or of receiving sentence longer than, or consecutive to one he is presently serving, uncertainties that prompt trial removes."

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 4.10 contd.

1. Time limits in which a defendant must be brought to trial. The limits that can be imposed effectively will vary among jurisdictions depending on the number of criminal cases and the availability of judicial, prosecutorial, and defense resources. As an objective to be achieved by 1978, sufficient resources should be available so that the time limits imposed would not exceed the following:

- a. For felony prosecutions, 60 days from the arrest, receipt of summons or citation, or filing of an indictment, information, or complaint, whichever comes first. In misdemeanor cases, 30 days.
- b. In felony prosecutions, 60 days from the filing of new charges arising out of the same conduct after the original charge was dismissed upon motion of the defendant. In misdemeanor cases, 30 days.

- c. In felony prosecutions, 60 days from a declaration of a mistrial, order for new trial, or remand from an appeal or collateral attack if the defendant is retried. In misdemeanor cases, 30 days.

ICJS

The period of time from arrest to the beginning of trial for an indictable misdemeanor or felony is not limited to 60 days but time periods in the process are defined in the Code. Generally, there are four time period requirements.

The first is the period from arrest to the time of preliminary arraignment. After the defendant has been arrested, he must be taken before a magistrate or clerk without unnecessary delay. See Sections 755.14, 757.7, 758.1, Code. "Without unnecessary delay is not defined by the existing Code but is defined in the Revised Criminal Code. See ICJS Commentary 4.5. At the preliminary arraignment, the magistrate must immediately inform the defendant of the offense with which he is charged and of his right to counsel, and must allow the defendant a reasonable time to obtain counsel before proceeding with the preliminary examination. Section 761.1, Code. But see Revised Criminal Code, Rule 2 (2), 2 (4) (a).

The second time requirement is the period from the preliminary arraignment to the time of preliminary examination or its waiver. After waiting a reasonable time for or on the appearance of counsel for defendant, the magistrate must immediately proceed with the preliminary examination or may allow the defendant to waive the preliminary examination. Section 761.1, Code. The Supreme Court held that this provision imposes mandatory duty on magistrate to proceed promptly with a preliminary hearing unless defendant waives it.

State v. Lee, 222 N.W. 2d 471 (Iowa 1974). But see Revised Criminal Code, Rule 2 (2), 2 (4) (a).

The third time requirement is established in Section 795.1 for the period after preliminary examination or waiver of preliminary examination until an indictment is found against defendant. Section 795.1 requires that, "When a person is held to answer for a public offense, if an indictment be not found against him within thirty days, the court must order the prosecution to be dismissed, unless good cause to the contrary be shown." In **State v. Morningstar**, 207 N.W. 2d 772 (Iowa 1973), The Supreme Court construed "held to answer" means held to answer by a magistrate after preliminary examination or waiver of such examination. Failure to demand speedy trial by person held to answer does not prevent operation of Section 795.1. **Id.** Filing of an indictment includes cases prosecuted on county attorney's information. **State v. Nelson**, 222 N.W. 2d 445 (Iowa 1974). But see Revised Criminal Code, Rule 27 (2) (a).

The fourth time requirement is the period after indictment is found or the filing of a County Attorney's Information to the time of trial. Section 795.2 states: "If a defendant indicted for a public offense, whose trial has not been postponed upon his application, be not brought to trial within the sixty days after the indictment is found, the court must order it to be dismissed, unless good cause to the contrary be shown. An accused not admitted to bail and unrepresented by legal counsel, shall not be deemed to have waived his privilege of dismissal or be held to make demand or request to enforce a guarantee of speedy trial, and the court on its own motion shall carry out the provisions of this section as to dismissal." But see Revised Criminal Code, Rule 27 (2) (b).

The Iowa Supreme Court held in **State v. Gorham**, 206 N.W. 2d 908 (Iowa 1973) that the demand-waiver doctrine could not be applied to Section 795.2. Under this doctrine, a defendant was presumed to have waived consideration of his right to speedy trial for any period prior to which he had not demanded a trial. In **Gorham**, the Iowa Supreme Court held that under Section 795.2, "...an accused, on bail and represented by counsel, whose trial has not been postponed upon his own application is entitled to a dismissal if not brought to trial within sixty days after being indicted unless good cause to the contrary be prosecutorially shown."

The Code does not specify the period from arrest to trial in simple misdemeanor prosecutions. This period is dependent upon caseload factors in the various jurisdictions. Section 762.12 provides that the period from the defendant's appearance to the trial must be at least fifteen days. The period from the issuance of a citation to the appearance date is not limited by statute. See also Revised Criminal Code, Rule 45.

Only the court, upon its own motion or the application of the county attorney, may order the dismissal of any pending criminal prosecution. A dismissal is a bar to another prosecution for the same offense if it is a misdemeanor. A second prosecution is permissible after dismissal of a pending criminal charge if the offense is a felony. See Section 795.5. But see Revised Criminal Code, Rule 27 (1).

Dismissal pursuant to Section 795.2, Code, for failure to provide speedy trial is an absolute dismissal, a discharge with prejudice, prohibiting reinstatement or refiling information or indictment charging same offense. **State v. Johnson**, 217 N.W. 2d 609 (Iowa 1974).

Time limits have not been defined in the Code in which a defendant must be brought to trial after filing of new charges. Rather, Section 787.4 provides: "The granting of a new trial places the parties in the same position as if no trial had been had." See also Revised Criminal Code, Rule 23, (2) (d).

The defendant may be held to answer if the court determines new charges may be filed if no legal conviction can be had on the indictment. Section 788.4 states: "If the court is of opinion from the evidence on the trial that the defendant is guilty of a public offense of which no legal conviction can be had on the indictment, he may be held to answer the offense in like manner as upon a preliminary examination." But see Revised Criminal Code, Rule 23 (3) (e).

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

Legislation has been enacted in Iowa specifying time limits for the prosecution of criminal cases. However, the time period may exceed 90 days and the NAC recommendation is limited to 60 days.

2. Periods which would be excluded in computing the time for trial. Such periods should relate to the complexity of the case and the rights of the prosecution and defense for a fair trial.

ICJS

The Code clearly allows for periods which would be excluded in computing the time for trial but does specify reasons that would justify an extension of the time limits imposed. Sections 795.1, 795.2 provide for exclusionary time periods by the provision "unless good cause to the contrary be shown." See also Revised Criminal Code, Rule 27 (2) (a), (b).

The Iowa Supreme Court has specified factors constituting "good cause" for delay in trial:

"Nonchronic "court congestion" arising out of unique, nonrecurring events and resulting in only a short delay may constitute "good cause" satisfying the exception in this section requiring trial to be brought within 60 days after indictment unless good cause to the contrary be shown." **State v. Hines**, 225 N.W. 2d 156 (Iowa 1975)

"Negotiations between prosecution, defense counsel, and defendant toward obtaining guilty plea may constitute good cause of delaying trial." **State v. LeMar**, 224 N.W. 2d 252 (Iowa 1974)

"Delay resulting from congestion of trial docket attributable to exceptional circumstances and unavailability of prosecutor or trial judge may constitute good cause for a reasonable trial delay." **State v. Jennings**, 195 N.W. 2d 351 (Iowa 1972)

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 4.10 contd.

3. Authorization for the temporary assignment or relocation of judges, prosecuting attorneys, defense counsel, and other officers essential for the trial of a criminal case to a jurisdiction where crowded dockets prohibit or make difficult compliance with the time limits for bringing defendants to trial. Each criminal court or, where appropriate, the highest court of each jurisdiction should promulgate rules assuring criminal defendants a speedy trial on all pending charges. Such rules should include the recommendations of this standard not adopted by legislation and in addition the following:

1. To the extent practical, scheduling of cases in accordance with the following priority:
 - a. Criminal cases where the defendant is detained awaiting trial.
 - b. Criminal cases where the defendant is at liberty awaiting trial and is believed to present unusual risks to himself or the public.
 - c. Criminal cases where the defendant is subject to substantial conditions or supervision awaiting trial.
 - d. All other criminal cases.
 - e. Civil cases.
2. For defendants detained while awaiting trial, time limits of shorter duration than provided by statute.
3. Time limits within which the various pretrial procedures must take place and a means for altering such limits in individual cases.

ICJS

Trial courts in Iowa are not required to promulgate rules for scheduling of cases. However, the chief judge and the presiding judges of each judicial district have the authority to make administrative rules for trial courts within the district. See R.C.P. 181.2, 372, 373. This authority allows the judges to establish case scheduling standards.

The Iowa Supreme Court held in **State v. Jennings**, 195 N.W. 2d 351 (Iowa 1972) that: "Any inordinate delay, absent good cause, in presentment of a criminal charge and attendant prosecution cannot be approved and all judges and court personnel must accord criminal cases priority insofar as reasonably possible."

The presiding judges, the clerks of court, the county attorneys, or the court administrators may be delegated substantial responsibility for scheduling criminal cases and for formulating scheduling priorities.

Section 685.6 provides for the appointment of a supreme court administrator. In addition, court administrators have been hired at the district court level to assist the courts in efficiently handling their workload. However, rules have not been promulgated for establishing district court administrators. Therefore, they are located sporadically throughout the state.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 5.1 THE SENTENCING AGENCY

RELATED IOWA STANDARD 5.1 THE COURT'S ROLE IN SENTENCING

States should enact by 1975 legislation abolishing jury sentencing in all cases and authorizing the trial judge to bear full responsibility for sentence imposition within the guidelines established by the legislature.

ICJS

Iowa does not allow jury sentencing. The jury's function is limited to trying questions of fact and rendering a verdict. Sections 780.23, 785.1, Code. The jury must be discharged from the case when the verdict is complete prior to the sentencing of the defendant. See Section 785.17, Code. See also Revised Criminal Code, Rule 20 (2), 21 (1).

Presentence

Upon a plea or verdict of guilty, the court must fix a time for pronouncing judgment which must be within a reasonable time, but not less than eight days after the plea or verdict, unless the defendant consents thereto. Section 789.2, Code. Pronouncement of judgment may be deferred for the purpose of conducting a presentence investigation. The court must receive from the State and the defendant any information which is relevant to the question of sentencing. Section 789A.3, Code. Information from other

sources may be considered, and a presentence investigation must be made if the offense is a felony. **Id.** See also Revised Criminal Code, ch. 3 (102), Rule 22 (1).

Deferred Judgment

In appropriate cases, the court may, with the defendant's consent, defer judgment and place the defendant on probation. Section 789A.1, Code. This section does not apply to crimes of treason, murder and certain drug related offenses. The court itself may fix the term of probation; however, its length cannot exceed five years if the offense is a felony and two years if the offense is a misdemeanor. See Section 789A.2, Code. Alternatively, the court may order the defendant placed under the supervision of the chief parole officer, in which case the term of probation is determined by the board of parole. **Id.** In either situation, the length of probation cannot be less than one year if the offense is a misdemeanor and two years if the offense is a felony. **Id.** The court retains the authority to reduce the length of probation if it determines that the purposes of probation have been fulfilled. See Section 789A.6, Code. But see Revised Criminal Code, ch. 3, sec. 702-704, 706, 708.

ICJS

Mandatory Sentencing

The offense may be punishable by a mandatory sentence. See, e.g., Section 690.2, Code; 58 Iowa L. Rev. 1023 (1973). Upon a plea of guilty or verdict of guilty, the court must impose the sentence required by statutes. The Revised Criminal Code contains more mandatory sentences. See, e.g., Revised Criminal Code, ch. 3, sec. 207.

Fixed-Term Sentencing

The offense may be punishable by imprisonment in the penitentiary for life or any term of years. See, e.g., Section 708.2, Code. Upon a plea or verdict of guilty, the court may in its discretion determine the term of imprisonment.

Indeterminate Sentencing

When the offense is a felony, other than escape, treason, murder, or any other crime the penalty for which is life imprisonment, the indeterminate sentencing provisions apply. See Section 789.13, Code. Under these provisions, the court may impose a sentence of confinement in the penitentiary, or men's or women's reformatory. However, it cannot fix or limit the term of imprisonment. The Board of Parole has this authority. After commitment, the Board has the power to parole persons convicted of a crime and committed to either the penitentiary or men's or women's reformatory. Section 247.5, Code. The term of imprisonment cannot exceed the maximum term provided by law for the offense. Section 789.13, Code. But see Revised Criminal Code, ch. 3, sec. 203.

Discretionary Sentencing

The offense may be punishable by imprisonment in the penitentiary, or by fine, or by imprisonment in the county jail, or both. See Section 789.15, Code. Upon a plea or verdict of guilty, the court may impose an indeterminate sentence or a term of imprisonment in the county jail. But see Revised Criminal Code, ch. 3, 107, 203, 205, 304.

Cumulative Sentencing

When the defendant is convicted of two or more offenses, the court may impose cumulative sentences. Section 789.12, Code.

ICJS

Suspended Sentence

At the time of or after sentencing, the court may suspend the sentence and place the defendant on probation. Section 789A.1 (2), Code. The provisions governing deferred judgment probation also govern suspended sentence probation. See *supra*. See also Revised Criminal Code, ch. 3, sec. 702-704.

Sentencing Habitual Criminal

The defendant who at the time of conviction has been twice previously sentenced and committed to prison for terms of not less than three years must, upon the next subsequent conviction of a felony in this state, be deemed to be a habitual criminal and must be sentenced according to the terms of the statute. See Section 747.5, Code; 24 Drake L. Rev. 178 (1974). See also Revised Criminal Code, ch. 3, sec. 208.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC CORRECTIONS STANDARD 5.2 SENTENCING THE NONDANGEROUS OFFENDER

RELATED IOWA STANDARD 5.2 SENTENCING THE NONDANGEROUS OFFENDER

State penal code revisions should include a provision that the maximum sentence for any offender not specifically found to represent a substantial danger to others should not exceed 5 years for felonies other than murder. No minimum sentence should be authorized by the legislature.

The sentencing court should be authorized to impose a maximum sentence less than that provided by statute.

Criteria should be established for sentencing offenders. Such criteria should include:

1. A requirement that the least drastic sentencing alternative be imposed that is consistent with public safety. The court should impose the first of the following alternatives that will reasonably protect the public safety:

- a. Unconditional release.
- b. Conditional release.
- c. A fine.
- d. Release under supervision in the community.
- e. Sentence to a halfway house or other residential facility located in the community.
- f. Sentence to partial confinement with liberty to work or participate in training or education during all but leisure time.
- g. Total confinement in a correctional facility.

2. A provision against the use of confinement as an appropriate disposition unless affirmative justification is shown on the record. Factors that would justify confinement may include:

- a. There is undue risk that the offender will commit another crime if not confined.
- b. The offender is in need of correctional services that can be provided effectively only in an institutional setting, and such services are reasonably available.
- c. Any other alternative will depreciate the seriousness of the offense.

3. Weighting of the following in favor of withholding a disposition of incarceration:

- a. The offender's criminal conduct neither caused nor actually threatened serious harm.
- b. The offender did not contemplate or intend that his criminal conduct would cause or threaten serious harm.
- c. The offender acted under strong provocation.
- d. There were substantial grounds tending to excuse or justify the offender's criminal conduct, though failing to establish defense.
- e. The offender had led a law-abiding life for a substantial period of time before commission of the present crime.
- f. The offender is likely to respond affirmatively to probationary or other community supervision.
- g. The victim of the crime induced or facilitated its commission.
- h. The offender has made or will make restitution or reparation to the victim of his crime for the damage or injury which was sustained.
- i. The offender's conduct was the result of circumstances unlikely to recur.
- j. The character, history, and attitudes of the offender indicate that he is unlikely to commit another crime.
- k. Imprisonment of the offender would entail undue hardship to dependents.
- l. The offender is elderly or in poor health.
- m. The correctional programs within the institutions to which the offender would be sent are inappropriate to his particular needs or would not likely be of benefit to him.

State penal code revisions should contain separate provision for sentencing offenders when, in the interest of public protection, it is considered necessary to incapacitate them for substantial periods of time. The following provisions should be included:

1. Authority for the judicial imposition of an extended term of confinement of not more than 25 years, except for murder, when the court finds the incarceration of the dependant for a term longer than 5 years is required for the protection of the public and that the defendant is (a) a persistent felony offender, (b) a professional criminal, or (c) a dangerous offender.
2. Definition of a persistent felony offender as a person over 21 years of age who stands convicted of a felony for the third time. At least one of the prior felonies should have been committed within the 5 years preceding the commission of the offense for which the offender is being sentenced. At least two of the three felonies should be offenses involving the infliction, or attempted or threatened infliction, of serious bodily harm on another.
3. Definition of a professional criminal as a person over 21 years of age, who stands convicted of a felony that was committed as part of a continuing illegal business in which he acted in concert with other persons and occupied a position of management, or was an executor of violence. An offender should not be found to be a professional criminal unless the circumstances of the offense for which he stands convicted show that he has knowingly devoted himself to criminal activity as a major source of his livelihood or unless it appears that he has substantial income or resources that do not appear to be from a source other than criminal activity.
4. Definition of a dangerous offender as a person over 21 years of age whose criminal conduct is found by the court to be characterized by: (a) a pattern of repetitive behavior which poses a serious threat to the safety of others, (b) a pattern of persistent aggressive behavior with heedless indifference to the consequences, or (c) a particularly heinous offense involving the threat or infliction of serious bodily injury.
5. Authority for the court to impose a minimum sentence to be served prior to eligibility for parole. The minimum sentence should be limited to those situations in which the community requires reassurance as to the continued confinement of the offender. It should not exceed one-third of the maximum sentence imposed or more than three years.
6. Authority for the sentencing court to permit the parole of an offender sentenced to a minimum term prior to service of that minimum upon request of the board of parole.
7. Authority for the sentencing court in lieu of the imposition of a minimum to recommend to the board of parole at time of sentencing that the offender not be paroled until a given period of time has been served.

ICJS

The court's sentencing authority is set out in the Code of Iowa. See Standard 5.1. The Code's sentencing provisions do not distinguish between the dangerous and non-dangerous offender. Also, the Code does not establish sentencing criteria which require that the court consider the degree of danger that the defendant represents to public safety. Rather, the Code makes substantive law distinctions between dangerous and nondangerous offenses. This is a legislative determination. Under the indeterminate sentencing provisions, the court's sentencing discretion is transferred to the Board of Parole. Also, the determination of whether the offender represents a danger to society is made by the prosecutor at the time the charges are made. After conviction, the sentencing function is placed almost entirely under the control of the Board of Parole. The ultimate determination of the length of an indeterminate sentence within the statutory maximum rests with the parole board.

The legislature recently adopted a Revised Criminal Code (Senate File 85, Acts of the 66th General Assembly) with the enactment date of January 1, 1978. The sentencing provisions contain some considerations similar to this standard. The Revised Criminal Code articulates the purpose of sentencing. The court must determine which of the sentencing options is authorized by law for the offense and which of the authorized sentences will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others. See Revised Criminal Code, ch. 3, sec. 105.

The Revised Criminal Code's sentencing provisions substantially increase the number of mandatory sentences. A minimum sentence of five years is established for conviction of a forcible felony for representation of possession or display of a firearm, or for being armed with a firearm while participating in a forcible felony. See Revised Criminal Code, ch. 3, sec. 207. The Revised Criminal Code adopts a classification of penalties with felonies being classified into four areas: A, B, C, and D (ch. 3, sec. 209). Misdemeanors are classified into three areas: aggravated, serious, and simple (ch. 3, sec. 301).

Under the deferred judgement and suspended sentence provisions of the IOWA CODE (1975), the court has the authority to determine the length of a sentence within statutory maximums, unless the court orders the defendant placed under the supervision of the chief parole officer, in which case the term of probation is determined by the board of parole. See IOWA CODE sec. 789A.2 (1975).

The Revised Criminal Code provides that the court must commit the defendant to the custody of the director of the division of adult corrections if the sentence of confinement is for more than one year. See Revised Criminal Code, ch. 3, sec. 107. This is a change in Iowa's sentencing structure. Rather than the court making the determination in which institution the offender will be placed, the Division of Adult Corrections will make this determination. The court may determine the place of confinement only for a simple misdemeanor.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 5.4 PROBATION

RELATED IOWA STANDARD 5.4 PROBATION

Each sentencing court immediately should revise its policies, procedures, and practices concerning probation, and where necessary, enabling legislation should be enacted, as follows:

1. A sentence to probation should be for a specific term not exceeding the maximum sentence authorized by law, except that probation for misdemeanants may be for a period not exceeding one year.
2. The court should be authorized to impose such conditions as are necessary to provide a benefit to the offender and protection to the public safety. The court also should be authorized to modify or enlarge the conditions of probation at any time prior to expiration or termination of sentence. The conditions imposed in an individual case should be tailored to meet the needs of the defendant and society, and mechanical imposition of uniform conditions on all defendants should be avoided.
3. The offender should be provided with a written statement of the conditions imposed and should be granted an explanation of such conditions. The offender should be authorized to request clarification of any condition from the sentencing judge. The offender should also be authorized on his own initiative to petition the sentencing judge for a modification of the conditions imposed.
4. Procedures should be adopted authorizing the revocation of a sentence of probation for violation of specific conditions imposed, such procedures to include:
 - a. Authorization for the prompt confinement of probationers who exhibit behavior that is a serious threat to themselves or others and for allowing probationers suspected of violations of a less serious nature to remain in the community until further proceedings are completed.
 - b. A requirement that for those probationers who are arrested for violation of probation, a preliminary hearing be held promptly by a neutral official other than his probation officer to determine whether there is probable cause to believe the probationer violated his probation. At this hearing the probationer should be accorded the following rights:
 - (1) To be given notice of the hearing and of the alleged violations.
 - (2) To be heard and to present evidence.

- (3) To confront and cross-examine adverse witnesses unless there is substantial evidence that the witness will be placed in danger of serious harm by so testifying.
 - (4) To be represented by counsel and to have counsel appointed for him if he is indigent.
 - (5) To have the decisionmaker state his reasons for his decision and the evidence relied on.
 - c. Authorization of informal alternatives to formal revocation proceedings for handling alleged violations of minor conditions of probation. Such alternatives to revocation should include:
 - (1) A formal or informal conference with the probationer to reemphasize the necessity of compliance with the conditions.
 - (2) A formal or informal warning that further violations could result in revocation.
 - d. A requirement that, unless waived by the probationer after due notification of his rights, a hearing be held on all alleged violations of probation where revocation is a possibility to determine whether there is substantial evidence to indicate a violation has occurred and if such a violation has occurred, the appropriate disposition.
 - e. A requirement that at the probation revocation hearing the probationer should have notice of the alleged violation, access to official records regarding his case, the right to be represented by counsel including the right to appointed counsel if he is indigent, the right to subpoena witnesses in his own behalf, and the right to confront and cross-examine witnesses against him.
 - f. A requirement that before probation is revoked the court make written findings of fact based upon substantial evidence of a violation of a condition of probation.
 - g. Authorization for the court, upon finding a violation of condition of probation, to continue the existing sentence with or without modification, to enlarge the conditions, or to impose any other sentence that was available to the court at the time of initial sentencing. In resentencing a probation violator, the following rules should be applicable:
 - (1) Criteria and procedures governing initial sentencing decisions should govern resentencing decisions.
 - (2) Failure to comply with conditions of a sentence that impose financial obligations upon the offender should not result in confinement unless such failure is due to a willful refusal to pay.
 - (3) Time served under probation supervision from initial sentencing to the date of violation should be credited against the sentence imposed on resentencing.
5. Probation should not be revoked for the commission of a new crime until the offender has been tried and convicted of that crime. At this time criteria and procedures governing initial sentencing decisions should govern resentencing decisions.

ICJS

Legislation has been enacted in Iowa for the use of probation as a sentencing alternative. In appropriate cases, the court may defer judgment or suspend the sentence and place the defendant on probation. See Section 789A.1, Code; Revised Criminal Code, ch. 3, sec. 701. This section does not apply to crimes of treason, murder and certain drug related offenses.

"With the consent of the defendant, the court may defer judgment and place the defendant on probation upon such terms and conditions as it may require." Section 789A.1 (1).

A defendant cannot be granted a deferred judgment if he attempted to kill anyone, inflicted injury, used or threatened to use a dangerous weapon, kidnapped any person for ransom or committed certain sexual crimes during the commission of the offense; or had previously been convicted of a felony, had twice previously been granted a deferred judgment or had been granted a deferred judgment in a felony prosecution within the past 5 years. See Section 789A.1 (a.-h.), Code. See also Revised Criminal Code, ch. 3, sec. 702-704, 708.

Upon discharge from probation where judgment has been deferred, the court's criminal record must be expunged. However, a record is maintained by the supreme court administrator but it is a confidential record exempted from public access. See Sections 789A.1 (h), 789A.6, Code.

"By record entry at time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require." Section 789A.1(2).

Before exercising the deferred judgment or suspended sentence options, the court must first determine which of them will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making this determination the court must consider the age of the defen-

dant, his prior record of convictions, if any, his employment circumstances, his family circumstances, the nature of the offense committed, whether a dangerous weapon or force was used in the commission of such offense, and such other factors as shall be appropriate. The court must file a specific written statement of its reasons for and the facts supporting its decision to defer judgement or to suspend sentence and its decision on the length of probation. **Id.**

The court itself may fix the term of probation; however, its length cannot exceed five years if the offense is a felony and two years if the offense is a misdemeanor. See Section 789A.2, Code. Alternatively, the court may order the defendant placed under the supervision of the chief parole officer, in which case the term of probation is determined by the board of parole. **Id.** In either situation, the length of probation cannot be less than one year if the offense is a misdemeanor and two years if the offense is a felony. **Id.** In determining the length of the probation, the court must first determine what period is most likely to provide maximum opportunity for the rehabilitation of the defendant, to allow enough time to determine whether or not rehabilitation has been successful, and to protect the community from further offenses by the defendant and others. **Id.** The court retains the authority to reduce the length of probation when it determines that the purposes of probation have been fulfilled. See Section 789A.6, Code.

If the court defers judgment or suspends the sentence, the court must require as a condition of probation, that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution. Section 789A.8, Code. See also Revised Criminal Code, ch. 3, sec. 706, 708, 712.

Procedures for revocation of probation in Iowa are:

Deferred Judgment

"Upon violation of the terms, the court may enter an adjudication of guilt and proceed as otherwise provided." Section 789A.1 (1), Code.

Suspended Sentence

The U.S. Supreme Court set out the procedural aspects constitutionally required for probation revocation in **Gagnon v. Scarpelli**, 93 S. Ct. 1756 (1973). This would apply to a suspended sentence granted under Section 789A.1(2), Code.

The **Morrissey v. Brewer**, 92 S.Ct. 2593 (1972), rules for parole revocation proceedings were extended by the United States Supreme Court to the probation revocation process in **Gagnon v. Scarpelli**, supra. Specifically, the Court held that "a probationer, like a parolee, is entitled to a preliminary and a final revocation hearing, under the conditions specified in **Morrissey v. Brewer** ..." 23 Drake L. Rev. 153 (1973).

See NAC Corrections Standard 12.4 Parole Revocation Hearings.

The Court held that "at preliminary hearing to determine whether there is probable cause to believe that parolee or probationer committed a parole or probation violation, a probationer or parolee is entitled to notice of alleged violations of probation or parole, an opportunity to appear and to present evidence in his own behalf, a conditional right to confront adverse witnesses, an independent decision maker, and a written report of the hearing." **Gagnon v. Scarpelli**, supra.

The Supreme Court held there is no absolute right to appointive counsel in parole or probation revocation hearings.

"State is not under a constitutional duty to provide counsel for indigents in all probation or parole revocation cases; decision as to need for counsel must be made on a case-by-case basis in exercise of a sound discretion by state authority charged with responsibility for administering the probation and parole system." **Gagnon v. Scarpelli**, **Id.**

"Presumptively, counsel should be provided for indigents in probation or parole revocation cases where, after being informed of his right to request counsel, the probationer or parolee makes such a request, based on a timely and colorable claim (i) that he has not committed the alleged violation of conditions upon which he is at liberty; or (ii) that, even if violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate and that the reasons are complex or difficult to develop or present." **Gagnon v. Scarpelli**, **Id.**

See also Revised Criminal Code, ch. 3, sec. 701-711, 810.

In passing on a request for appointment of counsel to represent an indigent in probation or parole revocation proceedings, responsible agency should consider, especially in doubtful cases, whether the probationer or parolee appears to be capable of speaking effectively for himself. **Gagnon v. Scarpelli**, **Id.**

"In every case in which a request for counsel at a preliminary or a final probation

or parole revocation hearing is refused, grounds for refusal should be stated succinctly in the record." **Gagnon v. Scarpelli, Id.**

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is different than NAC

See also Revised Criminal Code, ch. 3, Sec. 701-711, 810.

NAC CORRECTIONS STANDARD 5.5 FINES

RELATED IOWA STANDARD 5.5 FINES

In enacting penal code revisions, State legislatures should determine the categories of offenses for which a fine is an appropriate sanction and provide a maximum fine for each category.

Criteria for the imposition of a fine also should be enacted, to include the following:

1. A fine should be imposed where it appears to be a deterrent against the type of offense involved or an appropriate correctional technique for an individual offender. Fines should not be imposed for the purpose of obtaining revenue for the government.
2. A fine should be imposed only if there is a reasonable chance that the offender will be able to pay without undue hardship for himself or his dependents.
3. A fine should be imposed only where the imposition will not interfere seriously with the offender's ability to make reparation or restitution to the victim.

Legislation authorizing the imposition of fines also should include the following provisions:

1. Authority for the court to impose a fine payable in installments.
2. Authority for the court to revoke part or all of a fine once imposed in order to avoid hardship either to the defendant or others.
3. A prohibition against court imposition of such sentences as "30 dollars or 30 days."
4. Authority for the imprisonment of a person who intentionally refuses to pay a fine or who fails to make a good-faith effort to obtain funds necessary for payment. Imprisonment solely for inability to pay a fine should not be authorized.

Legislation authorizing fines against corporations should include the following special provisions.

1. Authority for the court to base fines on sales, profits, or net annual income of a corporation where appropriate to assure a reasonably even impact of the fine on defendants of various means.
2. Authority for the court to proceed against specified corporate officers or against the assets of the corporation where a fine is not paid.

ICJS

By specific offense and by the classification of public offenses (misdemeanor and indictable misdemeanor), the Code defines the offenses for which a fine is a sentence and states the maximum fine which can be imposed. See Chapter 687, Code; Constitution of Iowa, Art. I, Sec. 11.

Imposition of a fine is a matter of judicial discretion within the statutory provisions. "Where one is convicted of a felony that is punishable by imprisonment in the penitentiary, or by fine, or by imprisonment in the county jail, or both, the court may impose the lighter sentence if it shall so elect." Section 789.15, Code.

"Upon entering a judgment imposing a fine, the court may provide that the judgment be paid in installments. If the defendant willfully fails to pay installments when due, he

shall be guilty of contempt and shall be punished as provided in chapter 665." Sections 762.32, 789.17, Code.

The defendant cannot be imprisoned solely because he cannot make an immediate payment of a fine by reason of indigency and is a deprivation of liberty in violation of equal protection. **State v. Snyder**, 203 N.W. 2d 280 (1972).

The Code does not articulate the criteria the court should consider in determining whether to impose a fine and its amount. The Revised Criminal Code does contain some of the recommendations of this standard. See Revised Criminal Code, ch. 3, sec. 901-906.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 5.6 MULTIPLE SENTENCES

RELATED IOWA STANDARD 5.6 MULTIPLE SENTENCES

State legislatures should authorize sentencing courts to make disposition of offenders convicted of multiple offenses, as follows:

1. Under normal circumstances, when an offender is convicted of multiple offenses separately punishable, or when an offender is convicted of an offense while under sentence on a previous conviction, the court should be authorized to impose concurrent sentences.
2. Where the court finds on substantial evidence that the public safety requires a longer sentence, the court should be authorized to impose consecutive sentences. However, a consecutive sentence should not be imposed if the result would be a maximum sentence more than double the maximum sentence authorized for the most serious of the offenses involved.
3. The sentencing court should have authority to allow a defendant to plead guilty to any other offenses he has committed within the State, after the concurrence of the prosecutor and after determination that the plea is voluntarily made. The court should take each of these offenses into account in setting the sentence. Thereafter, the defendant should not be held further accountable for the crimes to which he has pleaded guilty.
4. The sentencing court should be authorized to impose a sentence that would run concurrently with out-of-State sentences, even though the time will be served in an out-of-State institution. When apprised of either pending charges or outstanding detainers against the defendant in other jurisdictions, the court should be given by interstate agreements the authority to allow the defendant to plead to those charges and to be sentenced, as provided for in the case of intrastate criminal activity.

ICJS

When the defendant is convicted of two or more offenses, the punishment of each which is or may be imprisonment, the court may impose cumulative sentences. See Section 789.12, Code.

Absent statute, sentences, though pronounced at different times by different courts of the same jurisdiction, generally run concurrently unless court pronouncing second sentence specifies that sentences run consecutively. **Cleesen v. Brewer**, 201 N.W. 2d 474 (Iowa 1972).

Rule that multiple sentences are to run concurrently unless otherwise ordered applies only to sentences imposed for offenses committed against the criminal laws of state and not to sentences imposed in the sister states. **Herman v. Brewer**, 193 N.W. 2d 540 (Iowa 1972).

ANALYSIS

ICJS practice is significantly different than NAC Standard

ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 5.7
EFFECT OF GUILTY PLEA IN SENTENCING**

**RELATED IOWA STANDARD
COURTS 3.2 CONSIDERATION
OF PLEA IN FINAL DISPOSITION**

Sentencing courts immediately should adopt a policy that the court imposing sentence should not consider, as a mitigating factor, that the defendant pleaded guilty or, as an aggravating factor, that the defendant sought the protections of right to trial assured him by the Constitution.

This policy should not prevent the court, on substantial evidence, from considering the defendant's contrition, his cooperation with authorities, or his consideration for the victims of his criminal activity, whether demonstrated through a desire to afford restitution or to prevent unseemly public scrutiny and embarrassment to them. The fact that a defendant has pleaded guilty, however, should be considered in no way probative of any of these elements.

ICJS

In determining sentence, the trial court must make an independent judicial determination of what the sentence should be. See *State v. Voshell*, 216 N.W. 2d 309 (Iowa 1974). The court cannot use the sentencing process as a threat to induce the defendant to plead guilty. *State v. Rife*, 149 N.W. 2d 846 (Iowa 1967). The defendant may plead guilty if he believes such a plea is to his advantage. See *State v. Heisdorffer*, 217 N.W. 2d 627 (Iowa 1974) When accepted by the court, the defendant's plea of guilty constitutes a conviction of the highest order, and its effect is to authorize imposition of a sentence prescribed by law. *State v. Kobrock*, 213 N.W. 2d 481 (Iowa 1973).

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 5.8
CREDIT FOR TIME SERVED**

**RELATED IOWA STANDARD
5.7 CREDIT FOR TIME SERVED**

Sentencing courts immediately should adopt a policy of giving credit to defendants against their maximum terms and against their minimum terms, if any, for time spent in custody and "good time" earned under the following circumstances:

1. Time spent in custody arising out of the charge or conduct on which such charge is based prior to arrival at the institution to which the defendant eventually is committed for service of sentence. This should include time spent in custody prior to trial, prior to sentencing, pending appeal, and prior to transportation to the correctional authority.
2. Where an offender is serving multiple sentences, either concurrent or consecutive, and he successfully invalidates one of the sentences, time spent in custody should be credited against the remaining sentence.
3. Where an offender successfully challenges his conviction and is retried and resented, all time spent in custody arising out of the former conviction and time spent in custody awaiting the retrial should be credited against any sentence imposed following the retrial.

The court should assume the responsibility for assuring that the record reveals in all instances the amount of time to be credited against the offender's sentence and that such record is delivered to the correctional authorities. The correctional authorities should assume the responsibility of granting all credit due an offender at the earliest possible time and of notifying the offender that such credit has been granted.

Credit as recommended in this standard should be automatic and a matter of right and not subject to the discretion of the sentencing court or the correctional authorities. The granting of credit should not depend on such factors as the offense committed or the number of prior convictions.

Time spent under supervision (in pretrial intervention projects, release on recognizance and bail programs, informal probation, etc.) prior to trial should be considered by the court in imposing sentence. The court should be authorized to grant the offender credit in an amount to be determined in the discretion of the court, depending on the length and intensity of such supervision.

ICJS

By statutory provision, all inmates are given credit for time spent in jail prior to trial and after trial before being admitted to the institution.

"If a convict had been confined to a county jail or other correctional or mental institution at any time prior to sentencing, or after sentencing but prior to his case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, he shall be given credit for such days already served in jail upon the term of his sentence. The clerk of the district court of the county from which the convict was sentenced, shall certify to the warden the number of days so served." Section 246.38, Code.

"Whenever any person who has been confined to jail at any time prior to sentencing because of failure to furnish bail, is sentenced to the county jail, the court shall backdate the execution of judgment or mittimus a sufficient number of days to give such person credit upon any sentence imposed for the time already spent in jail." Section 791.8, Code. See also Revised Criminal Code, Rule 24 (1) (f).

Policy of the Division of Correctional Institutions provides that, generally, Section 246.38, Code, is to be applicable to out-of-state jail time as well as in-state jail time in regard to pre-trial time spent in jail. Time is not to be credited in Iowa if the inmate is serving another sentence in an out-of-state jail or prison before or after an Iowa sentence. Any time in an out-of-state institution is not to be concurrent unless pursuant to a court determination.

The Supreme Court ruled in **Herman v. Brewer** 1972, 193 N.W. 2d 540, that sentence imposed by state court while accused was under sentence in sister state for another offense did not run concurrently with sentence imposed by sister state in absence of specific direction to that effect.

Iowa has statutory provisions granting "good time" and "honor time" to inmates in correctional institutions. See Section 246.38, .39, .40, .41, .42, .43, Code. These provisions differ from the recommendation of the standard for "good time", subsection 1, 2, 3.

Good Time - Code of Iowa

"Each prisoner who shall have no infraction of the rules of discipline of the penitentiary or the men's or women's reformatory or laws of the state, recorded against him, and who performs in a faithful manner the duties assigned to him, shall be entitled to a reduction of sentence as follows, as if the sentence be for less than a year, then the pro rata part thereof:

1. On the first year, one month.
2. On the second year, two months.
3. On the third year, three months.
4. On the fourth year, four months.
5. On the fifth year, five months.
6. On each year subsequent to the fifth year, six months." Section 246.39, Code.

Honor Time - Code of Iowa

"Any prisoner in either of said institutions who may be employed in any service outside the walls of the institution, or who may be listed as a trustee, may, with the approval of the state director, be granted a special reduction of sentence, in addition to the reduction heretofore authorized, at the rate of ten days for each month as served." Section 246.43, Code.

A prisoner who violates any rules must forfeit the reduction of sentence earned by him. See Section 246.41, Code.

"When a convict is committed under several convictions with separate sentences, they shall be construed as one continuous sentence in the granting or forfeiting of good time." Section 246.42, Code.

If petitioner is retried, all time previously served and good and honor time must be credited to any new sentence imposed. **Sefcheck v. Brewer**, 301 F. Supp. 793 (D.C. 1969).

Time spent as voluntary patient in mental health institute during suspension of sentence cannot be credited by warden on term of sentence. Op. Atty. Gen., March 13, 1961.

Statutory reduction for good time earned while incarcerated does not apply to persons on parole; and violation of parole does not forfeit reduction of sentence for good time earned. Op. Atty. Gen. (Bobzin), March 26, 1970.

There are no statutory provisions or statewide guidelines authorizing the court to grant an offender credit for time spent under supervision prior to trial.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 5.9 CONTINUING JURISDICTION OF SENTENCING COURT

NO SIMILAR IOWA STANDARD

Legislatures by 1975 should authorize sentencing courts to exercise continuing jurisdiction over sentenced offenders to insure that the correctional program is consistent with the purpose for which the sentence was imposed. Courts should retain jurisdiction also to determine whether an offender is subjected to conditions, requirements, or authority that are unconstitutional, undesirable, or not rationally related to the purpose of the sentence, when an offender raises these issues.

Sentencing courts should be authorized to reduce a sentence or modify its terms whenever the court finds, after appropriate proceedings in open court, that new factors discovered since the initial sentencing hearing dictate such modification or reduction or that the purpose of the original sentence is not being fulfilled.

Procedures should be established allowing the offender or the correctional agency to initiate proceedings to request the court to exercise the jurisdiction recommended in this standard.

ICJS

In Iowa, the court may retain jurisdiction over offenders sentenced to probation. "At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of any person from probation". Section 789A.6, Code.

Determination of whether to sentence a defendant to jail and assess a fine rather than to penitentiary is addressed to sound discretion of trial court as is question of any probation. **State v. Devan**, 205 N.W. 2d, 699 (Iowa 1973). The court does not have continuing jurisdiction in most cases after the sentence has been determined and imposed.

"If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered." Section 789.11, Code.

Trial court does not exhaust its jurisdiction until valid judgment is entered. **State v. Wiese**, 201 N.W. 2d, 734 (Iowa 1972). When a judgment of imprisonment, either in the penitentiary or county jail, is pronounced, an execution must be furnished to the officer whose duty it is to execute the same, who shall proceed and execute it accordingly. Section 791.1, Code.

When the offense is a felony, other than escape, treason, murder, or any other crime the penalty for which is life imprisonment, the indeterminate sentencing provisions apply. See Section 789.13, Code. Under these provisions, the court may impose a sentence of confinement in the penitentiary, or men's or women's reformatory. However, it cannot fix or limit the term of imprisonment. The Board of Parole has this authority. After commitment, the Board has the power to parole persons convicted of a crime and committed to either the penitentiary or the men's or women's reformatory. Section 247.5, Code. The term of imprisonment cannot exceed the maximum term provided by law for the offense. Section 789.13, Code.

The indeterminate sentencing act requires that the sentence, if it imposes a penitentiary term, shall not be fixed by the court but is imposed by law. **State v. Kulish**, 148 N.W. 2d, 428 (Iowa 1967).

The ultimate determination of the length of an indeterminate sentence within statutory maximum rests with the parole board. **Id.**

Except where authorized under Section 789.13, court's sentencing order should be followed by administrative officers, and if it is to be changed, it should be changed by court issuing order or by reviewing court. **Bernklau v. Bennett**, 162 N.W. 2d 432 (Iowa 1968).

Delegation of power and authority to parole board to determine sentence does not con-

stitute usurpation of powers of court. **State v. Abodeely**, 179 N.W. 2d 347 (Iowa 1970). The Revised Criminal Code contains a provision not in the existing CODE (1975) that allows the court to review its sentence. The time limits for reconsideration of sentence are 90 days for a felony and 30 days for a misdemeanor. See Revised Criminal Code, ch. 3, sec. 204, 302.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 5.10 JUDICIAL VISITS TO INSTITUTIONS

RELATED IOWA STANDARD 5.8 JUDICIAL VISITS TO INSTITUTIONS

Court systems should adopt immediately, and correctional agencies should cooperate fully in the implementation of, a policy and practice to acquaint judges with the correctional facilities and programs to which they sentence offenders, so that the judges may obtain firsthand knowledge of the consequences of their sentencing decisions. It is recommended that:

1. During the first year of his tenure, a judge should visit all correctional facilities within his jurisdiction to which he regularly sentences offenders.
2. Thereafter, he should make annual, unannounced visits to all such correctional facilities and should converse with both correctional staff and committed offenders.
3. No judge should be excluded from visiting and inspecting any part of any facility at any time or from talking in private to any person inside the facility, whether offender or staff.

ICJS

There are no statutory provisions or statewide standards requiring judges to visit correctional institutions. Judges of the supreme and district courts, including district associate judges and judicial magistrates are authorized to visit correctional institutions at their pleasure. See Section 246.46, Code.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 5.11 SENTENCING EQUALITY

RELATED IOWA STANDARD 5.9 SENTENCING REVIEW

The following procedures should be implemented by 1975 by court rule or legislation to promote equality in sentencing:

1. Use of sentencing councils for individual sentences. (See Standard 5.13.)
2. Periodic sentencing institutes for all sentencing and appellate judges. (See Standard 5.12.)
3. Continuing sentencing court jurisdiction over the offender until the sentence is completed. (See Standard 5.9.)
4. Appellate review of sentencing decisions.

As an alternative to review of sentences through normal appellate procedures, a jurisdiction may wish to establish a sentencing appeals board whose sole function would be to review criminal sentences. If such a board is established it should consist of not less than three nor more than seven members who would serve staggered 6-year terms. Appointment should be made through a procedure that assures competence and protects against political pressures and patronage. The recommendations set forth

below, applicable to appellate review of sentences by courts, should be applicable to a sentencing appeals board.

Procedures for implementing the review of sentences on appeal should contain the following precepts:

1. Appeal of a sentence should be a matter of right.
2. Appeal of a sentence of longer than 5 years under an extended-term provision should be automatic.
3. A statement of issues for which review is available should be made public. The issues should include:
 - a. Whether the sentence imposed is consistent with statutory criteria.
 - b. Whether the sentence is unjustifiably disparate in comparison with cases of similar nature.
 - c. Whether the sentence is excessive or inappropriate.
 - d. Whether the manner in which the sentence is imposed is consistent with statutory and constitutional requirements.

ICJS

There are no specific Code provisions for sentencing councils or sentencing institutes. Appellate procedures are defined in Chapter 793, Code. But see Revised Criminal Code, ch. 2, 1401, 1420.

"The mode of reviewing in the supreme court any judgment, action, or decision of the district court in a criminal case which is an indictable offense is by appeal. Either the defendant or state may appeal." Section 793.1, Code.

"If the appeal is taken by the defendant, the supreme court must examine the record, without regard to technical errors or defects which do not affect the substantial rights of the parties, and render such judgement on the record as the law demands; it may affirm, reverse, or modify the judgment, or render such judgment as the district court should have done, or order a new trial, or reduce the punishment, but cannot increase it." Section 793.18, Code.

The Iowa Supreme Court will not interfere with sentence unless there be an error in it by reason of failure to follow specific statutory provision, or unless there has been an abuse of discretion. See e.g., **State v. Johnson**. Supreme Court has power and authority to reduce punishment but does so only where abuse of discretion is shown or there has been failure to follow specific statutory provision. **State v. Johnson**, 196 N.W. 2d 563 (Iowa 1972).

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 5.12 SENTENCING INSTITUTES

RELATED IOWA STANDARD 5.10 SENTENCING INSTITUTES

Court systems immediately should adopt the practice of conducting sentencing institutes to provide judges with the background of information they need to fulfill their sentencing responsibilities knowledgeably. The practice should be governed by these considerations:

1. Each State should provide for a biennial sentencing institute, which all sentencing judges should be eligible to attend without cost or expense.
2. Each judge who has been appointed or elected since the last convening should be required to attend the institute in order to acquaint himself further with sentencing alternatives available.
3. The institute should concern itself with all aspects of sentencing, among which should be establishment of more detailed sentencing criteria, alternatives to incarceration, and reexamination of sentencing procedures.
4. Defense counsel, prosecutors, police, correctional administrators, and interested members of the bar and other professions should be encouraged to attend. A stipend for at least some persons, including students, should be established.

5. To the extent possible, sentencing institutes should be held in a maximum or medium security penal institution in the State.

ICJS

There is no specific statutory provision authorizing or requiring sentencing institutes for judges. However, several judges throughout the state have attended sentencing institutes many of which have been held in other states.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 5.13
SENTENCING COUNCILS**

NO SIMILAR IOWA STANDARD

Judges in courts with more than one judge immediately should adopt a policy of meeting regularly in sentencing councils to discuss individuals awaiting sentence, in order to assist the trial judge in arriving at an appropriate sentence. Sentencing councils should operate as follows:

1. The sentencing judge should retain the ultimate responsibility for selection of sentence, with the other members of the council acting in an advisory capacity.
2. Prior to the meeting of the council, all members should be provided with presentence reports and other documentary information about the defendant.
3. The council should meet after the sentencing hearing conducted by the sentencing judge but prior to the imposition of sentence.
4. Each member of the council should develop prior to the meeting a recommended sentence for each case with the factors he considers critical.
5. The council should discuss in detail those cases about which there is a substantial diversity of opinion among council members.
6. The council through its discussions should develop sentencing criteria.
7. The council should keep records of its agreements and disagreements and the effect of other judges' recommendations on the sentencing judge's final decision.

ICJS

There are no Code provisions or statewide standards established to have sentencing judges meet in sentencing councils and discuss the sentences of individual offenders.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 5.14
REQUIREMENTS FOR PRESENTENCE
REPORT AND CONTENT SPECIFICATION**

**RELATED IOWA STANDARD
5.11 REQUIREMENTS FOR PRESENTENCE
REPORT AND CONTENT SPECIFICATION**

Sentencing courts immediately should develop standards for determining when a presentence report should be required and the kind and quantity of information needed to insure more equitable and correctionally appropriate dispositions. The guidelines should reflect the following:

1. A presentence report should be presented to the court in every case where there is a potential sentencing disposition involving incarceration and in all cases involving felonies or minors.
2. Gradations of presentence reports should be developed between a full report and a short-form report for screening offenders to determine whether more information is desirable or for use when a full report is unnecessary.
3. A full presentence report should be prepared where the court determines it to be necessary, and without exception in every case where incarceration for more than 5 years is a possible disposition. A short-form report should be prepared for all other cases.
4. In the event that an offender is sentenced, either initially or on revocation of a less confining sentence, to either community supervision or total incarceration, the presentence report should be made a part of his official file.
5. The full presentence report should contain a complete file on the offender-his background, his prospects of reform, and details of the crime for which he has been convicted. Specifically, the full report should contain at least the following items:
 - a. Complete description of the situation surrounding the criminal activity with which the offender has been charged, including a full synopsis of the trial transcript, if any; the offender's version of the criminal act; and his explanation for the act.
 - b. The offender's educational background.
 - c. The offender's employment background, including any military record, his present employment status, and capabilities.
 - d. The offender's social history, including family relationships, marital status, interests, and activities.
 - e. Residence history of the offender.
 - f. The offender's medical history and, if desirable, a psychological or psychiatric report.
 - g. Information about environments to which the offender might return or to which he could be sent should a sentence of nonincarceration or community supervision be imposed.
 - h. Information about any resources available to assist the offender, such as treatment centers, residential facilities, vocational training services, special educational facilities, rehabilitative programs of various institutions, and similar programs.
 - i. Views of the person preparing the report as to the offender's motivations and ambitions, and an assessment of the offender's explanations for his criminal activity.
 - j. A full description of defendant's criminal record, including his version of the offenses, and his explanations for them.
 - k. A recommendation as to disposition.
6. The short-form report should contain the information required in sections 5 a,c,d,e,h,i, and k.
7. All information in the presentence report should be factual and verified to the extent possible by the preparer of the report. On examination at the sentencing hearing, the preparer of the report if challenged on the issue of verification, should bear the burden of explaining why it was impossible to verify the challenged information. Failure to do so should result in the refusal of the court to consider the information.

ICJS

By Iowa statute, a presentence investigation and report is required if the offense is a felony. See Sections 789A.3, .4, Code; Revised Criminal Code. ch. 3, sec. 102, 103. The court must receive from the State and the defendant any information which is relevant to the question of sentencing. Section 789A.3, Code; Revised Criminal Code, ch. 3, sec. 102. Information from other sources may be considered. **Id.**

The trial court may consider any information about an accused derived from events prior or subsequent to the crime for which sentence is to be pronounced. **State v. Summers**, 219 N.W. 2d 26 (Iowa 1974).

The presentence report must contain the following information:

The defendant's characteristics, family and financial circumstances, need, and potentialities; his criminal record and social history; the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, his immediate family, and the community. Section 789A.4. Code; Revised Criminal Code, ch. 3, sec. 103.

The results of any physical examination or psychiatric evaluation ordered by the court must be included in the presentence investigation report. **Id.**

If the defendant is committed to the custody of the department of social services, a copy of the presentence investigation report must be sent at the time of commitment. Section 789A.5, Code. See also Revised Criminal Code, ch. 3, sec. 104.

The presentence investigation report and the report of any medical examination or psychiatric evaluation must be part of the record but must be sealed and opened only on order of the court. See Section 789A.5, Code; Revised Criminal Code, ch. 3, sec. 104.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

There is no standardized presentence investigation report form in the state. In practice, therefore, the content of the report varies widely.

NAC CORRECTIONS STANDARD 5.15 PREPARATION OF PRESENTENCE REPORT PRIOR TO ADJUDICATION

RELATED IOWA STANDARD 5.12 PREPARATION OF PRESENTENCE REPORT PRIOR TO ADJUDICATION

Sentencing courts immediately should develop guidelines as to the preparation of presentence reports prior to adjudication, in order to prevent possible prejudice to the defendant's case and to avoid undue incarceration prior to sentencing. The guidelines should reflect the following:

1. No presentence report should be prepared until the defendant has been adjudicated guilty of the charged offense unless:
 - a. The defendant, on advice of counsel, has consented to allow the investigation to proceed before adjudication; and
 - b. The defendant presently is incarcerated pending trial; and
 - c. Adequate precautions are taken to assure that nothing disclosed by the presentence investigation comes to the attention of the prosecution, the court, or the jury prior to adjudication.
2. Upon a showing that the report has been available to the judge prior to adjudication of guilt, there should be a presumption of prejudice, which the State may rebut at the sentence hearing.

ICJS

There are no statutory provisions or statewide guidelines or standards specifying the time either before or after conviction when presentence reports may be prepared.

The Code provides that upon a plea or verdict of guilty or special verdict upon which judgment of conviction may be rendered, the court must receive from the State and the defendant information which is relevant to sentencing. Section 789A.3. A presentence investigation must be made if the offense is a felony. *Id.*

The court, in its discretion, determines the time when investigations will be conducted. The Code specifies only that, "the court may withhold execution of any judgment or sentence 'for such time as shall be reasonably necessary' for an investigation with respect to deferment of judgment or suspension of sentence and probation." Section 789A.3, Code; Revised Criminal Code, ch.3, sec.102.

ANALYSIS

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

Practices vary widely throughout the state concerning the time of preparation of presentence report. In some areas, an investigation may begin before adjudication and in others, not until after adjudication. There are no statutory provisions or statewide guidelines setting a time limit for preparation of the presentence investigation report following adjudication. The court makes this determination. The Bureau of Community Correctional Services is developing standards that would require pre-sentence investigation reports to be submitted no later than 30 days following receipt of order from the court.

**NAC CORRECTIONS STANDARD 5.16
DISCLOSURE OF PRESENTENCE REPORT**

**RELATED IOWA STANDARD
5.13 DISCLOSURE OF PRESENTENCE REPORT**

Sentencing courts immediately should adopt a procedure to inform the defendant of the basis for his sentence and afford him the opportunity to challenge it.

1. The presentence report and all similar documents should be available to defense counsel and the prosecution.
2. The presentence report should be made available to both parties within a reasonable time, fixed by the court, prior to the date set for the sentencing hearing. After receipt of the report, the defense counsel may request:
 - a. A presentence conference, to be held within the time remaining before the sentencing hearing.
 - b. A continuance of one week, to allow him further time to review the report and prepare for its rebuttal. Either request may be made orally, with notice to the prosecutor. The request for a continuance should be granted only:
 - (1) If defense counsel can demonstrate surprise at information in the report; and
 - (2) If the defendant presently is incarcerated, he consents to the request.

ICJS

In Iowa, disclosure of the presentence report to the defendant is not required but is within the judge's discretion. "The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant, or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request." Section 789A.5, Code. See also Revised Criminal Code, ch. 3, sec. 104.

The Iowa Supreme court held in **State v. Waterman**, 217 N.W. 2d 621 (Iowa 1974), that the defendant has no absolute right to inspect presentence report. Even though defendant had not been given opportunity to see presentence report, trial court did not abuse its discretion in considering report in connection with sentencing defendant. **Id.**

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 5.17
SENTENCING HEARING-RIGHTS OF DEFENDANT**

NO SIMILAR IOWA STANDARD

Sentencing courts should adopt immediately the practice of holding a hearing prior to imposition of sentence and should develop guidelines for such hearing reflecting the following:

1. At the hearing the defendant should have these rights:
 - a. To be represented by counsel or appointed counsel.
 - b. To present evidence on his own behalf.
 - c. To subpoena witnesses.
 - d. To call or cross-examine the person who prepared the presentence report and any persons whose information, contained in the presentence report, may be highly damaging to the defendant.
 - e. To present arguments as to sentencing alternatives.
2. Guidelines should be provided as to the evidence that may be considered by the sentencing court for purposes of determining sentences, as follows:
 - a. The exclusionary rules of evidence applicable to criminal trial should not be applied to the sentencing hearing, and all evidence should be received subject to the exclusion of irrelevant, immaterial, or unduly repetitious evidence. However, sentencing decisions should be based on competent and reliable evidence. Where a person providing evidence of factual information is

reasonably available, he should be required to testify orally in order to allow cross-examination rather than being allowed to submit his testimony in writing.

- b. Evidence obtained in violation of the defendant's constitutional rights should not be considered or heard in the sentence hearing and should not be referred to in the presentence report.
- c. If the court finds, after considering the presentence report and whatever information is presented at the sentence hearing, that there is a need for further study and observation of the defendant before he is sentenced, it may take necessary steps to obtain that information. This includes hiring of local physicians, psychiatrists, or other professionals; committing the defendant for more than 30 days to a local or regional diagnostic center; and ordering a more complete investigation of the defendant's background, social history, etc.

**NAC CORRECTIONS STANDARD 5.18
SENTENCING HEARING-ROLE OF COUNSEL**

**RELATED IOWA STANDARD
5.14 SENTENCING HEARING-ROLE OF COUNSEL**

Sentencing courts immediately should develop and implement guidelines as to the role of defense counsel and prosecution in achieving sentencing objectives.

1. It should be the duty of both the prosecutor and defense counsel to:
 - a. Avoid any undue publicity about the defendant's background.
 - b. Challenge and correct, at the hearing, any inaccuracies contained in the presentence report.
 - c. Inform the court of any plea discussion which resulted in the defendant's guilty plea.
 - d. Verify, to the extent possible, any information in the presentence report.
2. The prosecutor may make recommendations with respect to sentence. He should disclose to defense counsel any information he has that is favorable or unfavorable to the defendant and in not contained in the presentence report.
3. It should be the duty of the defense counsel to protect the best interest of his client. He should consider not only the immediate but also the long-range interest in avoiding further incidents with the criminal justice system. He should, to this end:
 - a. Challenge, and contradict to the extent possible, any material in the presentence report or elsewhere that is detrimental to his client.
 - b. Familiarize himself with sentencing alternatives and community services available to his client and, to the extent consistent with his position as an officer of the court and a servant of society, recommend that sentence which most accurately meets the needs of his client and enhances his liberty.

**NAC CORRECTIONS STANDARD 5.19
IMPOSITION OF SENTENCE**

**RELATED IOWA STANDARD
5.15 IMPOSITION OF SENTENCE**

Sentencing courts immediately should adopt the policy and practice of basing all sentencing decisions on an official record of the sentencing hearing. The record should be similar in form to the trial record but in any event should include the following:

1. A verbatim transcript of the sentencing hearing including statements made by all witnesses, the defendant and his counsel, and the prosecuting attorney.
2. Specific findings by the court on all controverted issues of fact and on all factual questions required as a prerequisite to the selection of the sentence imposed.
3. The reasons for selecting the particular sentence imposed.
4. A precise statement of the terms of the sentence imposed and the purpose that sentence is to serve.
5. A statement of all time spent in custody or under supervision for which the defendant is to receive credit under Standard 5.8.
6. The record of the sentencing hearing should be made a part of the trial record and should be available to the defendant or his counsel for purposes of appeal. The record also should be transmitted to correctional officials responsible for the care or custody of the offender.

ICJS

In Iowa, a separate sentencing hearing prior to imposition of sentence is prescribed by statute. The court is required by statute to fix a time for pronouncing judgment if upon a plea or verdict the defendant has been convicted. See Section 789.2, Code; see also Revised Criminal Code, Rule 22 (1). There is no set time when a sentence must be imposed but it must be within a reasonable time. *Id.* Although no fixed maximum time after conviction is prescribed by statute there is a specific minimum time limitation of eight days. *Id.* However, the defendant may waive his right to the 8 day minimum period between conviction and sentencing. *Id.* A defendant may plea guilty and request immediate sentence. *State v. Rinehart*, 125 N.W. 2d 242 (Iowa 1964).

A defendant has a constitutional and statutory right to counsel and that right extends to sentencing proceeding. *State v. Cole*, 168 N.W. 2d 37 (Iowa 1969).

During sentencing procedure a defendant does not have a constitutional right to confront all witnesses against him. *Id.*

In fixing sentence, it is the duty of trial court to ascertain all facts, whether in or out of the record, that will assist it in the proper exercise of its sentencing discretion. *State v. Stakenburg*, 215 N.W. 2d 265, 267 (Iowa 1974). The sentence imposed should fit both the crime and the individual. *State v. Banks*, 218 N.W. 2d 483, 487 (Iowa 1973).

To pass sentence intelligently, a trial court needs full information about the accused, whether that information derives from events prior or subsequent to the crime presently charged. *State v. Stakenburg*. *Supra.*

Pronouncement of judgment may be deferred for the purpose of conducting a presentence investigation. The court must receive from the State and the defendant any information which is relevant to the question of sentencing. Section 789A.3, Code; see also Revised Criminal Code, ch. 3, sec. 102. However, information from other sources may be considered. *Id.* If the offense is a felony, a presentence investigation must be made. *Id.*

"Whenever a presentence investigation is ordered by the court, the investigator shall promptly inquire into the defendant's characteristics, family and financial circumstances, needs, and potentialities; his criminal record and social history; the circumstances of the offense; the time the defendant has been in detention; and the harm to the victim, his immediate family, and the community. All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. With the approval of the court, a physical examination of the defendant may be ordered, or the defendant may be committed to a psychiatric facility for an evaluation of his personality and mental health. The results of any such examination shall be included in the report of the investigator." Section 789A.4, Code; see also Revised Criminal Code, ch. 3, sec. 103.

In *State v. Summers*, 219 N.W. 2d (Iowa 1974), the Iowa Supreme Court ruled that the trial court may consider any information about an accused derived from events prior or subsequent to the crime for which sentence is to be pronounced.

The proper use of presentence reports by the trial court is presumed. "Where there was no challenge to accuracy of statements made in presentence report, trial judge was not asked to disregard any matter contained in report, and defendant did not ask for chance to refute or discredit any matter contained in report, claim that trial court abused its discretion by excessive reliance on information contained in report when passing sentence was without merit." *State v. Waterman*, 217 N.W. 2d 621 (Iowa 1974).

In *State v. Cole*, 168 N.W. 2d 42 (Iowa 1969), the supreme court said that sentencing procedures are governed by different evidentiary rules than the trial itself.

The court is not required to disclose the contents of the presentence investigation report to the defendant. However, the court, in its discretion, may make the report or parts of it available to the defendant, but may conceal the identify of the person who provided confidential information. Section 789A.5, Code; see also Revised Criminal Code, ch. 3, sec. 104.

The Supreme Court, in *State v. Waterman*, 217 N.W. 2d 621 (Iowa 1974), said the defendant has no absolute right to inspect presentence report.

The Iowa Supreme Court concluded in *State v. Cole*, 168 N.W. 2d 37 (Iowa 1969), that a defendant had neither constitutional nor statutory right to examine the investigating officer as to the validity of the officer's conclusion in his presentence report, that defendant was not a fit subject for probation.

"The court must afford the defendant the right of allocation before imposing the sentence. When the defendant appears for judgment, he must be informed by the court, or the clerk under its direction, of the nature of the indictment, his plea, and the verdict, if any, thereon, and be asked whether he has any legal cause to show why judgment should not be pronounced against him." Section 789.6, Code; see also Revised Criminal Code, Rule 22 (3) (d).

"If judgment is not deferred, and no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered." Section 789.11, Code; see also Revised Criminal Code, ch. 3, sec. 106, Rule 22 (3) (d).

Trial court does not exhaust its jurisdiction until valid judgment is entered. **State v. Wiese**, 201 N.W. 2d 734 (Iowa 1972).

ANALYSIS

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 6.1 COMPREHENSIVE CLASSIFICATION SYSTEMS

RELATED IOWA STANDARD 6.1 COMPREHENSIVE CLASSIFICATION SYSTEMS

Each correctional agency, whether community-based or institutional, should immediately reexamine its classification system and reorganize it along the following principles:

1. Recognizing that corrections is now characterized by a lack of knowledge and deficient resources, and that classification systems therefore are more useful for assessing risk and facilitating the efficient management of offenders than for diagnosis of causation and prescriptions for remedial treatment, classification should be designed to operate on a practicable level and for realistic purposes, guided by the principle that:

- a. No offender should receive more surveillance or "help" than he requires; and
- b. No offender should be kept in a more secure condition or status than his potential risk dictates.

ICJS

Classification systems for the whole of corrections with the theoretical basis recommended by this standard have not been developed for Iowa. Currently, the classification process in the major State correctional institutions involves both a reception-diagnostic unit and a classification committee within each institution. Professional personnel develop most or all of the diagnostic material and the committee collectively makes decisions for individual programming of the inmate. Although the classification procedure within state institutions does assess risk and attempts to manage offenders efficiently, classification is considered the method by which programs are directed efficiently toward the treatment of the individual offender. The present use and assumption of "treatment" in state institutions and all correctional agencies for offenders does not coincide with the theory and approach the standard proposes. The theory of the Standard is that classification for treatment is impractical because the lack of knowledge as to the causation of criminal behavior and the deficiencies in correctional resources prevent ascertaining the kinds of help, if any, needed to keep offenders from further law violations. It appears, therefore, that institutional, community based and local correctional administrators have not adopted the view the standard proposes that the only objectives of a classification system obtainable with present knowledge and techniques are (1) assessment of risk and (2) efficient management of offenders. The present classification procedures within State institutions, community based programs, and local facilities give consideration to a broad range of factors, and although may include, is not guided entirely by the principle that the offender should not be subjected to more surveillance or security than he/she requires.

Community-based corrections programs and services have been implemented in many locations within the state where selected offenders are sentenced to specific programs in the community. However, the determination of whether to sentence to community-based

correctional programs is made by the court and is not a part of any formally organized comprehensive classification system.

Classification procedures within community-based correctional facilities and programs and local institutions such as jails would be determined by staff of the community-based corrections project or by the county sheriff having charge of the respective jail. These personnel review, evaluate, and assist in placement of the offender in the appropriate programs and resources available to meet the offender's needs.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

2. The classification system should be developed under the management concepts discussed in Chapter 13 and issued in written form so that it can be made public and shared. It should specify:
 - a. The objectives of the system based on a hypothesis for the social reintegration of offenders, detailed methods for achieving the objectives, and a monitoring and evaluation mechanism to determine whether the objectives are being met.
 - b. The critical variables of the typology to be used.
 - c. Detailed indicators of the components of the classification categories.
 - d. The structure (committee, unit, team, etc.) and the procedures for balancing the decisions that must be made in relation to programming, custody, personal security, and resource allocation.

ICJS

A comprehensive classification system as recommended by this standard for the whole corrections system has not been developed.

The classification procedure used by the major state correctional institutions has been developed by the management of the Department of Social Services and is issued in written form in the Correctional Institutions Policy and Procedures Guidelines Manual. As recommended by the standard, the objectives are specified with methods for achieving the objectives. The structure and procedure of the classification committee are identified. Variables of the typology and indicators of the components of the classification categories are not presented in written form. The major objectives of classification for institutions as stated in the Policy and Procedure Manual are:

- “1. Diagnosis - (the collection and integration of material which points up the problems presented by the offenders, his assets and disabilities.)
2. Program planning - (the outlining of a sound, realistic program utilizing whatever resources are available to or within the institution directed toward the solution of those problems. The objective sought is that the offender be released better prepared to accept his responsibilities as a socially and economically adequate individual.)
3. Program Execution - (the faithful carrying out of that program with modifications made as necessary to meet changing needs and goals.)

Progress of the inmate under this program is observed and changes made when indicated. An important by-product of the classification process is the development of records which can be used by paroling authorities to evaluate how well the offender has been prepared for return to the community.” Both professional and administrative personnel are involved in program planning. The professional personnel develop most or all of the diagnostic material. The classification committee which makes decisions in individual programming includes representatives of institutional departments.

The Department of Social Services through the Bureau of Community Correctional Services provides assistance, support and guidelines for community-based correctional programs and services. Broad general objectives are outlined in the Division's “Statement of Purpose” and “Goals” but does not refer specifically to classification. Each community based corrections project is responsible for developing supervision and treatment plans for offenders.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 6.1 contd.

3. The system should provide full coverage of the offender population, clearly delineated categories, internally consistent groupings, simplicity, and a common language.

ICJS

Present classification procedures or programs used by all correctional agencies provide coverage for the inmates assigned to them. This is not inclusive of the concept of a comprehensive classification system as recommended by the standard with delineated categories, consistent groupings and similar language.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 6.1 contd.

4. The system should be consistent with individual dignity and basic concepts of fairness (based on objective judgments rather than personal prejudices).

ICJS

All correctional agencies strive to base classification or program decisions on objective judgements. A classification system utilizing electronic data processing for objective data as suggested by the standard has not been developed.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 6.1 contd.

5. The system should provide for maximum involvement of the individual in determining the nature and direction of his own goals, and mechanisms for appealing administrative decisions affecting him.

ICJS

All correctional agencies plan and make program recommendations to best fit the needs of the individual. It is not mandatory that individuals follow these recommendations but release and parole may not be forthcoming if the individual does not wish to participate or the individual may be transferred to another institution or program.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 6.1 contd.

6. The system should be adequately staffed, and the agency staff should be trained in its use.

ICJS

A comprehensive classification system for all correctional agencies has not been organized or developed with a staff for the system. Correctional agency staff are trained to make meaningful judgments and decisions but classification specialists with training programs to implement a comprehensive classification system are not a separate component of correctional agency staff.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 6.1 contd.

7. The system should be sufficiently objective and quantifiable to facilitate research, demonstration, model building, intrasystem comparisons, and administrative decisionmaking.
8. The correctional agency should participate in or be receptive to cross-classification research toward the development of a classification system that can be used commonly by all correctional agencies.

ICJS

Correctional agencies develop, maintain, and utilize information and records by personnel and agencies involved in the criminal justice system. Evaluations and pre-sentence reports are used by administrators of institutions and community based-corrections programs in management, assignment and programming decisions and are subsequently used by probation-parole personnel. A uniform classification system utilizing computer based methods for combining data to match subjects and programs in making classification decisions has not been developed.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

N.A.C. CORRECTIONS STANDARD 6.2 CLASSIFICATION FOR INMATE MANAGEMENT

RELATED IOWA STANDARD 6.2 CLASSIFICATION FOR INMATE MANAGEMENT

Each correctional agency operating institutions for committed offenders, in connection with and in addition to implementation of Standard 6.1, should reexamine and reorganize its classification system immediately, as follows:

1. The use of reception-diagnostic centers should be discontinued.

ICJS

The correctional institutions within the state do not use reception-diagnostic centers. Each institution has a reception and diagnostic section with procedures for orientation, diagnosis, classification, staffing and correctional treatment.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

A comprehensive classification system for all correctional agencies as recommended in Standard 6.1 has not been developed.

NAC 6.2 contd.

2. Whether a reception unit or classification committee or team is utilized within the institution, the administration's classification issuance described in Standard 6.1 also should:

- a. Describe the makeup of the unit, team, or committee, as well as its duties and responsibilities.

ICJS

Within each institution, a reception and diagnostic unit and a classification committee or program team are utilized. These are defined in policy and procedure guidelines in the Division of Corrections Manual for the Department of Social Services.

The reception and diagnostic unit is composed of various staff members that do a complete diagnostic work-up on each inmate that includes social history, educational and vocational testing, psychological and medical examinations, a summary of past criminal and delinquent behavior, and a psychiatric evaluation when ordered.

The classification committee or program team is appointed by the Institutional Manager and is composed of at least three individuals - one of whom must be a program services staff member. The reception and diagnostic section is represented whenever possible. Assignments to programs are made by majority vote of the committee or team members, in accordance with, whenever possible, recommendations made in the diagnostic work-up.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 6.2 contd.

- b. Define its responsibilities for custody, employment, and vocational assignments.

ICJS

The reception and diagnostic section staff evaluate all reports and recommend specific work, education, and/or vocational training programs needs of the inmate. The classification committee makes assignments as to the facility and therefore the custody, employment, and vocational programs.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 6.2 contd.

- c. Indicate what phases of an inmate program may be changed without unit, team, or committee action.

ICJS

Temporary assignment for an inmate to a program prior to the time he appears before the classification committee or program team may be made by the assignment officer or a person designated by the institutional manager. After a permanent assignment is made, the assignment officer or designated employee may remove an inmate from a non-training assignment.

Removal from a training assignment and a change in the security classification of each inmate may be made only by the classification committee or program team. Security classification may be changed by the Warden or Superintendent of an institution in an emergency situation.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 6.2 contd.

- d. Specify procedures relating to inmate transfer from one program to another.

ICJS

Transfer involving a major program change may be initiated by an inmate request or the institutional staff may recommend a transfer. Inmate transfer requests are referred to the counseling staff, who are responsible for preparing the case for Classification Committee Review. The Counselor thoroughly assesses and evaluates the appropriateness and plausibility of reclassification for the inmate. All decisions made by the assignment officer and/or team leader or the classification committee or program team must be made only after interviewing the inmate and reviewing the inmate's master folder. Decisions may be subject to review and approval or disapproval by the institution manager or his designee.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 6.2 contd.

- e. Prescribe form and content of the classification interview.

ICJS

Interviews are made by the Reception and Diagnostic staff. Areas discussed include educational, vocational and trade training, religious background, individual and group therapy, recreation, athletics, hobbies and parole. Whenever the inmate's case is being considered for assignments by the classification committee or program team, the inmate is given an opportunity to appear before and address the committee or team. Recommendations for treatment activities are made to the inmate. It is not mandatory that each inmate follow the recommendations. However, criteria for release and parole consideration includes institutional program accomplishments.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 6.2 contd.

- f. Develop written policies regarding initial inmate classification and reclassification.

ICJS

Written policies regarding inmate classification and reclassification are described in the Division of Corrections Manual. All decisions for assignments must be in writing along with the basis for the decision.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 6.2 contd.

3. The purpose of initial classification should be:

- a. To screen inmates for safe and appropriate placements and to determine whether these programs will accomplish the purposes for which inmates are placed in the correctional system; and
- b. Through orientation to give new inmates an opportunity to learn of the programs available to them and of the performance expected to gain their release.

ICJS

The purpose of initial classification is defined in the Division of Corrections Manual and is generally in compliance with this standard.

Orientation takes place during the inmate's first month at the institution. Assignment to programs is made on the basis of security and program needs in order that the offender be released better prepared to accept his responsibilities as a socially and economically adequate individual.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is different than NAC

NAC 6.2 contd.

4. The purpose of reclassification should be the increasing involvement of offenders in community-based programs as set forth in Standard 7.4, Inmate Involvement in Community Programs.

ICJS

Matters requiring reclassification may be for (1) a change in security (2) any major program changes that are believed pertinent to case needs.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is inconsistent with NAC

The purpose of reclassification may not always be increasing involvement of offenders in community based programs.

NAC 6.2 contd.

5. Initial classification should not take longer than 1 week.

ICJS

Orientation and classification may be up to but not over 4 weeks.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 6.2 contd.

6. Reclassification should be undertaken at intervals not exceeding 6 weeks.

ICJS

Inmates are reviewed by the Classification Committee in the sixth month and at least once a year thereafter.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 6.2 contd.

7. The isolation or quarantine period, if any, should be brief as possible but no longer than 24 hours.

ICJS

New commitments to a institution are isolated in a cell block area for a definite period of four weeks. Release from quarantine is after medical and dental examinations are completed. Isolation periods vary and are of a necessary length of time suited to the inmate.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 6.3
COMMUNITY CLASSIFICATION TEAMS****NO SIMILAR IOWA STANDARD**

State and local correctional agencies should establish jointly and cooperatively by 1978, in connection with the planning of community-based programs discussed in Chapter 7 and Chapter 9, classification teams in the larger cities of the State for the purpose of encouraging the diversion of selected offenders from the criminal justice system, minimizing the use of institutions for convicted or adjudicated offenders, and programming individual offenders for community-based programs. Establishment of community classification teams should be governed by Standard 6.1, Comprehensive Classification Systems, and the following considerations:

ICJS

Classification teams have not been established in the larger cities of the state in connection with the planning of community based programs.

It is at the discretion of the sentencing judge within statutory limitations whether or not offenders are placed in community-based corrections programs upon adjudication or conviction. Although classification teams are not used, project personnel do work in conjunction with the courts in channeling offenders into community-based programs.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 6.3 contd.

1. The planning and operation of community classification teams should involve State and local correctional personnel (institutions, jails, probation, and parole); personnel of specific community-based programs (employment programs, halfway houses, work-study programs, etc.) ; and police, court, and public representatives.

ICJS

Community-based corrections programs and services have been implemented without guidance of community classification teams.

Development has not been a synergetic effort with assistance of all affected and interested groups. However, correctional personnel, police and courts have been aware and involved in the planning of community based corrections. Community resources have been utilized on a contract and referral basis in conjunction with community based projects.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 6.3 contd.

2. The classification teams should assist pretrial intervention projects in the selection of offenders for diversion from the criminal justice system, the courts in identifying offenders who do not require institutionalization, and probation and parole departments and State and local institutional agencies in original placement and periodic reevaluation and reassignment of offenders in specific community programs of training, education, employment, and related services.

ICJS

Classification teams do not exist in Iowa to coordinate all correctional efforts. However, the staff of community based corrections projects make recommendations for pre- and post-trial release, prepare presentence investigation reports, and provide probation and parole services. When an institutionalized offender is paroled, it is left, for the most part, to the initiative and resources of the parole officer to ascertain what community programs and services are utilized.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 6.3 contd.

3. The classification team, in conjunction with the participating agencies, should develop criteria for screening offenders according to:

- a. Those who are essentially self-correcting and do not need elaborate programming.
- b. Those who require different degrees of community supervision and programming.
- c. Those who require highly concentrated institutional controls and services.

ICJS

Classification teams have not been organized but staff of community-based corrections programs do provide information to the court to assist in the determination of supervision and programming for offenders. Pretrial release programs and presentence investigations are two components that serve this function.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 6.3 contd.

4. The policies developed by the classification team and participating agencies also should consider the tolerance of the general public concerning degrees of "punishment" that must be inflicted. In this connection the participation of the public in developing policies, as discussed in Chapter 7, would be useful.

ICJS

Classification teams have not been organized in Iowa. There has been little participation of the public in development of policies for community based corrections. However, efforts are being made to develop advisory groups in each judicial district to coordinate planning and insure community involvement.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 6.3 contd.

5. The work of the classification team should be designed to enable:
 - a. Departments, units, and components of the correctional system to provide differential care and processing of offenders.
 - b. Managers and correctional workers to array the clientele in caseloads of varying sizes and programs appropriate to the clients' needs as opposed to those of the agencies.
 - c. The system to match client needs and strengths with department and community resources and specifically with the skills of those providing services.

ICJS

Classification teams have not been initiated. Caseload size and utilization of community resources are determined by the unit or staff of the project.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 6.3 contd.

6. The classification team should have a role in recommending the establishment of new community programs and the modification of existing programs to involve volunteers, ex-offenders, and paraprofessionals as discussed in Chapter 7 and elsewhere in this report (see Related Standards) . It should also have an evaluative and advisory role in the operation of community programs as they affect the fulfillment of the needs of offenders assigned to them.

ICJS

There has been no organization of a classification team in conjunction with planning of community based corrections. By statute (Ch. 217.26, Code), the State Department of Social Services must provide assistance, support and guidelines for the establishment of community based correctional programs and services.

Statutory guidelines do not provide for the involvement of volunteers, ex-offenders, and paraprofessionals. Statewide standards or policy have not been developed to ensure this involvement in community based corrections projects. Involvement of volunteers, ex-offenders and paraprofessionals would be at the discretion of the staff administering the project.

Pursuant to Section 217.28 (6), the Department of Social Services, must establish guidelines providing for gathering and evaluating performance data.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 6.3 contd.

7. The organization of the classification team should be flexible and involve rotating membership and chairmen selected on an alternating basis among participating agencies.

ICJS

There has been no organization of classification teams with defined membership but planning for community based corrections has involved many agencies in the criminal justice system. The staff of community-based projects may be locally or state administered.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 7.1
DEVELOPMENT PLAN FOR COMMUNITY-
BASED ALTERNATIVES TO CONFINEMENT**

**RELATED IOWA STANDARD
8.1 DEVELOPMENT PLAN FOR COMMUNITY-BASED
ALTERNATIVES TO CONFINEMENT**

Each State correctional system or correctional system of other units of government should begin immediately to analyze its needs, resources, and gaps in service and to develop by 1978 a systematic plan with timetable and scheme for implementing a range of alternatives to institutionalization. The plan should specify the services to be provided directly by the correctional authority and those to be offered through other community resources. Community advisory assistance (discussed in Standard 7.3) is essential. The plan should be developed within the framework of total system planning discussed in Chapter 9, Local Adult Institutions, and State planning discussed in Chapter 13, Organization and Administration.

ICJS

Although community based corrections and services are currently a part of the correctional system in Iowa, systematic planning as proposed by the standard has not been undertaken. A plan with a definite timetable for implementation was not established.

The first type of community based corrections project, a pre-trial release program, was implemented in the city of Des Moines in 1964. Since that time, there has been development and expansion of programs and services within this project and at other locations throughout the state. In 1973, legislation was enacted providing for the development and implementation of community based alternatives to institutionalization (Section 217.24 - 217.29, Code). In addition, legislation was enacted at that time for an appropriation by the state as a match for federal funds.

The statute does not specify the services to be provided directly by the correctional authority and those to be offered through other community resources. However, the services to be provided are defined by statute. The services include but are not limited to pretrial release, presentence investigation, probation and parole, and residential treatment centers.

Programs and services are to be administered locally unless the local unit of government exercises the option for state administration. The Department of Social Services is designated as the state agency to provide assistance, support and guidelines. The guidelines established are to provide: "for the maximum utilization of existing local rehabilitative resources, such as, but not limited to: employment; job training; general, special, and remedial education; psychiatric and marriage counseling; alcohol and drug abuse treatment." (Section 217.28 (2), Code).

Although there has been citizen involvement in the planning and development of some community based corrections projects, community advisory assistance was not mandatory.

In some of the community based corrections projects in the state, all state and locally

provided correctional services are integrated within the single project. Local projects in other areas operate independently of the community based correctional services provided by the state, i.e. the state work release center, state parole/probation services, and state halfway houses.

At this time, there are ten community based corrections projects in operation throughout Iowa in all eight judicial districts. Correctional services that are being provided include pre-trial release services, release on recognizance with supervision, presentence investigations, and probation services.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 7.1 contd.

Minimum alternatives to be included in the plan should be the following:

1. Diversion mechanisms and programs prior to trial and sentence.

ICJS

There is no statutory provision for structured diversion processes or programs.

As components of community based corrections projects, pre-trial release and supervised pre-trial release are programs that provide diversion from incarceration prior to trial. Release prior to trial is provided under Bail and Release on Recognizance statutes defined in Section 763.17, Code; See also Revised Criminal Code, ch. 2, sec. 1102. The court may "place the defendant in the custody of a designated person or organization agreeing to supervise him."

The pre-trial release program provides for release without money bond, of adult criminal offenders who qualify for release based on an objective community stability rating scale. Staff of community based corrections projects interview offenders and collect information concerning the offender's community ties (family, employment, length of residence) and prior criminal record to determine whether the defendant will appear for trial and if release would be dangerous to the community. If the defendant qualifies, based on points accrued on the rating scale, a recommendation is made by the staff to the court for release of the defendant.

The supervised pre-trial release program provides for release, without money bond, of defendants who require supervision during the pre-trial period. Staff of the project make subjective evaluations and recommend to the court the release of defendants under the supervision. The defendants remain free only upon good behavior. Practical services are offered to the defendant such as counseling, referral to community resources, and job placement.

Other diversion mechanisms that may be used prior to trial are citations and summons issued in lieu of arrest, referral to alcohol and drug treatment centers, and informal probation. A peace officer has the discretion to issue a citation in lieu of arrest in those instances where he may arrest without a warrant (Sections 753.5, 755.4, Code). A citation in lieu of arrest warrant may be issued by a magistrate before whom a preliminary information charging an indictable or nonindictable offense has been made (Section 754.3, Ch. 762, Code). Police have the discretion to divert an intoxicated person to an alcoholic treatment center in lieu of arresting the person for public intoxication (Section 125.17, Code).

Many informal services of diversion are practiced after charges have been filed to avoid official sanctions but the prosecutor has sole discretion to make these determinations.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 7.1 contd.

2. Nonresidential supervision programs in addition to probation and parole.

ICJS

The only nonresidential program of supervision in the state in addition to probation and parole would be supervised pre-trial release. Under this program, defendants are released prior to trial to the staff of community based corrections projects. See preceding ICJS commentary, Standard 7.1, Section 1. Pre-trial release, probation and parole are community-based corrections programs and services provided under Section 217.28, Code.

However, when probation is granted, the court orders the probationer committed to the custody, care and supervision: "(1) of any suitable resident of the state; or (2) of the chief parole officer." (Section 789A.7, Code). Also, the court may "place the defendant on probation upon such terms and conditions as it may require." (Section 789A.1, Code). Therefore, probation supervision is not limited to the state probation-parole agency, and terms and conditions of probation may require assignment to counseling, education, work or training programs. This would be in compliance with the intent of the standard for non-residential programs of supervision.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is similar to NAC

NAC 7.1 contd.

3. Residential alternatives to incarceration.

ICJS

The community-based residential treatment facility operates as a minimum custody institution functioning as an alternative institution for the county jails and state prisons. Rehabilitation programs and services include work and educational release, vocational and recreational programs, employment services, counseling, and drug therapy.

Section 217.28, Code, provides for the establishment of community based residential treatment centers where accused or convicted offenders may be domiciled. Two residential treatment facilities have been established in Des Moines in the Fifth Judicial District Department of Court Services Project. The Ft. Des Moines Men's Residential Facility was established in 1971 and has a capacity of 52. A non-secure facility (capacity of six) for female offenders was established in Des Moines in 1972. In 1974, the facility was relocated in a larger building with a capacity for 35 women residents. In addition, residential treatment services are provided in conjunction with state operated halfway houses in some locations in the state. Eight new residential facilities are being established as a result of legislation enacted in 1976. See ch. 1043, Laws of the 66th G. A. 1976 Session. These facilities are located in Waterloo, Council Bluffs, Burlington, Cedar Rapids, Sioux City, Davenport, Dubuque, and Marshalltown.

Both misdemeanants and felons are committed to residential treatment centers. By statute (Section 687.2, Code), a felony is punishable by imprisonment in the penitentiary or reformatory. However, felons may be granted probation (Chapter 789A) by the court in lieu of imprisonment in the state institutions and placed in a community based corrections facility as a condition of probation. Deferred judgment and suspended sentence are sentencing options of the court for probation. However, the court may defer judgment only with the consent of the defendant. By statute, an indictable misdemeanor is punished by imprisonment in the county jail not exceeding one year and/or a fine. (Section 687.7, Code). However, a residential treatment center is a facility established in lieu of a county jail where persons may be confined pursuant to a court order (Section 356A.1, Code). But see Revised Criminal Code for changes.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 7.1 contd.

4. Community resources open to confined populations and institutional resources available to the entire community.

ICJS

Many bridging programs are in operation in Iowa that establish links between inmates and the community. However, the degree of participation allowed depends on the type of institution where the inmate is confined, i.e., State Penitentiary versus Community Correctional Facility. See Chapter 11, Major Institutions, for descriptions of programs therein.

The bridging concept of utilizing community resources is encompassed in the statute for the establishment of community based corrections. Guidelines include, "providing for the maximum utilization of existing local rehabilitative resources, such as, but not limited to: employment; job training, general, special, and remedial education; psychiatric and marriage counseling; alcohol and drug abuse treatment." (Section 217.28 subsection 2, Code) and "providing for locating community-based correctional programs and services in or near municipalities providing a substantial number of rehabilitation resources." (Section 217.28, subsection 4, Code).

Inmates in residential treatment centers are allowed to participate in family and selected community religious, educational, social, civic and recreational activities when it is determined by staff of the project that participation will directly facilitate the release transition from institution to community. Educational training programs such as adult basic education, General Equivalency Diploma (GED), vocational, high school and college courses, and vocational rehabilitation programs and courses are available to inmates in some locations.

Although some activities are held within the institution, most bridging is from the facility to the outside. Emphasis at the facilities is placed on the inmate participating in work, training, and education in the community.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

5. Prerelease programs.

ICJS

Many prerelease programs including work and study release, furloughs, halfway houses, and a state work release center have been implemented in Iowa. However, most of these programs are applicable to inmates in state correctional institutions under the jurisdiction of the Department of Social Services.

Defendants committed to a county jail or any facility designated in lieu of a county jail (which includes community based correctional facilities) or granted probation under Chapter 789A, Code, are under the jurisdiction of the court. Therefore, privileges such as work and study release, furloughs, probation, and parole granted to offenders from these facilities must be by court order. The staff of a residential treatment center evaluates offenders and makes recommendations to the court for participation in prerelease programs.

Section 247A.2, Code, provides for the establishment of work release for inmates sentenced to state institutions. This legislation was enacted in 1967. Work release is used for training, extension of training, on-the-job training, attending educational institutions either vocational or academic, seeking employment, and working at gainful employment. Work release is limited to six months in a twelve month period starting with the effective date of the work release placement. The first requirement for work release is minimum custody assignment. Section 247A.3, Code, provides for a work release committee consisting of one member of the parole board or its designee, one representative of the division of corrections, and one representative of the institution in which the inmate is confined at the time of application for work release. In practice, this committee consists of the executive secretary of the Parole Board, and two representatives of the Department of So-

cial Services (one representative of the Division of Correctional Institutions and one representative of the Bureau of Community Correctional Services). The work release committee approves, disapproves or defers action on recommendations for work release made by the superintendent or warden of the institution.

Section 217.14, Code, provides for furloughs for inmates sentenced pursuant to Section 789.13 (indeterminate sentencing) and confined in an institution under the jurisdiction of the Department of Social Services. This legislation was enacted in 1969. Furloughs for a period not to exceed fourteen days may be granted to inmates for serious illness or death in the immediate family; employment interviews; training programs not available at the institution (school programs such as GED tests, adult education or college courses); and participation in community programs, services, activities or professional services (marriage and pre-marital counseling, professional counseling, legal services, medical and dental services, Alcoholics Anonymous and similar programs attendance, church activities, and family visits). Inmates must be classified for minimum security to be eligible for the furlough program.

Pursuant to Section 247A.5, Code, the State Department of Social Services has established halfway houses for the housing of inmates granted work release privileges from correctional institutions. Inmates may be quartered in local housing facilities in areas where halfway house facilities are not within reasonable proximity of the place of employment of an inmate on work release. Halfway houses provide a semistructured setting for work releases and pre-parolees in the community prior to release to field supervision or discharge from sentence. Some of the halfway houses provide residential services for both pre and post-institutional cases with inclusion of community based corrections programs. Halfway houses are in operation in Waterloo, Des Moines, Cedar Rapids, Council Bluffs, Davenport, and Iowa City. In addition, eight new residential facilities are being established in Waterloo, Council Bluffs, Burlington, Cedar Rapids, Sioux City, Davenport, Dubuque, and Marshalltown.

The Riverview Release Center at Newton, established pursuant to Chapter 246A, Code, provides a minimum custody transitional placement for male offenders determined ready for release by the State's penal institutions. This facility provides final preparation of inmates for placement on either work release or parole. Inmates are usually transferred to the Release Center prior to placement in a halfway house.

The Luster Heights Forest Camp at Harpers Ferry operates as an adjunct to the Riverview Release Center. The men assigned to this camp usually have a somewhat longer period to wait prior to release through the Release Center programming but they have merited movement out of the maximum security settings. The main activity at this facility is the participation in the various work crews for the State Conservation Commission which operates the Yellow River Forest State Park, fish hatcheries, and a saw mill in this area.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

6. Community facilities for released offenders in the critical reentry phase, with provision for short-term return as needed.

ICJS

The Work Release Center, halfway houses, and community correctional centers are used in Iowa for released offenders in the reentry phase. See preceding ICJS commentary, Standard 7.1, Section 5. Although prerelease facilities may be used for the short-term return of parolees or offenders released on work release or furloughs, it would be at the discretion of the Parole Board, courts or institutional personnel.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

**NAC CORRECTIONS STANDARD 7.2
MARSHALING AND COORDINATING
COMMUNITY RESOURCES**

**RELATED IOWA STANDARD
8.2 MARSHALING AND COORDINATING
COMMUNITY RESOURCES**

Each State correctional system or the systems of other units of government should take appropriate action immediately to establish effective working relationships with the major social institutions, organizations, and agencies of the community, including the following:

1. Employment resources--private industry, labor unions, employment services, civil service systems.

ICJS

It is evident correctional agencies have established liaisons with employment sources to assist offenders in job placement. State Employment Services, private employment agencies, vocational rehabilitation programs, industries, trade unions, local businesses and other employment sources are utilized by correctional staffs and the offender in seeking employment.

Many of the male inmates are transferred from the state institutions to the Riverview Release Center prior to release in the community. The Release Center assists in employment placement and prepares inmates for work release and parole. There is a Job Bank at the Release Center with daily contact with the Iowa State Employment Service by the receipt of microfiche listing all jobs available throughout the state.

In the Fifth Judicial District Department of Court Services project, an employee of the State Employment Commission is located at the Ft. Des Moines Men's Residential Treatment Facility to assist with job placement for offenders. In addition, a vocational rehabilitation counselor does a considerable amount of contact-making and placement for employment. The Ft. Des Moines facility also has a full-time job developer who counsels and places offenders in jobs and creates new employment resources through personal contact with area industry management and trade union leadership. In other community based corrections projects in the state, this function may be handled by one or several staff members.

Analysis

ICJS practice meets NAC Standard

ICJS principle is the same as NAC

NAC 7.2 contd.

2. Educational resources--vocational and technical, secondary college and university, adult basic education, private and commercial training, government and private job development and skills training.

ICJS

Educational resources are being utilized by correctional agencies with various upgrading, and training programs available to offenders. Vocational training and rehabilitation courses, remedial and adult basic education, GED preparatory and completion by certification, concentrated employment programs, occupational upgrading programs, correspondence and extension courses, private enterprise programs, and union sponsored apprentice programs are available through high schools, community colleges, private and public colleges and universities, state employment and rehabilitation, private businesses and industry, and federal, state and private agencies.

Each state correctional institution has a supervisor of education and vocational training who is responsible for the development of the educational program of the institution and who is to consult with and seek advice from the Department of Public Instruction.

Analysis

ICJS practice meets NAC Standard

ICJS principle is the same as NAC

NAC 7.2 contd.

3. Social welfare services--public assistance, housing, rehabilitation services, mental health services, counseling assistance, neighborhood centers, unemployment compensation, private social service agencies of all kinds.

ICJS

Social welfare services are being utilized by correctional agencies such as vocational rehabilitation, mental health services, marital and family counseling, private charitable services such as Salvation Army and Goodwill Industries, psychiatric and psychological counseling, alcoholism and drug treatment, County Welfare Service (Department of Public Assistance), and Public Housing Agency Service.

Analysis

ICJS practice meets NAC Standard

ICJS principle is the same as NAC

NAC 7.2 contd.

4. The law enforcement system--Federal, State and local law enforcement personnel, particularly specialized units providing public information, diversion, and services to juveniles.

ICJS

It is evident cooperation between law enforcement agencies and correctional agencies must and does exist. Law enforcement agencies including police, county sheriffs and highway patrol work closely with institutions and local correctional facilities.

While cooperation has developed between law enforcement agencies and community based corrections, there are unquestionably areas of philosophical disagreement.

As an example of cooperation between law enforcement personnel, the Fifth Judicial District Court Services community corrections project has inaugurated a system whereby city and county police receive a listing where all work and educational releasees are supposed to be at given hours.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 7.2 contd.

5. Other relevant community organizations and groups--ethnic and cultural groups, recreational and social organizations, religious and self-help groups, and others devoted to political or social action.

ICJS

Community based corrections projects operate on the premise that existing community resources and services are to be utilized to the fullest extent. However, projects located in rural service areas are limited in the number of community organizations and activities available for contact and interaction with offenders.

The Riverview Work Release Center at Newton has had extensive community involvement in its programming since 1965. Self-help programs, community involvement and activities at the Center include:

Many self-help groups and resident organizations such as Alcoholic Anonymous, Indian-Chicano group, drama club, art club, writers club, black culture group, etc., have been organized within institutions and establish contact with outside organizations and groups.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

Contact with community organizations and groups varies to a great extent with the correctional agency. Community based corrections have established working relationships with community organizations and groups more than other correctional agencies but individual projects vary considerably in interaction. Local correctional facilities such as jails are used primarily for detention with little contact with community organizations and groups.

NAC 7.2 contd.

At the management level, correctional agencies should seek to involve representatives of these community resources in policy development and interagency procedures for consultation, coordinated planning, joint action, and shared programs and facilities. Correctional authorities also should enlist the aid of such bodies in formation of a broad-based and aggressive lobby that will speak for correctional and inmate needs and support community correctional programs.

At the operating level, correctional agencies should initiate procedures to work cooperatively in obtaining services needed by offenders.

ICJS

At the management level, correctional agencies, for the most part, have not involved representatives of community resources in policy development and interagency procedure. However, on the operating level, community resources such as psychiatric consultation, vocational evaluation, educational evaluation, job referral and placement are part of internal programs.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 7.3 CORRECTIONS' RESPONSIBILITY FOR CITIZEN INVOLVEMENT

RELATED IOWA STANDARD 8.3 CORRECTIONS' RESPONSIBILITY FOR CITIZEN INVOLVEMENT

Each State correctional system should create immediately: (a) a multipurpose public information and education unit, to inform the general public on correctional issues and to organize support for and overcome resistance to general reform efforts and specific community-based projects; and (b) an administrative unit responsible for securing citizen involvement in a variety of ways within corrections, including advisory and policymaking roles, direct service roles, and cooperative endeavors with correctional clients.

ICJS

Within the Iowa Department of Social Services there has been established an Office of Public Information and a Volunteer Services Bureau. However, these units do not specialize in correctional issues and programs but work with all areas of human services under the "umbrella" of the Department of Social Services. "The purpose of the Office of Public Information is to make available to the public information relating to the multi-functions of the Department. The Office assists in planning pamphlets, brochures, radio and television public service announcements, news releases, media alerts and other vehicles intended to educate the public. The Office also coordinates the gathering of material and publishing of the official annual report of the Department, as well as a compilation of those sections of the Iowa Code which relate to the Department." (Taken from information received from the Office of Public Information, Iowa Department of Social Services). Adult corrections is only one of five major divisions of the Office. The Office may disseminate information concerning corrections but does not organize support for general reform efforts and specific

community based projects as recommended by the standard. Many organizations including the American Association of University Women, Alcoholics Anonymous, National Association of Social Workers, Iowa Women's Caucus, and Iowa Correctional Association have become involved in correctional issues.

The Volunteer Services Bureau is concerned with continuing, implementing, and coordinating volunteers and groups in primarily advisory and consultative roles for all programs and agencies within the Department of Social Services. The Bureau is not involved directly as a policymaking body and not specifically for Corrections as the standard recommends.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 7.3 contd.

1. The unit responsible for securing citizen involvement should develop and make public a written policy on selection process, term of service, tasks, responsibilities, and authority for any advisory or policy-making body.
2. The citizen involvement unit should be specifically assigned the management of volunteer personnel serving in direct service capacities with correctional clientele, to include:
 - a. Design and coordination of volunteer tasks.
 - b. Screening and selection of appropriate persons.
 - c. Orientation to the system and training as required for particular tasks.
 - d. Professional supervision of volunteer staff.
 - e. Development of appropriate personnel practices for volunteers, including personnel records, advancement opportunities, and other rewards.

ICJS

The Volunteer Services Bureau coordinates volunteer personnel but may assign the management to specific volunteers that act as recruiters for other volunteers in direct service with correctional clients. Administrative personnel of each institution manage volunteer personnel involved directly with correctional inmates. Where volunteer programs have been developed in community based correctional projects, they are managed by staff of the project and not the Volunteer Services Bureau. Community advisory groups are being developed in each judicial district to coordinate planning for community corrections.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 7.3 contd.

3. The unit should be responsible for providing for supervision of offenders who are serving in volunteer roles.

ICJS

Administrative personnel of community based corrections projects and institutions are presently responsible for providing supervision of offenders who are serving in volunteer roles. A single state administrative unit in corrections does not coordinate all supervision of offenders in volunteer service roles as recommended by the standard.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 7.3 contd.

4. The unit should seek to diversify institutional programs by obtaining needed resources from the community that can be used in the institution and by examining and causing the periodic reevaluation of any procedures inhibiting the participation of inmates in any community program.

ICJS

The Volunteer Services Bureau may coordinate and refer resources and volunteer personnel from the community to institutions but the responsibility of obtaining needed resources and evaluation of volunteer programs would be with administration of the institution involved with the volunteers.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 7.3 contd.

5. The unit should lead in establishing and operating community-based programs emanating from the institution or from a satellite facility and, on an on-going basis, seek to develop new opportunities for community contacts enabling inmate participants and custodial staff to regularize and maximize normal interaction with community residents and institutions.

ICJS

The Volunteer Services Bureau may assist in establishing and developing new opportunities for volunteer groups or personnel in institutions, halfway houses, the Work Release Center, and probation-parole. However, this is primarily a function of the institutional staff in charge of volunteer programs or the individual probation-parole officer.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

**N.A.C. CORRECTIONS STANDARD 7.4
INMATE INVOLVEMENT IN COMMUNITY
PROGRAMS**

**RELATED IOWA STANDARD
8.4 INMATE INVOLVEMENT IN
COMMUNITY PROGRAMS**

Correctional agencies should begin immediately to develop arrangements and procedures for offenders sentenced to correctional institutions to assume increasing individual responsibility and community contact. A variety of levels of individual choice, supervision, and community contact should be specified in these arrangements, with explicit statements as to how the transitions between levels are to be accomplished. Progress from one level to another should be based on specified behavioral criteria rather than on sentence, time served, or subjective judgments regarding attitudes.

The arrangements and procedures should be incorporated in the classification system to be used at an institution and reflect the following:

ICJS

Work and study release, furloughs, halfway houses, parole and community based residential treatment centers are being used in Iowa for offenders sentenced to correctional institutions to assume increasing individual responsibility and community contact. However, the range for exercise of individual choice and responsibility by the offender is very limited. Rather, assessment of readiness for release is made by institutional or parole personnel and is not based solely on behavioral criteria recommended by the standard. In the state correctional institutions, evaluations are made based on the inmate's attitude and conduct, participation in programs, sentence, time served, and "Good" and "Honor" time earned in assessing an individual's readiness for a particular program and release. Offenders sentenced to community based residential treatment facilities have a much greater degree of freedom, choice and community contact.

For example, at the Ft. Des Moines community-based facility for men, a series of four phases stressing progressively more privileges and responsibilities are used in program planning to process offenders through the facility. A contract is signed by each offender stating the explicit responsibilities of the offender and privileges that may be earned based on the inmate's performance in the program. The amount of supervision (ratio of resident to staff is approximately 2:1) is not decreased substantially and the choice increased as the offender progresses through the program. However, rewards including furloughs and increased family visitation are given for positive behavior. Progress from one phase level to another is by assessment of the staff of the resident's performance in the program. The Ft. Des Moines Facility's staff has developed their own process and procedure for intake, orientation, evaluation, and placement of offenders and do not have a formal classification process.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 7.4 contd.

1. When an offender is received at a correctional institution, he should meet with the classification unit (committee, team, or the like) to develop a plan for increasing personal responsibility and community contact.

ICJS

When an inmate is received at a state correctional institution, he is housed in an orientation section for a diagnostic work up. He then meets with the classification committee for the planning of an individualized treatment program.

When offenders are received at the Men's or Women's Residential Treatment facility in Des Moines, they meet with the staff and jointly develop appropriate program plans. Emphasis is placed on employment and upgrading vocational and educational skills. The program developed is based on the offender's assessment of his own needs and expectations and the staff's assessment. The staff's assessment is based upon the client's record of prior arrests, social history, observed behavior, mental capabilities, attitudes, employment record, educational level, psychiatric evaluation, leisure time activities and ability to function in the community. Planning provides for increasing personal responsibility and community contact. Privileges which may be earned are increased visitation, leaving the building with permission, increased participation in activities within or outside the institution, work or study release, furloughs, parole or probation, or other possibilities suited to individual needs.

NAC 7.4 contd.

2. At the initial meeting, behavioral objectives should be established, to be accomplished within a specific period. After that time another meeting should be held to make adjustments in the individual's plan which, assuming that the objectives have been met, will provide for transition to a lower level of custody and increasing personal responsibility and community involvement.

ICJS

At the classification or orientation meeting at the relative institution or community based facility, goals are developed and the means to obtain these goals are planned. However, specific behavior objectives are not always designated to be accomplished within a specified time frame. Rather, changes and adjustments are made on a continuing basis according to each individual's program progress and accomplishments.

The four phase program used at the Ft. Des Moines facility has specific requirements to be met at each level before movement to the next level. Although each phase has defined minimum periods of time, requirements do not have to be met within a specified maximum period of time.

NAC 7.4 contd.

3. Similarly, at regular time intervals, each inmate's status should be reviewed, and if no strong reasons exist to the contrary, further favorable adjustments should be made.

ICJS

In the major state institutions, review by the classification committee of each inmate is in the sixth month after admission and at least annually thereafter and may be made as often as the need indicates. Adjustments are made based on evaluation of all aspects of an individual's treatment program. If reports are favorable, changes may be made with advancement and progression to programs involving more responsibility and choice.

In the Ft. Des Moines facility's phase program, review and assessment of each inmate's status is not scheduled periodically. Instead, there is continued assessment with the resident of his progress. Transition from one phase to the next depends on each individual's progress. Movement to the next phase is initiated by the resident's counselor and must have 2/3 approval by the staff.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

Review of inmate's status may not be at **specified** time intervals.

NAC 7.4 contd.

4. Allowing for individual differences in time and progress or lack of progress, the inmate should move through a series of levels broadly encompassing movement from (a) initial security involving a few outside privileges and minimal contact with community participants in institutional programs to (b) lesser degrees of custody with participation in institutional and community programs involving both citizens and offenders, to (c) partial-release programs under which he would sleep in the institution but have maximum participation in institutional and outside activities involving community residents, to (d) residence in a halfway house or similar noninstitutional residence, to (e) residence in the community at the place of his choice with moderate supervision, and finally to release from correctional supervision.

5. The presumption should be in favor of decreasing levels of supervision and increasing levels of individual responsibility.

ICJS

As part of reclassification and program care, training may be started inside the correctional institution, expanded to community college and then work release and furloughs for continuation and/or completion. Most inmates are transferred to the Work Release Center at Newton for a transitional period and/or to a halfway house for a period of time prior to release in the community.

Offenders sentenced to the Ft. Des Moines facility move through a series of four phases that allow for more privileges as the inmate progresses through the program. The first week of the offender's stay in the Ft. Des Moines facility consists of intake workup and orientation. During this time, the offender is not allowed to look for employment nor partici-

pate in outside activities. However, after the first week, offenders are expected to find a job or participate in education or other training in the community. Also, offenders have increased visiting privileges, are allowed to attend activities in the community, and after 30 days in the first phase of the program, are eligible for a short furlough at the discretion of the counselor. The length and number of furloughs that may be granted are increased with each phase level. Offenders continue in the program until the staff feel the offender is ready for release. At that time, a request is presented to the sentencing judge for the placement of the client on parole to the probation unit of the project. The average length of residence for offenders at the facility is 5-6 months.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 7.4 contd.

6. When an inmate fails to meet behavioral objectives, the team may decide to keep him in the same status for another period or move him back. On the other hand, his behavioral achievements may indicate that he can be moved forward rapidly without having to go through all the successive stages.

ICJS

In comparison to the standard, assessment of an inmate is not based strictly on behavioral objectives. See ICJS commentary, Introduction to this standard 7.4. If an inmate shows a lack of progress or participation in his treatment program, the classification committee or staff of the project may make appropriate changes with more security and restrictions or the inmate may remain in the same status for the duration of his sentence. Inmates may also be transferred to another institution with more or less security for disciplinary or other purposes. Conversely, inmates may progress to whatever status it is deemed would be most beneficial.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

NAC 7.4 contd.

7. Throughout the process, the primary emphasis should be individualization--on behavioral changes based on the individual's interests, abilities, and priorities. Offenders also should be afforded opportunities to give of their talents, time, and efforts to others, including other inmates and community residents.

ICJS

Program planning and changes are done on an individual basis for each inmate with consideration of each individual's interests, abilities and preferences. Availability and reasonableness of programs are considered as well as individualization recommended by the standard. Offenders are given opportunities to participate in self-help groups, and various special interest and volunteer programs available within and outside of the institution.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 7.4 contd.

8. A guiding principle should be use of positive reinforcement in bringing about behavioral improvements rather than negative reinforcement in the form of punishment.

ICJS

Various positive and negative incentives are used to encourage inmates to examine their problems and to persist in the use of opportunities which will be helpful.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 9.1 TOTAL SYSTEM PLANNING

RELATED IOWA STANDARD 7.1 TOTAL SYSTEM PLANNING

State and local corrections systems and planning agencies should immediately undertake, on a cooperative basis, planning for community corrections based on a total system concept that encompasses the full range of offenders' needs and the overall goal of crime reduction. Total system planning for a particular area should include the following concepts.

1. While the actual methodology may vary, total system planning should include these phases:
 - a. A problem definition phase, including initial demarcation of the specific service area, as determined by the scope of the problem to be addressed. Its identification results in a preliminary statement of the correctional problem.
 - b. Data survey and analysis designed to obtain comprehensive information on population trends and demography, judicial practices, offender profiles, service area resources, geographic and physical characteristics, and political and governmental composition. Such information is needed to assess service area needs and capability and to determine priorities.
 - c. A program linkage phase involving examination of various ways to meet the problems identified. The linkages should emphasize service area resources that can be used to provide community-based correctional programs as alternatives to incarceration. Identification and development of diversion programs by program linkage will have significant implications for a service area's detention capacity and program requirements.
 - d. A definition and description of the correctional delivery system for the service area developed on the basis of results of the previous phases. Facility and nonfacility program requirements should be included.
 - e. Program and facility design, which proceed from delivery system definition. The resulting overall community correctional system design will vary with specific service area characteristics, but it should follow either a regional or a network approach.
 - (1) A network service delivery system should be developed for urban service areas with large offender populations. This system should have dispersed components (programs and facilities) that are integrated operationally and administratively. The network should include all components necessary to meet the needs of clientele and the community. Court intake, social investigation, and pretrial release and detention programs should be located near the courts. Other residential and nonresidential components should be located in the clients' communities or neighborhoods and should use existing community resources.
 - (2) A regionalized service delivery system should be developed for service areas that are sparsely populated and include a number of cities, towns, or villages. Such a system may be city-county or multicounty in composition and scope. Major facility and program components should be consolidated in a central area or municipality. Components should include intake and social investigations services, pretrial release services, pretrial and posttrial residential facilities, special programs, and resource coordination. Extended components, such as pre-release, work/education release, alcoholic and narcotic addict treatment, and related program coordination units, should be located in smaller population centers with provision for operational and administrative coordination with the centralized components. The centralized system component should be located in close proximity to court services and be accessible to private and public transportation.

ICJS

Although planning for community corrections has been underway for several years in Iowa and has involved state and local corrections systems, planning has been similar in some aspects but has not been based strictly on a total system concept. Planning has not been

defined into the six phases recommended by the standard.

Currently, ten community based corrections projects are in operation in the eight judicial districts throughout Iowa. However, there is little evidence of systematic planning for development of the most appropriate and needed programs at local and State level. Rather, programs have been implemented as a result of specialized interest groups and as grant funds have been available.

In 1964, the Des Moines Pre-Trial Release Project was established as the first type of community based corrections project in the State. The project was initially administered and funded by a private organization, the Hawley Welfare Foundation of Des Moines. This project has evolved into a district wide project providing a full range of services. The development of other projects in the state has been patterned largely after the model project in the Fifth Judicial District.

As a result of the Omnibus Crime Control and Safe Streets Act of 1968, community based corrections were expanded and developed throughout the state through the use of LEAA monies. Legislation was enacted in 1973 providing for the establishment of judicial district wide community based corrections. Sections 217.24-217.29, Code. The Department of Social Services was designated by statute as the state agency to provide assistance, support and guidelines. Section 217.26, Code.

In some areas, informal planning was done on an individual program area basis with study of jail count, court and traffic records, commitments to state penal institutions and community resources available. Acceptance or resistance of local communities to the program concept was also a consideration. Programs have developed on a judicial district or components of a district basis with utilization of community resources and services.

Program design has been similar to the regional delivery system defined by the standard. Section 217.28(4), Code, provides that guidelines be established for locating community-based correctional programs and services in or near municipalities providing a substantial number of rehabilitation resources. Development of service areas has usually been from the largest city in the judicial district with expansion of the program to satellite offices in other parts of the district. Services to be provided are defined in Section 217.28(3). These services are, but are not limited to: Pretrial release, presentence investigation, probation and parole services and residential treatment centers. Identification and development of diversion programs has not been part of the planning process.

Facility design has not been determined. Present jail facilities are being utilized. Planning has not included consolidation of city-county or multicounty jail facilities in a central area or municipality. Existing facilities are to be utilized with a minimum of capital expenditures for acquisition, renovation, and repair. Section 217.28(1), Code.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 9.1 contd.

2. All correctional planning should include consideration of the physical, social, and aesthetic impact imposed by any facility or network. Such consideration should be based on the National Environmental Policy Act of 1969.

ICJS

Funding for community based corrections has been provided through federal funds (LEAA) and matching state and local funds. As a condition of award of federal funds, a project applicant for a grant must enter into an agreement that takes in consideration the National Environmental Policy Act of 1969.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 9.1 contd.

3. All planning efforts should be made in the context of the master plan of the statewide correctional planning body.

ICJS

At this time, the Iowa Adult Corrections Master Plan is being developed through the Iowa Crime Commission. The anticipated completion date of the master plan is 1978.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 9.1 contd.

4. Individual program needs, such as detention centers, should not be considered apart from the overall correctional service plan or the relevant aspects of social services systems (health, education, public assistance, etc.) that have potential for sharing facilities, resources, and experience.

ICJS

No statewide guidelines or standards have been formulated requiring that individual program needs, such as detention centers, consider the relevant aspects of social service systems for sharing facilities. However, Section 217.28(2) Code, requires utilization of existing resources, such as, employment; job training; general, special, and remedial education; psychiatric and marriage counseling; alcohol and drug abuse treatment. This requires coordination with other social service delivery systems.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 9.1 contd.

5. All community correctional planning should give highest priority to diversion from the criminal justice system and utilization of existing community resources.

ICJS

Community correctional planning has not included diversion from the criminal justice system. Maximum utilization of existing local rehabilitative resources is mandated by Section 217.28(2), Code.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 9.2
STATE OPERATION AND CONTROL
OF LOCAL INSTITUTIONS**

**RELATED IOWA STANDARD
7.2 STATE OPERATION AND CONTROL
OF LOCAL INSTITUTIONS**

All local detention and correctional functions, both pre- and postconviction, should be incorporated within the appropriate State system by 1982.

ICJS

In Iowa, local jails are under the jurisdiction of the local unit of government: See Chapter 356, Code. The County Board of Supervisors must provide safe and suitable jails for their respective counties. Section 356.37, Code. The county sheriff has charge and custody of the prisoners in the jail. Section 356.2, Code.

Detention facilities may be established in lieu of or in addition to the county jail. Section 356A.1, Code. The Board of Supervisors may contract with a public or private nonprofit agency for the establishment and maintenance of a detention facility. **Id.** The Board must establish rules and regulations for the operation of each such facility. **Id.** The sheriff does not have charge or custody of any person detained or confined in such facility. **Id.** Therefore, community based residential treatment centers and halfway houses may be established under this section of the Code and do not have to be under State control. Alcoholic and Drug Halfway Houses have been established under this section. Halfway Houses have been established for the housing of inmates granted work release privileges from correctional institutions and are under state control of the Department of Social Services. Section 247A.5, Code. The Riverview Release Center at Newton is under state control of the Department of Social Services and provides a minimum custody transitional placement for male offenders determined ready for release by the State's correctional institutions. Chapter 246A, Code.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 9.2 contd.

1. Community-based resources should be developed initially through subsidy contract programs, subject to State standards, which reimburse the local unit of government for accepting State commitments.

ICJS

In Iowa, most community based corrections projects were developed through the award of LEAA monies and matching state funds. State standards have not been promulgated at this time, but the State Department of Social Services is currently in the process of developing statewide standards and policies for the operation of community based correctional programs and services as mandated by Section 217.26, Code.

Section 217.24 provides that community based correctional programs and services means locally administered. However, Section 217.27 clearly allows state administration of community based corrections if programs or services are not established in a judicial district or if established, serve only part of the district. Therefore, local units of government must exercise an 'option' relative to local or state administration. However, LEAA monies are categorized as "pass through" monies which means they must be awarded to local units of government to comply with LEAA guidelines. But, LEAA monies can be awarded to the state for community based corrections if the affected local unit of government exercises the option for state administration. In effect, the local unit of government reimburses the state with LEAA "pass through" monies.

Resources are provided through the project and through referral to other community service agencies. Projects may also contract for programs and services, such as educational programs, with community resources.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is significantly different than NAC

NAC 9.2 contd.

2. Coordinated planning for community-based correctional services should be implemented immediately on a State and regional basis. This planning should take place under jurisdiction of the State correctional system.

ICJS

Planning for community based correctional programs and services has been undertaken on a judicial district basis statewide in Iowa. Although Section 217.26 mandates that the Department of Social Services (through the Bureau of Community Correction Services) must provide assistance, support and guidelines for the establishment and operation of community-based correctional programs and services, planning does not have to be under the jurisdiction of the State. Planning has taken place under jurisdiction of local interest groups and the State Department of Social Services. Local refers to city and county units of government as well as private interest groups. Private interest groups may be involved in community based corrections through purchase of services arrangements only. This is due primarily to LEAA requirements to fund units of government.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 9.2 contd.

3. Special training and other programs operated by the State should be available immediately to offenders in the community by utilizing mobile service delivery or specialized regional centers.

ICJS

In implementing community based corrections in Iowa, special training programs were not made available by the State to offenders by utilizing mobile service delivery or specialized regional centers. The State has conducted training programs for staff of community corrections projects.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 9.2 contd.

4. Program personnel should be recruited from the immediate community or services area to the maximum extent possible. Employees' ties with the local community and identification with the offender population should be considered essential to community involvement in the correctional program. At the same time, professional services should not be sacrificed, and State training programs should be provided to upgrade employee skills.

ICJS

There are no statewide standards requiring that program personnel be recruited from the immediate community or service area. However, in most areas, personnel for community corrections have been recruited from the area. Although sheriffs, who have charge of county jails, have been involved with community corrections, they are not a part of program personnel. Although some State training programs have involved personnel of community corrections projects, this has not been inclusive of all projects throughout the state and county sheriffs.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 9.3
STATE INSPECTION OF LOCAL FACILITIES**

**RELATED IOWA STANDARD
7.3 STATE INSPECTION OF LOCAL FACILITIES**

Pending implementation of Standard 9.2, State legislatures should immediately authorize the formulation of State standards for correctional facilities and operational procedures and State inspection to insure compliance, including such features as:

ICJS

Although Standard 9.2 (State operation and control of local institutions) has not been implemented in Iowa, the State Department of Social Services has the power and duty to make periodic inspections of local correctional facilities. Section 356.43, Code. The State does not have the authority to formulate State standards for local correctional facilities and operational procedures. State inspection is for the purpose of having county boards of supervisors comply with providing safe and suitable jails. The county sheriff must formulate rules for the conduct and behavior of county jail prisoners. Section 356.44, Code. The state inspectional program has been operational since 1968.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 9.3 contd.

1. Access of inspectors to a facility and the persons therein.

ICJS

State inspection of local jails is applicable primarily to the facility. See Section 356.42, Code.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 9.3 contd.

2. Inspection of:
 - a. Administrative area, including recordkeeping procedures.
 - b. Health and medical services.
 - c. Offenders' leisure activities.
 - d. Offenders' employment.
 - e. Offenders' education and work programs.
 - f. Offenders' housing.
 - g. Offenders' recreation programs.
 - h. Food service.
 - i. Observation of rights of offenders.

ICJS

State inspection of all jails and lock-ups in the state is made relative to security, safety, segregation, sanitation, supervision, condition of the plant and equipment, and care and treatment of prisoners. This is in compliance with Sections 356.37 to 356.44 that "safe and suitable" jails be provided. Safe and suitable jails are defined in these sections but refer primarily to the physical design, structure, cell facility requirements and conditions of the jail. See Sections 356.37 to 356.44, Code.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is significantly different than NAC

Inspection is not required of prisoners' leisure activities, employment, education and work programs or recreation programs.

NAC 9.3 contd.

3. Every detention facility for adults or juveniles should have provisions for an outside, objective evaluation at least once a year. Contractual arrangements can be made with competent evaluators.

ICJS

There are no Code provisions for outside evaluations of local detention facilities. However, state inspection is mandated by statute. Section 356.43, Code, provides that the State Department of Social Services and its inspectors and agents have the power and duty to make periodic inspections of all existing jails and all facilities established pursuant to Chapter 356A. See ICJS commentary Standard 9.2. Facilities inspected include city and county jails; halfway houses, and community based residential treatment centers for adults. State jail inspections are made annually.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 9.3 contd.

4. If the evaluation finds the facility's programs do not meet prescribed standards, State authorities should be informed in writing of the existing conditions and deficiencies. The State authorities should be empowered to make an inspection to ascertain the facts about the existing condition of the facility.

ICJS

Section 356.43, Code, provides that the state has the power and duty to make periodic inspections and to officially notify the county board of supervisors in writing to comply fully with the provisions of Sections 356.37 to 356.44.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is different than NAC

NAC 9.3 contd.

5. The State agency should have authority to require those in charge of the facility to take necessary measures to bring the facility up to standards.

6. In the event that the facility's staff fails to implement the necessary changes within a reasonable time, the State agency should have authority to condemn the facility.

7. Once a facility is condemned, it should be unlawful to commit or confine any persons to it. Prisoners should be relocated to facilities that meet established standards until a new or renovated facility is available. Provisions should be made for distribution of offenders and payment of expenses for relocated prisoners by the detaining jurisdiction.

ICJS

Section 356.43, Code, provides:

"The department of social services may order the governing body of a political subdivision to either correct any violations found in the inspection of a jail within a designated period,

or may prohibit the confinement of prisoners in the jail. If the governing body fails to comply with the order within the period designated, the department of social services may schedule a hearing on the alleged violation...

The department after the hearing shall affirm, revoke, or modify the original order. If the order is upheld, the department may include a schedule for correction of the violation or violations and designate the date before each violation shall be corrected.

If the political subdivision does not comply with the order within the designated period, the department may petition the attorney general to institute proceedings to enjoin the political subdivision from confining prisoners in the jail and require the transfer of prisoners to a jail declared by the director to be suitable for confinement. The county or municipality from which prisoners are transferred shall be liable for the cost of transfer and expenditures incurred in the confinement of prisoners in the jail to which transferred."

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC CORRECTIONS STANDARD 9.4 ADULT INTAKE SERVICES

RELATED IOWA STANDARD 7.4 ADULT INTAKE SERVICES

Each judicial jurisdiction should immediately take action, including the pursuit of enabling legislation where necessary, to establish centrally coordinated and directed adult intake services to:

ICJS

Neither formally organized screening processes nor adult intake services have been established statewide in Iowa. Although legislation was enacted in 1973 providing for pretrial release services, no statutory provisions exist for adult intake services. Pretrial release programs have not been implemented statewide but services are currently being developed and expanded on a judicial district basis. Pretrial release provides for the release without money bond of adult offenders prior to trial. Although offenders may be referred to resources in the community, pretrial release programs are not for the purpose of diversion of alleged offenders from the criminal justice system.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

NAC 9.4 contd.

1. Perform investigative services for pretrial intake screening. Such services should be conducted within 3 days and provide data for decisions regarding appropriateness of summons release, release on recognizance, community bail, conditional pretrial release, or other forms of pretrial release. Persons should not be placed in detention solely for the purpose of facilitating such services.
2. Emphasize diversion of alleged offenders from the criminal justice system and referral to alternative community-based programs (halfway houses, drug treatment programs, and other residential and nonresidential adult programs). The principle task is identifying the need and matching community services to it.
3. Offer initial and ongoing assessment, evaluation, and classification services to other agencies as requested.
4. Provide assessment, evaluation, and classification services that assist program planning for sentenced offenders.
5. Arrange secure residential detention for pretrial detainees at an existing community or regional correc-

tional center or jail, or at a separate facility for pretrial detainees where feasible. Most alleged offenders awaiting trial should be diverted to release programs, and the remaining population should be only those who represent a serious threat to the safety of others.

ICJS

Adult intake units at local jails are virtually nonexistent in the state.

As a component of community based corrections projects, pretrial release units may provide some investigative services but services primarily consist of interviewing and collecting information from the offender and other sources after the person is arrested and held in jail.

Pretrial release programs do not emphasize diversion of alleged offenders from the criminal justice system but may refer offenders to community based resources such as drug treatment.

Section 217.26, Code, mandates that guidelines must be established by the Department of Social Services for the establishment and operation of community-based programs and services. Proposed guidelines that are being considered recommend that all individuals incarcerated and remaining in custody for felony or indictable misdemeanor charges be interviewed for pre-trial release within 24 hours of incarceration.

Proposed policies of the Department of Social Services provide that all units will develop forms reporting systems for pre-sentence investigation reports and pre-trial release evaluation. This is to comply with Section 217.28(6), Code, for gathering and evaluating performance data.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 9.4 contd.

The following principles should be followed in establishing, planning, and operating intake services for adults:

1. Intake services should be administratively part of the judiciary.
2. Ideally, intake services should operate in conjunction with a community correctional facility.
3. Initiation of intake services should in no way imply that the client or recipient of its services is guilty. Protection of the rights of the accused must be maintained at every phase of the process.
4. Confidentiality should be maintained at all times.
5. Social inventory and offender classification should be a significant component of intake services.
6. Specialized services should be purchased in the community on a contractual basis.
7. The following persons should be available to intake service programs, either as staff members or by contract:
 - a. Psychiatrists.
 - b. Clinical psychologists.
 - c. Social workers.
 - d. Interviewers.
 - e. Education specialists.

ICJS

Statewide intake services for adults have not been planned or established. Pretrial release services are not administratively part of the judiciary but services are provided to the court. Pretrial programs operate as a component of community based corrections projects. Local existing jail facilities are being utilized for detention of offenders. Very few community based correctional facilities have been established in the state and are primarily used for post-adjudicatory purposes. Specialized services and community resources are utilized on a referral basis.

Psychiatric, educational and vocational evaluation, provided in part by the staff and purchased in the community on a contractual basis, are available to offenders in the supervised pre-trial release program in the Fifth Judicial District Court Services Project, a local-

ly administered community based corrections project. However, these services are provided after release on recognizance under the supervision of the project and could not be considered intake services.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 9.5 PRETRIAL DETENTION ADMISSION PROCESS

RELATED IOWA STANDARD 7.5 PRETRIAL DETENTION ADMISSION PROCESS

County, city, or regional jails or community correctional centers should immediately reorganize their admission processing for residential care as follows:

1. In addition to providing appropriate safeguards for the community, admission processing for pretrial detention should establish conditions and qualities conducive to overall correctional goals.
2. Detention center admission staffing should be sufficient to avoid use of holding rooms for periods longer than 2 hours. Emphasis should be given to prompt processing that allows the individual to be aware of his circumstances and avoid undue anxiety.
3. The admission process should be conducted within the security perimeter, with adequate physical separation from other portions of the facility and from the discharge process.
4. Intake processing should include a hot water shower with soap, the option of clothing issue, and proper checking and storage of personal effects.
5. All personal property and clothing taken from the individual upon admission should be recorded and stored, and a receipt issued to him. The detaining facility is responsible for the effects until they are returned to their owner.
6. Proper record keeping in the admission process is necessary in the interest of the individual as well as the criminal justice system. Such records should include: name and vital statistics; a brief personal, social, and occupational history; usual identity data; results of the initial medical examination; and results of the initial intake interview. Emphasis should be directed to individualizing the record-taking operation, since it is an imposition on the innocent and represents a component of the correctional process for the guilty.
7. Each person should be interviewed by a counselor, social worker, or other program staff member as soon as possible after reception. Interviews should be conducted in private, and the interviewing area furnished with reasonable comfort.
8. A thorough medical examination of each person should be made by a physician. It should be mandatory that the physician's orders be followed.

ICJS

No statewide standards exist for admission processing for city and county jails. Processing procedure typically is oriented to handling and movement.

In larger police departments in the state, all personal property is taken from the individual when he is booked and a record is made. In rural county jails, there is no prescribed practice.

Section 356.6, Code, provides:

"The sheriff must keep an accurate calendar of each prisoner committed to his care, which shall contain his name, place of abode, the day and hour of commitment and discharge, the cause and term of commitment, the authority that committed him, and a description of his person, a statement of his occupation, education and general habits."

Other than these statutory provisions, there are no other requirements for admission processing.

Analysis

ICJS practice is significantly different than NAC
ICJS principle is inconsistent with NAC

Every jurisdiction operating locally based correctional institutions and programs should immediately establish these criteria for staff:

1. All personnel should be placed on a merit or civil service status, with all employees except as noted below assigned to the facility on a full-time basis.
2. Correctional personnel should receive salaries equal to those of persons with comparable qualifications and seniority in the jurisdiction's police and fire departments.
3. Law enforcement personnel should not be assigned to the staffs of local correctional centers.
4. Qualifications for correctional staff members should be set at the State level and include requirement of a high school diploma.
5. A program of preservice and inservice training and staff development should be given all personnel. Provision of such a program should be a responsibility of the State government. New correctional workers should receive preservice training in the fundamentals of facility operation, correctional programming, and their role in the correctional process. With all workers, responsibilities and salaries should increase with training and experience.
6. Correctional personnel should be responsible for maintenance and security operations as well as for the bulk of the facility's in-house correctional programming for residents.
7. In all instances where correctional personnel engage in counseling and other forms of correctional programming, professionals should serve in a supervisory and advisory capacity. The same professionals should oversee the activities of volunteer workers within the institution. In addition, they themselves should engage in counseling and other activities as needs indicate.
8. Wherever feasible, professional services should be purchased on a contract basis from practitioners in the community or from other governmental agencies. Relevant State agencies should be provided space in the institution to offer services. Similarly, other criminal justice employees should be encouraged to utilize the facility particularly parole and probation officers.
9. Correctional personnel should be involved in screening and classification of inmates.
10. Every correctional worker should be assigned to a specific aspect of the facility's programming, such as the educational program, recreation activities, or supervision of maintenance tasks.
11. At least one correctional worker should be on the staff for every six inmates in the average daily population, with the specific number on duty adjusted to fit the relative requirements for three shifts.

ICJS

There are no statewide standards governing staffing patterns of jails in Iowa. Law enforcement personnel staff local jails. Pursuant to Section 356.2, Code, the county sheriff has charge and custody of prisoners in the jail.

Although criteria exist for some of the law enforcement personnel (who are staff of local jails), no criteria has been established for correctional personnel for locally based correctional institutions (jails and community based correctional institutions).

The county sheriff is an elected official, and there are no educational or other requirements for this position. Salary is determined by the Code based on population of the county. See Section 340.7, Code. Salaries of deputy sheriffs are determined through negotiations with county boards of supervisors and Code requirements. See Section 340.8, Code. In compliance with Chapter 341A, Code, county civil service commissions have been established providing for merit civil service status for most deputy county sheriffs. Law enforcement personnel exempt from classified civil service positions are defined in Section 341A.7, Code. Appointment to and promotion to civil service positions in the office of county sheriff must be ascertained by open competitive examinations and impartial investigations. In compliance with Section 341A.6, Code, these positions would require a high school diploma GED certification to be consistent with required standards of Iowa law enforcement officers under Chapter 80B.

No statewide standards or requirements have been established for preservice and inservice training programs and staff development for correctional workers in local jails. Pursuant to Section 337.2, Code, the county sheriff is not required but may, with the co-operation of the commissioner of public safety, annually hold a conference and school of instruction for all peace officers under his jurisdiction.

In-house correctional programming for residents in local jails is virtually non-existent. Most jails in the state are primarily custodial in nature and offer few, if any, services. The county sheriff has the duty by the Code to board and care for prisoners in his custody in the county jail. However, this is only one of several roles of the sheriff as a peace officer.

County jail prisoners may be required to do all necessary cleaning and upkeep of cells, dormitories, compartments and day rooms in the jail. See Section 356.44, Code.

Jail staffs do not include professional workers. If any programming is developed within jails, it is largely at the initiative of the sheriff and is usually work release. The "Sheriff has a duty to the public to keep custody of prisoners, and the duty includes the right to require prisoners to perform labor." **Moore v. Murphy**, 119 N.W. 2d 759 (Iowa, 1963).

There are no statewide standards or statutory provisions for staff-inmate ratios. The sheriff may with approval of the Board of Supervisors appoint assistants at the jail as deemed necessary by the Board. Section 338.4, Code. It is the duty of the sheriff to cooperate with the Board of Supervisors in reducing the number of assistants to the minimum. Section 338.6, Code. Pursuant to Section 356.5, Code, the keeper of each jail must make nighttime inspections while any prisoners are kept in confinement.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 9.7 INTERNAL POLICIES

RELATED IOWA STANDARD 7.7 INTERNAL POLICIES

Every jurisdiction operating locally based correctional institutions and programs for adults should immediately adopt these internal policies:

1. A system of classification should be used to provide the basis for residential assignment and program planning for individuals. Segregation of diverse categories of incarcerated persons, as well as identification of special supervision and treatment requirements, should be observed.
 - a. The mentally ill should not be housed in a detention facility.
 - b. Since local correctional facilities are not equipped to treat addicts, they should be diverted to narcotic treatment centers. When drug users are admitted to the facility because of criminal charges not related to their drug use, immediate medical attention and treatment should be administered by a physician.
 - c. Since local correctional facilities are not proper locations for treatment of alcoholics, all such offenders should be diverted to detoxification centers and given a medical examination. Alcoholics with delirium tremens should be transferred immediately to a hospital for proper treatment.
 - d. Prisoners who suffer from various disabilities should have separate housing and close supervision to prevent mistreatment by other inmates. Any potential suicide risk should be under careful supervision. Epileptics, diabetics, and persons with other special problems should be treated as recommended by the staff physician.
 - e. Beyond segregating these groups, serious and multiple offenders should be kept separate from those whose charge or conviction is for a first or minor offense. In particular, persons charged with noncriminal offenses (for example, traffic cases) should not be detained before trial. The State government should insist on the separation of pretrial and posttrial inmates, except where it can be demonstrated conclusively that separation is not possible and every alternative is being used to reduce pretrial detention.

ICJS

No statewide standards have been adopted for establishing internal policies of locally based correctional institutions and programs. Practices vary widely throughout the state as each county jail is in charge of the respective sheriff.

The only type of classification required by statute is that minors must be kept separate and apart from adult prisoners (eighteen years or older) and females must be kept in a separate

apartment from males. See Sections 356.3, .4, Code.

At the peace officer's discretion, a person may be taken to an alcoholic treatment center instead of being arrested for public intoxication. Section 125.17, Code.

Serious and multiple offenders are not kept separate from first-time offenders. Neither are pretrial and posttrial inmates required to be separate. However, the Revised Criminal Code provides for segregation, if possible, of persons serving sentences from other detainees. See Revised Criminal Code, ch.3, sec. 306.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 9.7 contd.

2. Detention rules and regulations should be provided each new admission and posted in each separate area of the facility. These regulations should cover items discussed in Chapter 2, Rights of Offenders.
3. Every inmate has the right to visits from family and friends. Each facility should have at least 14 regular visiting hours weekly, with at least five between 7 and 10 p.m. Visiting hours should be expanded beyond this minimum to the extent possible. The environment in which visits take place should be designed and operated under conditions as normal as possible. Maximum security arrangements should be reserved for the few cases in which they are necessary.
4. The institution's medical program should obtain assistance from external medical and health resources (State agencies, medical societies, professional groups, hospitals, and clinics). Specifically:
 - a. Each inmate should be examined by a physician within 24 hours after admission to determine his physical and mental condition. If the physician is not immediately available, a preliminary medical inspection should be administered by the receiving officer to detect any injury or illness requiring immediate medical attention and possible segregation from other inmates until the physician can see him.
 - b. Every facility should have a formal sick call procedure that gives inmates the opportunity to present their request directly to a member of the staff and obtain medical attention from the physician.
 - c. Every facility should be able to provide the services of a qualified dentist. Eye-glass fitting and other special services such as provision of prosthetic devices should be made available.
 - d. Personal medical records should be kept for each inmate, containing condition on admission, previous medical history, illness or injury during confinement and treatment provided, and condition at time of release.
 - e. All personnel should be trained to administer first aid.
5. Three meals daily should be provided at regular and reasonable hours. Meals should be of sufficient quantity, well prepared, served in an attractive manner, and nutritionally balanced. Service should be prompt, so that hot food remains hot and cold food remains cold. Each facility should also have a commissary services.
6. The inmates' lives and health are the responsibility of the facility. Hence the facility should implement sanitation and safety procedures that help protect the inmate from disease, injury, and personal danger.

ICJS

Section 356.44, Code, provides that the county sheriff must formulate rules for the conduct and behavior of county jail prisoners. Such rules and regulations must be approved by a district judge from the district in which the county jail is located. **Id.** The County Board of Supervisors must establish rules and regulations for the operation of a facility established and maintained pursuant to Section 356A.1 or 356A.2, Code (facility established in lieu of or in addition to local jails such as halfway houses for alcohol and drug treatment, community based residential treatment centers).

Section 356.5, Code, requires that the keeper of each jail must:

- "1. See that the jail is kept in a clean and healthful condition.
2. Furnish each prisoner with necessary bedding, clothing, towels, fuel, and medical aid.
3. Serve each prisoner three times each day with an ample quantity of wholesome food.
4. Furnish each prisoner sufficient clean, fresh water for drinking purposes and for per-

sonal use.

5. Keep an accurate account of the items furnished each prisoner.
6. To have a matron on the jail premises at all times during the incarceration of any one or more female prisoners and to make night-time inspections while any prisoners are kept in confinement.

These requirements are also applicable to facilities established in lieu of local jails. See Section 356A.2, Code.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 9.7 contd.

7. Each detention facility should have written provisions that deal with its management and administration. Proper legal custody and charge of the facility, commitment and confinement rules, transfer and transportation of inmates, and emergency procedures are among the topics that should be covered.

ICJS

The only written records that are required of county jails are: "The sheriff must keep an accurate calendar of each prisoner committed to his care, which shall contain his name, place of abode, the day and hour of commitment and discharge, the cause and term of commitment, the authority that committed him, and a description of his person, a statement of his occupation, education, and general habits. When any prisoner is discharged, such calendar must show the day and hour when and the authority by which it took place, and if a person escapes, it must state particularly the time and manner thereof." Section 356.6, Code.

The person in charge of a facility established in lieu of a jail (Chapter 356A) must keep a calendar as required in Section 356.6. See Section 356A.5, Code.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 9.7 contd.

8. The use of an inmate trusty system should be prohibited.

ICJS

The Code clearly allows the use of trusties. Section 338.6, Code, provides: "It shall be the duty of the sheriff of said counties to co-operate with said board in reducing the number of assistants to the minimum, and to this end the sheriff shall assign any of the work, made necessary by this chapter, inside the jail, to such prisoners as in the judgment of the sheriff can be trusted."

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 9.8
LOCAL CORRECTIONAL FACILITY
PROGRAMMING**

**RELATED IOWA STANDARD
7.8 LOCAL CORRECTIONAL FACILITY
PROGRAMMING**

Every jurisdiction operating locally based correctional facilities and programs for adults should immediately adopt the following programming practices:

ICJS

Statewide standards or guidelines have not been adopted for programming practices in local jails and community based correctional facilities. There are no Code provisions specifying in-house programming in local jails. Section 356.44, Code, provides only that the sheriff must formulate rules for the conduct and behavior of jail prisoners.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 9.8 contd.

1. A decisionmaking body should be established to follow and direct the inmate's progress through the local correctional system, either as a part of or in conjunction with the community classification team concept set forth in Standard 6.3. Members should include a parole and probation supervisor, the administrator of the correctional facility or his immediate subordinates, professionals whose services are purchased by the institution, representatives of community organizations running programs in the institution or with its residents, and inmates. This body should serve as a central information-gathering point. It should discuss with an individual inmate all major decisions pertaining to him.
2. Educational programs should be available to all residents in cooperation with the local school district. Particular emphasis should be given to self-pacing learning programs, packaged instructional materials, and utilization of volunteers and paraprofessionals as instructors.
3. Vocational programs should be provided by the appropriate State agency. It is desirable that overall direction be provided on the State level to allow variety and to permit inmates to transfer among institutions in order to take advantage of training opportunities.
4. A job placement program should be operated at all community correctional centers as part of the vocational training program. Such programs should be operated by State employment agencies and local groups representing employers and local unions.
5. Each local institution should provide counseling services. Individuals showing acute problems will require professional services. Other individuals may require, on a day-to-day basis, situational counseling that can be provided by correctional workers supervised by professionals.
6. Volunteers should be recruited and trained to serve as counselors, instructors, teachers, and recreational therapists.
7. A range of activities to provide physical exercise should be available both in the facility and through the use of local recreational resources. Other leisure activities should be supported by access to library materials, television, writing materials, playing cards, and games.
8. In general, internal programs should be aimed only at that part of the institutional population unable to take advantage of ongoing programs in the community.
9. Meetings with the administrator or appropriate staff of the institution should be available to all individuals and groups.

ICJS

A decisionmaking body has not been established to follow and direct an inmate's progress through the local jails.

Development of programming practices has been left to the sheriff in charge of the respective jail or the staff of community based correctional facilities. Practices vary throughout the state. However, internal programming in local jails other than work release in some areas, is almost non-existent.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 9.9 JAIL RELEASE PROGRAMS

RELATED IOWA STANDARD 7.9 JAIL RELEASE PROGRAMS

Every jurisdiction operating locally based correctional facilities and programs for convicted adults immediately should develop release programs drawing community leadership, social agencies, and business interest into action with the criminal justice system.

1. Since release programs rely heavily on the participant's self-discipline and personal responsibility, the offender should be involved as a member of the program planning team.
2. Release programs have special potential for utilizing specialized community services to meet offenders' special needs. This capability avoids the necessity of service duplication within corrections.
3. Weekend visits and home furloughs should be planned regularly, so that eligible individuals can maintain ties with family and friends.

ICJS

Statewide standards have not been developed for jail release programs for offenders sentenced to local jails. Development of jail release programs for convicted adults has been left largely to the initiative and discretion of the county sheriff who, by the Code, has charge of the county jail. The determination of granting the privilege of leaving the jail is at the discretion of the court. See Section 356.33, Code.

"The district court may grant by appropriate order to any person sentenced to a county jail the privilege of leaving the jail at necessary and reasonable hours for any of the following purposes:

1. Seeking employment.
2. Working at his employment.
3. Conducting his own business or other self-employed occupation, including house-keeping and attending to family needs.
4. Attendance at an educational institution.
5. Medical treatment.

All released prisoners shall remain, while absent from the jail, in the legal custody of the sheriff, and shall be subject, at any time, to being taken into custody and returned to the jail." Section 356.26, Code.

Release is a privilege and therefore, practices vary widely throughout the state. In many localities, work release programs have been developed. However, in some locations, jail release programs are non-existent and jails are used primarily for custodial convenience.

Work release, study release, and weekend furloughs are an inherent part of the programming at the Men's and Women's Residential Correctional Facilities in Des Moines (community based facilities in the Fifth Judicial District Department of Court Services).

Analysis

ICJS practice is different than NAC Standard

ICJS principle is significantly different than NAC

NAC 9.9 contd.

4. Work release should be made available to persons in all offense categories who do not present a serious threat to others.

ICJS

Section 356.27, Code, provides:

"Unless such privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. Any prisoner may petition the court for such privilege at the time of

sentencing or thereafter, and the court in its discretion may review the petition and make appropriate orders. The court may withdraw the privilege at any time by order entered with or without notice or hearing."

The sheriff or any suitable person or agency designated by the court may endeavor to secure employment for unemployed prisoners granted privileges for jail release. See Section 356.28, Code.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

NAC 9.9 contd.

5. The offender in a work-release program should be paid at prevailing wages. The individual and the work-release agency may agree to allocation of earnings to cover subsistence, transportation cost, compensation to victims, family support payments, and spending money. The work-release agency should maintain strict accounting procedures open to inspection by the client and others.

ICJS

Offenders in work release programs are paid at whatever wages the employing agency determines. Allocation of earnings and accounting procedures are prescribed by the Code.

"By order of the court, the wages, salaries, or other income of employed prisoners shall be disbursed by the sheriff for the following purposes and in the order stated.

1. The meals of the prisoner.
2. Necessary travel expense to and from work including reimbursement for travel furnished by the county, and other incidental expenses of the prisoner.
3. Support of the prisoner's dependents, if any.
4. Payment, either in full or ratably, of the prisoner's obligations if acknowledged by him in writing or which have been reduced to judgment.
5. The balance, if any, to the prisoner upon his release." Section 356.31, Code.

"If a prisoner is employed for wages or salary the sheriff may collect the same or require the prisoner to turn over his wages or salary in full when received, and the sheriff shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner." Section 356.29, Code. "Every prisoner gainfully employed is liable for the cost of his board in the jail as fixed by the county board of supervisors." Section 356.30, Code.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is different than NAC

NAC 9.9 contd.

6. Program location should give priority to the proximity of job opportunities. Various modes of transportation may need to be utilized.

ICJS

The court may by order authorize the sheriff to whom the prisoner is committed, to contract with a sheriff of another county, for the employment of the prisoner in the other's county. Section 356.32, Code. Generally, program location does not give high priority to proximity of job opportunities. Rather, if jobs can be found for offenders, they may be released on work release.

The county board of supervisors may by resolution provide that the county furnish or pay for the transportation of employed prisoners to and from the place of employment. Section 356.30, Code.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is different than NAC

NAC 9.9 contd.

7. Work release may be operated initially from an existing jail facility, but this is not a long-term solution. Rented and converted buildings (such as YMCA's, YWCA's, motels, hotels) should be considered to separate the transitional program from the image of incarceration that accompanies the traditional jail.

8. When the release program is combined with a local correctional facility, there should be separate access to the work-release residence and activity areas.

ICJS

If there is a release program, it is out of the county jail or community based correctional facility. There are no separate accesses to the jail for work releasees.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 9.9 contd.

9. Educational or study release should be available to all inmates (pretrial and convicted) who do not present a serious threat to others. Arrangements with the local school district and nearby colleges should allow participation at any level required (literacy training, adult basic education, high school or general educational development equivalency, and college level).

10. Arrangements should be made to encourage offender participation in local civic and social groups. Particular emphasis should be given to involving the offender in public education and the community in corrections efforts.

ICJS

Educational or study release for convicted offenders is a privilege that may be granted at the discretion of the court. See Section 356.26, Code. Educational or study release for pre-trial offenders may be granted by the court as a condition of release under bail statutes. See Section 763.17, Code.

Statutory provisions for jail release do not include offender participation in local civic and social groups. Section 356.26, Code provides that release may be granted for the purposes of:

1. Seeking employment;
2. Working at employment;
3. Conducting own business or other self-employed occupation, including house-keeping and attending to family needs;
4. Attendance at an educational institution; and
5. Medical treatment.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 9.10
LOCAL FACILITY EVALUATION
AND PLANNING**

**RELATED IOWA STANDARD
7.10 LOCAL FACILITY EVALUATION
AND PLANNING**

Jurisdictions evaluating the physical plants of existing local facilities for adults or planning new facilities should be guided by the following considerations:

1. A comprehensive survey and analysis should be made of criminal justice needs and projections in a particular service area.
 - a. Evaluation of population levels and projections should assume maximum use of pretrial release programs and postadjudication alternatives to incarceration.
 - b. Diversion of sociomedical problem cases (alcoholics, narcotic addicts, mentally ill, and vagrants) should be provided for.
2. Facility planning, location, and construction should:
 - a. Develop, maintain, and strengthen offenders' ties with the community. Therefore, convenient access to work, school, family, recreation, professional services, and community activities should be maximized.
 - b. Increase the likelihood of community acceptance, the availability of contracted programs and purchased professional services, and attractiveness to volunteers, paraprofessionals, and professional staff.
 - c. Afford easy access to the courts and legal services to facilitate intake screening, presentence investigations, postsentence programming, and pretrial detention.
3. A spatial "activity design" should be developed.
 - a. Planning of sleeping, dining, counseling, visiting, movement, programs, and other functions should be directed at optimizing the conditions of each.
 - b. Unnecessary distance between staff and resident territories should be eliminated.
 - c. Transitional spaces should be provided that can be used by "outside" and inmate participants and give a feeling of openness.
4. Security elements and detention provisions should not dominate facility design.
 - a. Appropriate levels of security should be achieved through a range of unobtrusive measures that avoid the ubiquitous "cage" and "closed" environment.
 - b. Environmental conditions comparable to normal living should be provided to support development of normal behavior patterns.
 - c. All inmates should be accommodated in individual rooms arranged in residential clusters of 8 to 24 rooms to achieve separation of accused and sentenced persons, male and female offenders, and varying security levels and to reduce the depersonalization of institutional living.
 - d. A range of facility types and the quality and kinds of spaces comprising them should be developed to provide for sequential movement of inmates through different programs and physical spaces consistent with their progress.
5. Applicable health, sanitation, space, safety, construction, environmental, and custody codes and regulations must be taken into account.
6. Consideration must be given to resources available and the most efficient use of funds.
 - a. Expenditures on security hardware should be minimized.
 - b. Existing community resources should be used for provision of correctional services to the maximum feasible extent.
 - c. Shared use of facilities with other social agencies not conventionally associated with corrections should be investigated.
 - d. Facility design should emphasize flexibility and amendability to change in anticipation of fluctuating conditions and needs and to achieve highest return on capital investment.
7. Prisoners should be handled in a manner consistent with humane standards.
 - a. Use of closed-circuit television and other electronic surveillance is detrimental to program objectives, particularly when used as a substitute for direct staff-resident interaction. Experience in the use of such equipment also has proved unsatisfactory for any purpose other than traffic control or surveillance of institutional areas where inmates' presence is not authorized.
 - b. Individual residence space should provide sensory stimulation and opportunity for self-expression and personalizing the environment.
8. Existing community facilities should be explored as potential replacement for, or adjuncts to, a proposed facility.
9. Planning for network facilities should include no single component, or institution, housing more than 300 persons.

ICJS

In accordance with provisions of Sections 356.37 to 356.44, Code, the State Department of Social Services makes annual inspections of all jails and lock-ups to ensure that safe and suitable jails are provided in the counties of the state. See Corrections Standard 9.3.

However, county jails are under the jurisdiction of the county board of supervisors. Therefore, planning for new jail facilities is under local control but must conform to provisions of Sections 356.37 to 356.44, Code. These sections define requirements for security, safety, space, sanitation and health of jail facilities.

In planning for construction of new jails, the average population of the past five years of the present facility is used as a guideline for planning new facilities. This is established after a need has been shown for a new facility and state inspection has shown that the jail is in substandard condition.

Existing community facilities are explored as potential replacements for a proposed facility. In Newton in Jasper County, a former post office building has been purchased by the city and county for a replacement jail. A former water works building has been renovated for a jail by the city of Bloomfield and Davis County. Jails in Tama, Boone, Ida, and Winnebago Counties have been closed and jails in adjoining counties are being utilized.

At the present time, the Pottawattamie County Courthouse and City/County Law Enforcement Center is under construction. This facility will serve all components of the criminal justice system—law enforcement, courts and corrections. Because LEAA funds are being used for construction as well as local funds, program and architectural planning were subject to clearance procedures of LEAA guidelines. The National Clearinghouse for Criminal Justice Planning and Architecture, University of Illinois, is under contract to LEAA to provide Guidelines for the Planning and Design of Regional and Community Correctional Centers.

Four major inputs were instrumental in the determination of the capacity, design and programmatic aspects of the detention and rehabilitation center.

1. Data collection and research such as past offender counts, projections of offender populations as well as civilian population, program considerations and implementation of alternatives to incarceration, etc.
2. Meetings and consultations with the professionals in the law enforcement, courts and correctional components of the Criminal Justice System.
3. Considerations of geographical location including the possibility of contiguous jurisdictions contractually purchasing detention and rehabilitation services, the population expansion of the Bi-State standard metropolitan statistical area, additional use of the facility by highway patrol and military installations in the area, etc.
4. Compliance with the Code of the State of Iowa and Federal Bureau of Prisons regulations relative to jail construction, inmate separation, detention facility administration, operation, services, etc.

Analysis and Commentary

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 10.1 ORGANIZATION OF PROBATION

RELATED IOWA STANDARD 10.1 ORGANIZATION OF PROBATION

Each State with locally or judicially administered probation should take action, in implementing Standard 16.4, Unifying Correctional Programs, to place probation organizationally in the executive branch of State government.

ICJS

In Iowa, probation is found in both the executive and judicial branches of state government. Juvenile probation can be and is primarily a local function in the judicial branch. The

designated judge or judges of juvenile court appoint probation officers to carry out the work of the court (Section 231.8, Code of Iowa, 1975). However, juvenile probation can be a state function in the executive branch if on disposition of the case, the judge makes commitment to the state director of the Division of Child and Family Services of the Department of Social Services (Section 232.35, Code of Iowa, 1975).

Adult probation can be either a State or local function in the executive or judicial branch at the discretion of the judge. Probation is in the judicial branch if the judge of the court determines the length of the probation term. It may also be in the executive branch. If the judge orders the placement of the person under the supervision of the chief parole officer, the Board of Parole determines the term of probation (Section 789.A.2, Code of Iowa). See also Revised Criminal Code, ch. 3, sec. 706.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 10.1 contd.

The State correctional agency should be given responsibility for:

1. Establishing statewide goals, policies, and priorities that can be translated into measurable objectives by those delivering services.
2. Program planning and development of innovative service strategies.
3. Staff development and training.
4. Planning for manpower needs and recruitment.

ICJS

Iowa has not unified all correctional programs and services under an overall statewide corrections service agency. Probation is both a local and state function. Adult probation services are provided locally by staff of community based corrections projects and by the state through the Bureau of Community Correctional Services of the Department of Social Services. This state agency has been given the responsibility by legislation (Section 217.24 through 217.29, Code) of providing assistance, support and guidelines for the establishment and operation of judicial district wide community based correctional programs and services. These guidelines include providing for probation services. (Section 217.28, Sub-section 3, Code.)

The Code provides that the judge or judges of the juvenile court may appoint probation officers as may be necessary to carry out work of the court. See Sec. 231.8, Code. Training requirements for juvenile probation officers are provided in the Code: "All juvenile probation officers appointed to office after July 1, 1974, must, within the first year of their employment, successfully complete a basic training program...." See Sec. 231.8, Code.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 10.1 contd.

5. Collecting statistics, monitoring services, and conducting research and evaluation.

ICJS

A single agency or department within the state has not collected or compiled this information for all juvenile and adult probation services. On the state level, the Department of Social Services has a Division of Management and Planning with subdivisions of Research

and Planning, Monitoring and Evaluation, and Correctional Evaluation. These offices function for the whole of the Department. On the local level, the Department of Social Services has been designated by legislation (Section 217.28, subsection 6, Code of Iowa, 1975) to establish guidelines to provide for gathering and evaluating performance data of community-based correctional programs and services. To comply with the mandate of this legislation, the Department of Social Services through the Correctional Evaluation unit is conducting an evaluation of community based corrections. This evaluation is currently underway and is expected to continue for some time.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 10.1 contd.

6. Offering consultation to courts, legislative bodies, and local executives.
7. Coordinating the activities of separate systems for delivery of services to the courts and to probationers until separate staffs to perform services to the courts are established within the courts system.

ICJS

In Iowa, services to probationers have not been separated from services to the court. The same staff provides both services.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 10.1 contd.

During the period when probation is being placed under direct State operation, the State correctional agency should be given authority to supervise local probation and to operate regional units in rural areas where population does not justify creation or continuation of local probation. In addition to the responsibilities previously listed, the State correctional agency should be given responsibility for:

1. Establishing standards relating to personnel, services to courts, services to probationers, and records to be maintained, including format of reports to courts, statistics, and fiscal controls.
2. Consultation to local probation agencies, including evaluation of services with recommendations for improvement; assisting local systems to develop uniform record and statistical reporting procedures conforming to State standards; and aiding in local staff development efforts.
3. Assistance in evaluating the number and types of staff needed in each jurisdiction.
4. Financial assistance through reimbursement or subsidy to those probation agencies meeting standards set forth in this chapter.

ICJS

All juvenile and adult probation throughout the state has not been placed under direct state operation or supervision. The State Bureau of Community Correctional Services does not supervise adult probation of locally administered community based corrections projects. Probation personnel in these projects operate independently of state probation. However, some community based corrections projects are state administered by state probation-parole personnel. The Bureau is formulating standards to be used as guidelines by both state and local agencies delivering adult probation services. These standards will relate to probation services to courts, services to probationers, format of reports, statistics and records.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 10.2
SERVICES TO PROBATIONERS**

**RELATED IOWA STANDARD
10.6 SERVICES TO PROBATIONERS**

Each probation system should develop by 1975 a goal-oriented service delivery system that seeks to remove or reduce barriers confronting probationers. The needs of probationers should be identified, priorities established, and resources allocated based on established goals of the probation system. (See Standards 5.14 and 5.15 and the narrative of Chapter 16 for probationer's services to the courts.)

1. Services provided directly should be limited to activities defined as belonging distinctly to probation. Other needed services should be procured from other agencies that have primary responsibility for them. It is essential that funds be provided for purchase of services.

ICJS

At the present time in Iowa, probation services have not been developed along a goal-oriented service delivery system. The services needed by probationers have not been clearly identified. Most services needed by probationers have been provided through assistance of the probation staff. However, probation staff have made arrangements with community resources for services for probationers.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 10.2 contd.

2. The staff delivering services to probationers in urban areas should be separate and distinct from the staff delivering services to the courts, although they may be part of the same agency. The staff delivering services to probationers should be located in the communities where probationers live and in service centers with access to programs of allied human services.

ICJS

Services to probationers have not been separated from services to the court. Generally, services to probationers and services to the court are provided by the same probation staff members. Offices of probation staff are in various strategic locations throughout the state. Staff serving probationers and courts have offices located in courthouses in some communities.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 10.2 contd.

3. The probation system should be organized to deliver to probationers a range of services by a range of staff. Various modules should be used for organizing staff and probationers into workloads or task groups, not caseloads. The modules should include staff teams related to groups of probationers and differentiated programs based on offender typologies.

ICJS

Currently in Iowa, probationers are assigned to caseloads of individual probation officers.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 10.2 contd.

4. The primary function of the probation officer should be that of community resource manager for probationers.

ICJS

The primary function of the probation officer is to provide counseling and guidance services to the probationer. Although the probation officer does help a probationer in obtaining available services, the officer's role could not be defined as that of community resource manager as recommended by the standard.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 10.3
MISDEMEANANT PROBATION**

**RELATED IOWA STANDARD
10.8 MISDEMEANANT PROBATION**

Each State should develop additional probation manpower and resources to assure that the courts may use probation for persons convicted of misdemeanors in all cases for which this disposition may be appropriate. All standards of this report that apply to probation are intended to cover both misdemeanor and felony probation. Other than the possible length of probation terms, there should be no distinction between misdemeanor and felony probation as to organization, manpower, or services.

ICJS

In Iowa, the use of probation is at the discretion of the judge for persons convicted of misdemeanors. Therefore, probation is used as a disposition for misdemeanants by the courts in some areas of the state and in other localities, its use is almost non-existent.

Additional probation manpower has developed in some areas of the state as a result of implementation of community-based corrections programs and services. However, probation services were not developed with the primary intent of providing misdemeanor probation. As one component of community based corrections, probation services are provided for persons sentenced for or convicted of a felony or indictable misdemeanor (See Section 217.24, Code).

The Court may fix the term of probation or the court may order the defendant placed under the supervision of the chief parole officer, in which case the term of probation is determined by the board of parole. See Section 789A.2, Code; See also Revised Criminal Code, ch. 3, sec. 706. In either situation, the Code defines the minimum and maximum lengths of probation. The length cannot exceed five years if the offense is a felony and two years if the offense is a misdemeanor; the length of probation cannot be less than one year if the offense is a misdemeanor and two years if the offense is a felony. **Id.**

A distinction is made between misdemeanor and felony probation services for presentence reports in Section 789A.3, Code. Presentence reports are not required if the offense is a misdemeanor. However, the court may order a presentence report to be prepared. The Revised Criminal Code articulates that the court may, in its discretion, order a presentence investigation for any offense other than a simple misdemeanor. See Revised Criminal Code, ch. 3, sec. 102.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 10.4
PROBATION MANPOWER**

**RELATED IOWA STANDARD
10.13 PROBATION MANPOWER**

Each State immediately should develop a comprehensive manpower development and training program to recruit, screen, utilize, train, educate, and evaluate a full range of probation personnel, including volunteers, women, and ex-offenders. The program should range from entry level to top level positions and should include the following:

ICJS

A comprehensive manpower development and training program for probation personnel has not been developed for the state. All probation personnel throughout the state are not under the administration of a single state agency.

On the state level, the Bureau of Community Correctional Services does recruitment through the Merit Employment System, has training and education programs, and makes evaluations systematically for probation personnel. Women are recruited under the Department's Affirmative Action program. There is no formalized program state-wide for the use of volunteers. However, volunteers are being utilized in some areas of the state. Special consideration is not given to ex-offenders in recruitment efforts.

On the local level, persons are being employed in probation increasingly in community based corrections projects. However, each project in the state has separate administration with each project's staff developing criteria for recruitment and employment of personnel. To date, no definitive practices or standards have been developed for recruitment or training.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 10.4 contd.

1. Provision should be made for effective utilization of a range of manpower on a full or part-time basis by using a systems approach to identify service objectives and by specifying job tasks and range of personnel necessary to meet the objectives. Jobs should be reexamined periodically to insure that organizational objectives are being met.
2. In addition to probation officers, there should be new career lines in probation, all built into career ladders.

ICJS

Most probation personnel are employed on a full time basis.

On the state level in the Bureau of Community Correctional Services, the position of community correction aides as paraprofessionals has been established as an entry level position below probation-parole officers. Although individuals do not have academic credentials for appointment as probation-parole officers, advancement is possible as part of the career ladder.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 10.4 contd.

3. Advancement (salary and status) should be along two tracks: service delivery and administration.
4. Educational qualifications for probation officers should be graduation from an accredited 4-year college.

ICJS

On the state level the minimum education qualification for probation/parole officers without experience is a bachelor's degree in specific job related areas or with minimum course hours in job related areas of corrections or social sciences. Experience in the field may be substituted in lieu of educational requirements.

On the local level in locally administered community based corrections projects, educational qualifications for probation officers have not been established. Staff of each project determine the qualifications. Practices vary throughout the state with both degreed and non-degreed probation officers.

Analysis

ICJS practice is different than NAC Standard
 ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 10.5
 PROBATION IN RELEASE
 ON RECOGNIZANCE PROGRAM**

**RELATED IOWA STANDARD
 10.9 PROBATION IN RELEASE
 ON RECOGNIZANCE PROGRAMS**

Each probation office serving a community or metropolitan area of more than 100,000 persons that does not already have an effective release on recognizance program should immediately develop, in cooperation with the court, additional staff and procedures to investigate arrested adult defendants for possible release on recognizance (ROR) while awaiting trial, to avoid unnecessary use of detention in jail.

ICJS

As components of community based correctional programs, pre-trial release programs for adults are in operation or are being developed throughout Iowa. Effective release on recognizance programs have been developed for all metropolitan areas of more than 100,000 persons. Being a rather sparsely populated state composed primarily of rural communities, Iowa has few metropolitan areas of more than 100,000 persons.

State probation-parole offices through the Department of Social Services have initiated development of community based correctional programs and services in areas only after local units of governments have exercised their option for state administration instead of local. This is in compliance with Section 217.27, Code of Iowa, 1975, for establishment of community based correctional programs and services.

Analysis

ICJS practice is different than NAC Standard
 ICJS principle is similar to NAC

NAC 10.5 contd.

1. The staff used in the ROR investigation should not be probation officers but persons trained in interviewing, investigation techniques, and report preparation.

ICJS

In most community based correctional programs, specific staff personnel are utilized to conduct ROR investigations. However, in some lesser populated areas, the probation agency would provide this service. No statewide policies exist for training of personnel conducting ROR investigations.

Analysis

ICJS practice is different than NAC Standard
 ICJS principle is different than NAC

NAC 10.5 contd.

2. The staff should collect information relating to defendant's residence, past and present; employment status; financial condition; prior record if any; and family, relatives, or others, particularly those living in the immediate area who may assist him in attending court at the proper time.

ICJS

Generally, Iowa is in accord with this recommendation. Where pre-trial release programs are in operation, staff have collected similar information.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is the same as NAC

NAC 10.5 contd.

3. Where appropriate, staff making the investigation should recommend to the court any conditions that should be imposed on the defendant if released on recognizance.

ICJS

Generally, Iowa complies with this recommendation. In many of the community-based correctional programs, two separate release on recognizance programs, pre-trial release and pre-trial release with supervision, are being carried out.

In the pre-trial release program, the staff interviewer makes a recommendation to the judge whether or not to release the accused on his own recognizance.

In the Supervised Pre-Trial Release program, the accused is recommended for release with supervision to the program unit's staff. Conditioned release is made to the court. Continuation of the supervised release bond is dependent upon a level of positive performance achieved and maintained by the accused throughout the pre-trial period.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 10.5 contd.

4. The probation agency should provide pretrial intervention services to persons released on recognizance.

ICJS

Pretrial intervention services are provided only to persons released on the supervised pre-trial release program. Services offered are counseling, referral to community service agencies, and some job placement. Usually the only service provided the accused by the pre-trial release program is notification of scheduled court appearances. Services are provided by staff of the project and may or may not be probation personnel.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 11.1
PLANNING NEW CORRECTIONAL INSTITUTIONS**

**RELATED IOWA STANDARD
9.1 PLANNING NEW CORRECTIONAL
INSTITUTIONS**

Each correctional agency administering State institutions for juvenile or adult offenders should adopt immediately a policy of not building new major institutions for juveniles under any circumstances, and not building new institutions for adults unless an analysis of the total criminal justice and adult corrections systems produces a clear finding that no alternative is possible. In the latter instance, the analysis should conform generally to the "total system planning" discussed in Chapter 9. If this effort proves conclusively that a new institution for adults is essential, these factors should characterize the planning and design process:

1. A collaborative planning effort should identify the purpose of the physical plant.
2. The size of the inmate population of the projected institution should be small enough to allow security without excessive regimentation, surveillance equipment, or repressive hardware.
3. The location of the institution should be selected on the basis of its proximity to:
 - a. The communities from which the inmates come.
 - b. Areas capable of providing or attracting adequate numbers of qualified line and professional staff members of racial and ethnic origin compatible with the inmate population, and capable of supporting staff lifestyles and community service requirements.
 - c. Areas that have community services and activities to support the correctional goal, including social services, schools, hospitals, universities, and employment opportunities.
 - d. The courts and auxiliary correctional agencies.
 - e. Public transportation.
4. The physical environment of a new institution should be designed with consideration to:
 - a. Provision of privacy and personal space.
 - b. Minimization of noise.
 - c. Reduction of sensory deprivation.
 - d. Encouragement of constructive inmate-staff relationships.
 - e. Provision of adequate utility services.
5. Provision also should be made for:
 - a. Dignified facilities for inmate visiting.
 - b. Individual and group counseling.
 - c. Education, vocational training, and workshops designed to accommodate small numbers of inmates and to facilitate supervision.
 - d. Recreation yards for each housing unit as well as larger recreational facilities accessible to the entire inmate population.
 - e. Medical and hospital facilities.

ICJS

The Division of Community Services of the Department of Social Services administers and controls state institutions for juveniles. From information received, there has been no adoption of policy of not building new major juvenile institutions under any circumstances.

The Bureau of Correctional Institutions of the Department of Social Services administers and controls the operation of state institutions for adult offenders which are the Men's Reformatory at Anamosa, Women's Reformatory at Rockwell City, State Penitentiary at Fort Madison, and the Iowa Security Medical Facility at Oakdale.

Legislation was enacted in 1976 providing for "an act to appropriate funds for the purpose of providing a program to alleviate overcrowded conditions existing and anticipated in state correctional facilities." (See Acts 1976 (66 G.A.) ch. 1043.) The Act provided for establishment of additional residential halfway houses and pre-institutional residential facilities. In addition, it gave the Governor three options to convert or modify existing facilities in the State to a correctional facility. The option chosen to ease overcrowding in state prisons was conversion of Building 20 at the Mental Health Institute, Mount Pleasant. The Act required that the facility cannot house more than 150 prisoners and that the facility be used temporarily for only two years unless extension is authorized by the legislature. The medium security facility is expected to be completed in early 1977. It will house men who will be transferred from the Men's Reformatory at Anamosa.

In addition to providing for more correctional facilities, the Act created as a temporary body the Advisory Commission on Corrections Relief, composed of six members, two appointed by the chief justice of the Iowa Supreme Court, two by the Governor, and two by the legislative council. The purpose of the Commission is "to seek an analysis of the state's total adult and juvenile corrections system, independent of advice thus far received, ...and to consider this analysis before deciding upon a long-term program to update the state's prisons and make their capacity adequate for the actual needs of the state." (See Acts 1976 (66 G.A.) ch. 1043, sec. 6.)

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 11.2 MODIFICATION OF EXISTING INSTITUTIONS

RELATED IOWA STANDARD 9.2 MODIFICATION OF EXISTING INSTITUTIONS

Each correctional agency administering State institutions for juvenile or adult offenders should undertake immediately a 5-year program of reexamining existing institutions to minimize their use, and, for those who must be incarcerated, modifying the institutions to minimize the deleterious effects of excessive regimentation and harmful physical environments imposed by physical plants.

ICJS

The Division of Correctional Institutions and the Bureau of Community Correctional Services have developed long range plans to develop, broaden and expand community services as alternatives to confinement. It was anticipated that with implementation of community based correctional programs and services and with consideration of new methods for rehabilitation and treatment of inmates, correctional institutions would experience declining populations.

Although community based correctional services and programs have been implemented and are being expanded in Iowa as alternatives to institutional use, populations of institutions have not declined. All adult institutional populations decreased until September, 1972, but populations have increased since that time.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

1. A collaborative planning effort should be made to determine the legitimate role of each institution in the correctional system.

ICJS

A collaborative planning effort by all components in the criminal justice system to determine the role of institutions has not been undertaken as system wide comprehensive planning is necessary in order to comply with this recommendation of the standard.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is significantly different than NAC

2. If the average population of an institution is too large to facilitate the purposes stated in paragraph 2 of Standard 11.1, it should be reduced.

ICJS

Due to rising populations, the Men's Reformatory and Penitentiary are near capacity. The Men's Reformatory and the State Penitentiary are both very old. Within the last five years, modifications have been made to the State Penitentiary and the Iowa Security Medical Facility. Starting in 1973, the physical resources of the State Penitentiary were upgraded by cell house subdivision and perimeter security. This involved breaking up the population of cell houses into smaller groups and replacing some guards with a television surveillance system. A television surveillance system has also been installed at the Iowa Security Medical Facility.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

3. Consideration should be given to the abandonment of adult institutions that do not fit the location criteria of paragraph 3 of Standard 11.1.

ICJS

At the present time, there has been no published plan or endorsement for abandonment of adult institutions.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is significantly different than NAC

4. All major institutions for juveniles should be phased out over the 5-year period.

ICJS

There are no plans to phase out all major institutions for juveniles.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is significantly different than NAC

5. The physical environments of the adult institutions to be retained should be modified to achieve the objectives stated in paragraph 4 of Standard 11.1 as to:
 - a. Provision of privacy and personal space.
 - b. Minimization of noise.
 - c. Reduction of sensory deprivation.
 - d. Reduction in size of inmate activity spaces to facilitate constructive inmate-staff relationships.
 - e. Provision of adequate utility services.

ICJS

Information received indicates the following about physical environments of adult institutions:

One man cells are used. Space for personal belongings and hobby work is provided. Attempts are made to keep unnecessary noise between cells at a minimum. There are connected cells in some Cellhouses to rooms for individual and group counseling, reading, hobby work and activities. Cells have a stool, wash bowl, hot and cold water, heat, and ventilation space with a floor area of 48 square feet.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

Present institutions do not conform to design recommended by the standards with floor area of 80 square feet, solid fronts and doors, toilets and showers with modesty screens, and sound barriers, variety in terms of space, surface texture and color, artificial lighting occupant controlled as well as centrally controlled, natural lighting with outside windows of 10 square feet or more. The Men's Reformatory and Penitentiary have open front cells with a stacked arrangement of 3-5 floors with poor heating which is also very costly.

6. Plant modification of retained institutions should also be undertaken to provide larger, more dignified, and more informal visiting facilities; spaces for formal and informal individual and group counseling, education and vocational training, workshops, recreational facilities, and medical and hospital facilities; and such additional program spaces as may fit the identified purposes of the institution.

ICJS

Present visiting areas are open with table and chairs, food and beverage machines, and play areas for children. Visiting areas are used by friends, family, clergy, lawyers, etc. for all inmates except those in minimum custody. Counselors have offices for individual counseling. There are buildings for the purpose of academic and vocational training, work areas, and indoor and outdoor recreation of a wide variety. Buildings or parts of buildings are provided for medical services.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is different than NAC

7. A reexamination of the purposes and physical facilities of each existing institution should be undertaken at least every 5 years, in connection with continuing long-range planning for the entire corrections system.

ICJS

Each physical facility is carefully examined every two years for construction, reconstruction or alteration.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 11.3
SOCIAL ENVIRONMENT OF INSTITUTIONS**

**RELATED IOWA STANDARD
9.3 SOCIAL ENVIRONMENT**

Each correctional agency operating juvenile or adult institutions, and each institution, should undertake immediately to reexamine and revise its policies, procedures, and practices to bring about an institutional social setting that will stimulate offenders to change their behavior and to participate on their own initiative in programs intended to assist them in reintegrating into the community.

ICJS

Responsibility for the operation of institutions for the rehabilitation of adult offenders and aftercare of adult offenders is primarily with the Bureau of Correctional Institutions of the Department of Social Services.

Policies, procedures and practices of adult institutions are reexamined and revised on an ongoing basis. A meeting is held monthly with the institutional managers of the Bureau of Correctional Institutions. The Bureau strives to maintain institutional settings that will aid in the return of the nondangerous offenders to the community.

The Policy and Procedures Guideline Manual of the Division states: "Institution and quasi-institution settings must be available which foster social interaction and inter-personal relationships conducive to healthy personal and social growth and offer diversified specialized programs to meet the unique needs of the individual offender in his development of capacity for responsible citizenship."

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 11.3 contd.

1. The institution's organizational structure should permit open communication and provide for maximum input in the decisionmaking process.
 - a. Inmate advisory committees should be developed.
 - b. A policy of participative management should be adopted.
 - c. An ombudsman independent of institutional administration should receive and process inmate and staff complaints.
 - d. Inmate newspapers and magazines should be supported.

ICJS

- (a) Inmate advisory groups in various organizational form have been operational throughout the years.
- (b) Division policy and procedures are developed and carried out with all institutional managers participating. Policy does not include offenders being involved directly with management decisions.
- (c) Chapter 601G, Code, provides for the appointment of a Citizen's Aide (ombudsman). The Citizens' Aide is appointed by the legislative council with the approval and confirmation of a constitutional majority of the senate and the house of representatives. (Section 601G.3, Code.) The ombudsman is located independent of any state agency with freedom to investigate complaints without administrative constraint. By provision of Section 601G.6, Code, the Citizens' Aide appoints an assistant who is responsible for investigating complaints relating only to penal or correctional agencies. The assistant Ombudsman visits the institutions on at least a monthly basis. Section 601G.14, Code, provides that a letter to the Citizens' Aide from a person in a correctional institution must be immediately forwarded, unopened to the Citizens' Aide by the institution where the writer of the letter is a resident. A letter from the Citizens' Aide to such a person must be immediately delivered, unopened to the person. Although the Citizens' Aide may investigate any administrative action of any agency, he cannot investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency (Section 601G.9, Code.)
- (d) Each institution has an institutional paper for inmates and staff and many self help groups have their own publications.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 11.3 contd.

2. The correctional agency and the institution should have explicit their correctional goals and program thrust.
 - a. Staff recruitment and training should emphasize attitudes that support these goals.
 - b. Performance standards should be developed for programs and staff to measure program effectiveness.
 - c. An intensive public relations campaign should make extensive use of media to inform the public of the agency's goals.
 - d. The institution administration should be continuously concerned with relevance and change.
3. The institution should adopt policies and practices that will preserve the individual identity of the inmate and normalize institutional settings.
 - a. Each offender should be involved in program decisions affecting him.
 - b. Offenders should be identified by name and social security number rather than prison number.
 - c. Rules governing hair length and the wearing of mustaches and beards should be liberalized to reflect respect for individuality and cultural and subcultural trends.
 - d. Where possible, uniforms should be eliminated and replaced with civilian dress, with reasonable opportunity for individual choice of colors, styles, etc.
 - e. Institutional visitation should be held in an environment conducive to healthy relationships between offenders and their families and friends.
 - f. Home furlough should be allowed to custodially qualified offenders to maintain emotional involvement with families.
 - g. Telephone privileges, including reasonable provisions for long-distance calls, should be extended to all inmates.
 - h. No limitations should be imposed upon the amount of mail offenders may send or receive.

ICJS

- (a) The offender is included in the discussion in his program development, disciplinary actions, work release and pre-parole planning.
- (b) Offenders are identified by name and are given a central office number. Presently, a social security number is not used for identification.
- (c) Regulations governing hair length and facial hair have been eliminated. Inmates may wear clothing and hair styles to their choosing.
- (d) Uniforms are not used but clothing is issued from the State institution for the inmate. However, inmates may wear their own personal clothing.
- (e) Institutional visitation rooms have open tables and chairs and out-of-doors visitation at picnic tables is allowed if weather permits.
- (f) Furloughs and work release are allowed before parole for inmates with minimum custody classification. Furloughs may be granted when there is illness or death of an immediate member of the inmate's family, for interviews by a prospective employer, for training programs not available within the institution, and to participate in programs or activities that serve rehabilitative purposes. (See Section 217.14 (7), Code.)
- (g) Where institutions have an inmate telephone program, inmates may make a collect telephone call if approved by the institution. They may call anywhere in the continental United States and talk to anyone provided the party telephoned agrees to accept the charges for the calls. Categories of inmates excluded from the telephone program except in emergencies or to a lawyer are those (1) in disciplinary isolation (2) in segregation (3) in special program unit (4) who are hospital patients.
- (h) There is no limitation placed on the number of letters mailed or received. All mail is inspected for contraband except that specified by law.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 11.3 contd.

4. Each institution should make provision for the unique problems faced by minority offenders and take these problems into consideration in practices and procedures.
- a. Subcultural groups should be formally recognized and encouraged.
 - b. Ethnic studies courses should be provided.
 - c. Staff members representative of minority groups in the institution should be hired and trained.
 - d. Minority residents of the community should be involved actively in institution programs.

ICJS

- (a) Subculture groups such as black culture and Indian-Chicano self help groups are allowed and are presently operating within institutions.
- (b) Courses are provided by institutional staff or educational institutional staff on a request basis. A college level sociology course entitled "American Minorities" was offered the fall term, 1974, at the Men's Penitentiary through Southeastern Community College with 16 inmates enrolled in the course.
- (c) Minority group staff members have been hired and trained, but are limited.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 11.3 contd.

5. The institution should actively develop the maximum possible interaction between community and institution, including involvement of community members in planning and in intramural and extramural activities.
- a. Institutionally based work-release and study-release programs with an emphasis on community involvement should be adopted or expanded.
 - b. Ex-offenders and indigenous paraprofessionals should be used in institutional programs and activities.
 - c. Joint programming between the institution and the community should be developed, including such activities as drug counseling sessions, Alcoholics Anonymous meetings, recreation programs, theatre groups, and so on.
 - d. Offenders should be able to participate in educational programs in the community, and community members should be able to participate in educational programs in the institution.
 - e. Police officers should become involved, acquainting offenders with pertinent sections of the law and in general playing a supportive role.
 - f. Offenders should have opportunities to travel to and to participate in worship services of local churches, and representatives of the churches should participate in institutional services.
 - g. The institution should cultivate active participation of civic groups, and encourage the groups to invite offenders to become members.
 - h. The institution should arrange for representatives of government agencies to render services to offenders by traveling to the institution or by enabling offenders to appear at agency offices.
 - i. The institution should obtain the participation of business and labor in intramural and extramural programs and activities.
 - j. The institution should seek the participation of volunteers in institutional programs and activities.

ICJS

- (a) Work-release and study-release programs have been implemented pursuant to statutory provisions, Sections 247A, 217.14, Code.
- (b) Some ex-offenders have been employed as correctional officers, counselors, work foremen, parole staff and in maintenance.
- (c) Joint programming has been developed with: Alcoholics Anonymous meetings being held with outside sponsors; drug counseling sessions available from community mental health centers and other community groups and organizations; recreation programs such as softball, baseball and weightlifting involving activities with outside group trips; and musical entertainment and other entertainment groups invited into

- and paid by institutions.
- (d) Institutions have academic and vocational training contracts with area community colleges for in-house training.
 - (e) Education courses in law enforcement have been offered in the institutional facilities. Staff and inmates attend the same class.
 - (f) Active religious programs which emphasize community interaction are available at all institutions. Representatives of churches do come into the institution.
 - (g) Jaycee groups are actively involved and have organized inmate chapters. Outside Alcoholics Anonymous groups seek participation of inmates.
 - (ii) Several state agencies which include the state auditor, Department of Public Instruction, Labor, Agriculture, Health, Education, Mental Health and vocational rehabilitation must visit and inspect the institution annually.
 - (i) Business and labor act on the advisory committee for each vocational training area.
 - (j) All institutions use a variety of volunteers. A full time Director of Volunteer Services for the Department of Social Services was hired on 1/1/75 to coordinate volunteer programs.

Analysis

ICJS practice is similar to NAC Standard
 ICJS principle is similar to NAC

NAC 11.3 contd.

6. The institution should apply only the minimum amount of security measures, both physical and procedural, that are necessary for the protection of the public, the staff, and inmates, and its disciplinary measures should emphasize rewards for good behavior rather than the threat of punishment for misbehavior.
- a. Committed offenders initially should be assigned the least restrictive custodial level possible, as determined by the classification process.
 - b. Only those mechanical devices absolutely necessary for security purposes should be utilized.
 - c. Institutional regulations affecting inmate movements and activities should not be so restrictive and burdensome as to discourage participation in program activities and to give offenders a sense of oppression.
 - d. Standard 2.12 concerning Disciplinary Procedures should be adopted, including the promulgation of reasonable rules of conduct and disciplinary hearings and decisions respecting the rights of offenders.
 - e. An incentive system should be developed to reward positive behavior and to reinforce desired behavioral objectives.
 - f. Security and disciplinary policies and methods should be geared to support the objective of social reintegration of the offender rather than simply to maintain order and serve administrative convenience.

ICJS

- (a) Inmates are classified for security purposes by a classification committee made up of a cross-section of correctional personnel. Social history, emotional factors, risk factors, public policy factors and program of the inmate are taken into consideration in determining security classification.
- (b) Mechanical devices are used only when necessary for protection of inmate, the employee, the public or to avoid property damage.
- (c) Institution regulations do permit some unrestricted movement and participation in program activities. However, regulations are also to ensure maximum protection to the citizens of the State and to the employees and inmates of the institution.
- (d) Disciplinary procedures for all correctional institutions have been formulated and adopted. A record is kept in the offender's file showing disposition.
- (e) Incentives developed to reward positive behavior include use of job assignments, custody, work and study release, furloughs and parole.
- (f) Security and disciplinary policies are used by administrators as needed in decision-making. In comparison to the standard, security and disciplinary policies are for maintaining order and rehabilitation of the offender.

Analysis

ICJS practice is similar to NAC Standard
 ICJS principle is similar to NAC

**NAC CORRECTIONS STANDARD 11.4
EDUCATION AND VOCATIONAL TRAINING**

**RELATED IOWA STANDARD
9.4 EDUCATION AND VOCATIONAL TRAINING**

Each institution for juveniles or adults should re-examine immediately its educational and vocational training programs to insure that they meet standards that will individualize education and training. These programs should be geared directly to the reintegration of the offender into the community. It is recognized that techniques and practices for juveniles may be somewhat different from those required for adults, but the principles are similar. Usually the programs for juveniles and youths are more adequately equipped and staffed, but this distinction should not continue. It is assumed that intensive efforts will be made to upgrade adult institutions and that juvenile institutions will be phased out in favor of community programs and facilities.

ICJS

Iowa is moving towards a comprehensive and diversified academic and vocational training program in its adult institutions. Policy and Procedure Guidelines of the Bureau of Correctional Institutions provide that "proper balance and emphasis should be based upon the individual educational needs. Education within the correctional setting should be an integral part of a total program of rehabilitation."

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is the same as NAC

NAC 11.4 contd.

1. Each institution should have a comprehensive, continuous educational program for inmates.
 - a. The educational department of the institution should establish a system of accountability to include:
 - (1) An annual internal evaluation of achievement data to measure the effectiveness of the instruction program against stated performance objectives.
 - (2) An appraisal comparable to an accreditation process, employing community representatives, educational department staff, and inmate students to evaluate the system against specific objectives. This appraisal should be repeated at least every 3 years.
 - b. The educational curriculum should be developed with inmate involvement. Individualized and personalized programming should be provided.
 - c. The educational department should have at least one learning laboratory for basic skill instruction. Occupational education should be correlated with basic academic subjects.
 - d. In addition to meeting State certification requirements, teachers should have additional course work in social education, reading instruction, and abnormal psychology. Teachers in juvenile institutions also should be certified to teach exceptional children, have experience teaching inner city children, and have expertise in educational technology.
 - e. Each educational department should make arrangements for education programs at local colleges where possible, using educational opportunities programs, work-study programs for continuing education, and work-furlough programs.
 - f. Each educational department should have a guidance counselor (preferably a certificated school psychologist) and a student personnel worker. School records of juveniles should be available to these persons at the time of commitment.
 - g. Social and coping skills should be part of the educational curriculum, particularly consumer and family life educations.

ICJS

Adults

- (a) Each adult institution does provide education programs. A supervisor of education and vocational training is responsible for the development of the educational program and consults with and seeks advice from the Department of Public Instruction.

Annually, the education administrator at each adult institution provides the Institutional Manager and the Director of the Correctional Institutions with an inventory of educa-

tional programs. Such inventories include recommendations for new programs and courses that will tend to best meet the current needs of the particular group of individuals being served.

The Men's Reformatory and State Penitentiary have contractual agreements with local community colleges to provide academic and vocational training programs.

An inventory of educational programs is made annually. This does not measure the effectiveness of instructional programs as recommended by the standard. However, each inmate involved with education programs is evaluated as to the success and progress of the educational endeavor undertaken. This would be included in the review by the classification committee. A review is made of education programs provided by community colleges with community college representatives, institutional educational department staff, and inmate students participating.

- (b) The educational curriculum is developed with consideration of inmate requests and the availability of programs and courses. These may be through the educational program at the institution, GED accreditation, high school, community college, college or university, correspondence, or adult education classes or programs for any level of personnel achievement.

Upon admission to the institution various tests are administered to each inmate. These tests are designed to give an overall picture of an inmate's academic potential and development and vocational interests. This information is compiled along with correspondence, interviews, social information, past criminal history, previous correctional treatment efforts, and presentence report into an admission summary. At initial classification, a team of the staff reviews with the inmate all the material available. The inmate's academic and vocational needs are discussed. Recommendations are made and incorporated into the treatment plan based on the needs of the individual.

- (c) Occupational education programs are correlated with academic subjects in order to coordinate treatment plans for inmates. Adult basic education programs are available at institutions to upgrade inmate skills, provide remedial review of all academic subject matters necessary for vocational areas, and provide assistance in making a vocational program choice or preparation for re-entry into another vocational field. Courses related to vocational training, such as math, english, and communication skills, are available through the educational program at some institutions.
- (d) It is not known whether all teachers have additional course work in social education, reading and abnormal psychology. This would be relative to the requirements of the educational institution through which the program is arranged. Academic college level courses taught at the State Penitentiary have included Abnormal Psychology, Psychology of Adjustment and Contemporary Social Problems.
- (e) All institutions have made arrangements for education programs with local colleges where possible using federal, state and local assistance utilizing work-study release and work-furlough release programs where feasible. Academic college level courses and vocational core areas have been provided to the State Penitentiary at Fort Madison through contractual arrangements with Southeastern Community College at Burlington. College employees provide instruction at the correctional institution. Educational services for the Men's Reformatory at Anamosa are provided through a contractual agreement with Kirkwood Community College in Cedar Rapids.

Work-study release has been arranged for eligible inmates at the Women's Reformatory locally or by transfer to the Women's Residential community corrections facility at Des Moines.

- (f) Some of the institutions in the state have a guidance counselor. The Men's Reformatory at Anamosa has a guidance counselor who is part of the full-time staff of program services. This is included contractual agreement with the community college to provide educational services.
- (g) Social and coping skills courses such as personal finance, psychology of adjustment, and social problems are available through adult basic education classes, college courses, vocational evaluation and training and in-house work training experiences.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 11.4 contd.

2. Each institution should have prevocational and vocational training programs to enhance the offender's marketable skills.

- a. The vocational training program should be part of a reintegrative continuum, which includes determination of need, establishment of program objectives, vocational training, and assimilation into the labor market.
- b. The vocational training curriculum should be designed in short, intensive training modules.
- c. Individual prescriptions for vocational training programs should include integration of academic work, remedial reading and math, high school graduation, and strong emphasis on the socialization of the individual as well as development of trade skills and knowledge.
- d. Vocational programs for offenders should be intended to meet their individual needs and not the needs of the instructor or the institution. Individual programs should be developed in cooperation with each inmate.
- e. An incentive pay scale should be a part of all on-the-job training programs for inmates.
- f. Vocational programs should be selected on the basis of the following factors related to increasing offenders' marketable skills:
 - (1) Vocational needs analysis of the inmate population.
 - (2) Job market analysis of existing or emerging occupations.
 - (3) Job performance or specification analysis, including skills and knowledge needed to acquire the occupation.
- g. Vocational education and training programs should be made relevant to the employment world.
 - (1) Programs of study about the work world and job readiness should be included in pre-vocational or orientation courses.
 - (2) Work sampling and tool technology programs should be completed before assignment to a training program.
 - (3) Use of vocational skill clusters, which provide the student with the opportunity to obtain basic skills and knowledge for job entry into several related occupations, should be incorporated into vocational training programs.
- h. All vocational training programs should have a set of measurable behavioral objectives appropriate to the program. These objectives should comprise a portion of the instructor's performance evaluation.
 - i. Vocational instructors should be licensed or credentialed under the rules and regulations for public education in the State or jurisdiction.
 - j. Active inservice instructor training programs should provide vocational staff with information on the latest trends, methods, and innovations in their fields.
- k. Class size should be based on a ration of 12 students to 1 teacher.
- l. Equipment should require the same range and level of skills to operate as that used by private industry.
- m. Trades advisory councils should involve labor and management to assist and advise in the ongoing growth and development of the vocational program.
- n. Private industry should be encouraged to establish training programs within the residential facility and to commit certain numbers of jobs to graduates from these training programs.
- o. The institution should seek active cooperative programs and community resources in vocational fields with community colleges, federally funded projects such as Job Corps, Neighborhood Youth Corps, and Manpower Development Training Act programs, and private community action groups.
- p. On-the-job training and work release or work furloughs should be used to the fullest extent possible.
- q. An active job placement program should be established to help residents find employment related to skills training received.

ICJS

- (a) The behavioral objective of vocational training programs is to prepare each inmate for a self supporting job situation upon release from the institution.

Each adult institution provides work, vocational and industrial training opportunities for inmates who can benefit from the same. Evaluative testing is done to determine vocational potential and interests. Basic education is also given in order that an inmate may have an opportunity to become familiarized with the vocational areas on a superficial level to enable a better choice for a vocational field. Vocational training programs include community college programs, private enterprise programs, union sponsored apprentice programs and institutional courses.
- (b) Vocational training curriculum is designed in training modules of 3-4 months or quarter

semesters.

- (c) A training program for an inmate is developed by educational and vocational testing and analysis to best fit the needs of the inmate. Training programs may include academic course work, remedial review of academic subject matters necessary for vocational core areas, basic education and any areas that will help upgrade inmate skills.
- (d) Individual programs are developed for each inmate with input from the inmate as to the type of program he/she would be interested in during his/her sentence, both work and training. Intelligence, educational, achievement and vocational aptitude tests are administered.

Interviews are scheduled with each inmate to analyze the individual's educational and work history and to elicit interests and feelings for guidance in determining suitable programs for the individual. Diagnostic evaluation may include observation of the individual in activity programs, living quarters, and relationships with inmates and work officers to reveal inmate's attitude toward work, ability to learn on the job, and any vocational interests and abilities.

- (e) An incentive pay scale is not a part of on-the-job training programs for inmates.
- (f) Increasing the offender's marketable skills through vocational programs is attempted by:
 - (1) vocational needs analysis on an individual basis; (2) job market analysis as indicated by State employment services; (3) job performance analysis by vocational testing and interviews.
- (g) Federal, State and private agencies as well as the institutional trade advisory board may be consulted so as to develop appropriate sources of funding, equipment, program designs, and training techniques.
- (h) Vocational training programs have measurable behavior objectives but they are geared to the inmate's length of stay.
 - (i) The institutions are required to comply with the regulations of the Department of Public Instruction. Instructors from the area colleges are required to have state certification. Area colleges are state supported educational institutions.
 - (j) It is assumed the area colleges provide their instructors with information on the latest trends, methods and innovations in all vocational fields.
 - (k) Class size may vary with a minimum, of 10 students and maximum of 20 students as compared to a ratio of 12 students to 1 teacher recommended by the standard.
 - (l) Some programs have equipment that require skills similar to that used in private industry. An example is the production of metal license plates.
- (m) Each vocational shop within the institution has a five member trade advisory counsel with membership according to state specifications.
- (n) Private industry does commit jobs to graduates of vocational training programs directly through the institution and through state employment services.
- (o) The Men's Reformatory and the State Penitentiary have had cooperative vocational programs with area colleges and federally funded projects such as Job Corps, Neighborhood Youth Corps, and Manpower Development Training Act programs.
- (p) Work release and work furloughs providing on-the-job training and employment are used where feasible. Legislation was enacted in 1967 for work release (Section 247A, Code) and in 1969 for furloughs (Section 217.14, Code).
- (q) Job placement programs have been established to help inmates secure employment related to skills training. Job placement programs are more active at the Riverview Release Center at Newton and Halfway Houses where inmates from institutions may be transferred prior to release.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 11.4 contd.

3. Features applicable both to educational and vocational training programs should include the following:
- a. Emphasis should be placed on programmed instruction, which allows maximum flexibility in scheduling, enables students to proceed at their own pace, gives immediate feedback, and permits individualized instruction.
 - b. A variety of instructional materials - including audio tapes, teaching machines, books, com-

- puters, and television - should be used to stimulate individual motivation and interest.
- c. Selected offenders should participate in instructional roles.
- d. Community resources should be fully utilized.
- e. Correspondence courses should be incorporated into educational and vocational training programs to make available to inmates specialized instruction that cannot be obtained in the institution or the community.
- f. Credit should be awarded for educational and vocational programs equivalent to or the same as that associated with these programs in the free world.

ICJS

- (a) Programmed instruction which permits individualized instruction may be available to inmates.
- (b) Instructional materials and equipment are used that are available from the institution and area colleges.
- (c) Some inmates qualify or become qualified as lead workers, assistant instructors and helpers.
- (d) Available community resources are used.
- (e) Correspondence courses are available; special correspondence courses for core programs as approved and funded by Vocational Rehabilitation have been incorporated into educational and vocational training programs.
- (f) Certificates for achievement, hours of training, G.E.D., high school completion, completion of programs, college credits and degrees are awarded.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 11.5 SPECIAL OFFENDER TYPES

RELATED IOWA STANDARD 9.5 SPECIAL OFFENDER TYPES

Each correctional agency operating major institutions, and each institution, should reexamine immediately its policies, procedures, and programs for the handling of special problem offenders - the addict, the recalcitrant offender, the emotionally disturbed, and those associated with organized crime - and implement substantially the following:

1. The commitment of addicts to correctional institutions should be discouraged, and correctional administrators should actively press for the development of alternative methods of dealing with addicts, preferably community-based alternatives. Recognizing, however, that some addicts will commit crimes sufficiently serious to warrant a formal sentence and commitment, each institution must experiment with and work toward the development of institutional programs that can be related eventually to community programs following parole or release and that have more promise in dealing effectively with addiction.
 - a. Specially trained and qualified staff should be assigned to design and supervise drug offender programs, staff orientation, involvement of offenders in working out their own programs, and coordination of institutional and community drug programs.
 - b. Former drug offenders should be recruited and trained as change agents to provide program credibility and influence offenders' behavior patterns.
 - c. In addition to the development of social, medical, and psychological information, the classification process should identify motivations for change and realistic goals for the reintegration of the offender with a drug problem.
 - d. A variety of approaches should provide flexibility to meet the varying needs of different offenders. These should include individual counseling, family counseling, and group approaches.
 - e. Programs should emphasize "alternatives" to drugs. These should include opportunities to affiliate with cultural and subcultural groups, social action alliances, and similar groups that provide meaningful group identification and new social roles which decrease the desire to rely on drugs. Methadone and other drug maintenance programs are not appropriate in institutions.
 - f. The major emphasis in institutional programs for drug users should be the eventual involvement of the users in community drug treatment programs upon their parole or release.
 - g. Because of the inherent limitations and past failure of institutions to deal effectively with drug

addiction, research and experimentation should be an indispensable element of institutional drug treatment programs. Priorities include:

- (1) Development of techniques for the evaluation of correctional therapeutic communities.
- (2) Development of methods for surveying inmates to determine the extent of drug abuse and treatment needs.
- (3) Evaluation of program effectiveness with different offender types.

ICJS

The Bureau of Correctional Institutions has developed policy and procedure guidelines for drug abuse treatment within institutions. "The primary thrust of the treatment program for offenders who abuse drugs, as a means of coping, is to provide a comprehensive individualized correctional program, including individual and group counseling, education, work training, etc."

In addition, the following procedures are being followed:

Drug users are identified by examining incoming records. Selected users are referred to additional confrontation/support groups which are led by specially trained staff or by outside professionals. Urinalysis tests are utilized on a random basis to control inmates and parolees use of drugs.

All visitors, inmates and staff are regularly screened for drugs, as well as all contraband. In addition, visiting areas and washrooms are inspected for potential sources of contraband. All known drug dealers in illicit drugs in Iowa are identified and visits by these persons with inmates are controlled. Drug use within the institution is controlled through careful ordering, storage and dispensing of drugs.

One professional person in each institution is designated responsible for all drug related programs. A list of persons responsible for drug abuse consultant/liaison at each institution is maintained.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is significantly different than NAC

NAC 11.5 contd.

2. Each institution should make special provisions other than mere segregation for inmates who are serious behavior problems and an immediate danger to others.
 - a. The classification process should be used to attempt to obtain an understanding of the recalcitrant offender and to work out performance objectives with him.
 - b. A variety of staff should be provided to meet the different needs of these offenders.
 - (1) Staff selections should be made through in-depth interviews. In addition to broad education and experience backgrounds, personal qualities of tolerance and maturity are essential.
 - (2) Continuous on-the-job staff evaluation and administrative flexibility in removing ineffective staff are needed to meet the stringent demands of these positions.
 - (3) Training programs designed to implement new knowledge and techniques are mandatory.
 - c. Recalcitrant offenders who are too dangerous to be kept in the general institutional population should be housed in a unit of not more than 26 individual rooms providing safety and comfort.
 - (1) Good surveillance and perimeter security should be provided to permit staff time and efforts to be concentrated on the offenders' problems.
 - (2) No individual should remain in the unit longer than is absolutely necessary for the safety of others.
 - (3) Wherever possible the inmate of the special unit should participate in regular recreation, school, training, visiting and other institution programs. Individual tutorial or intensive case-work services should also be available.
 - (4) Tranquilizers and other medication should be used only under medical direction and supervision.
 - d. Procedures should be established to monitor the programs and services for recalcitrant offenders, and evaluation and research should be conducted by both internal staff and outside personnel.

ICJS

Statutory provisions for inmate classification in the men's reformatory and penitentiary are defined in the Code. "The wardens shall, so far as practicable, prevent prisoners under eighteen years of age from associating with other prisoners." (Section 246.36, Code.)

A male defendant, unless he has been convicted of certain felonies, must be committed to the men's reformatory if he is under 30 at the time of commitment and has never before been convicted of a felony. (See Section 789.16, Code.) Inmates at the reformatory who are over 30 years and have been convicted of a felony must be transferred to the Penitentiary unless accommodations are not suitable at the penitentiary. (See Section 246.14, Code.)

The Classification process within each institution is essentially the same for all inmates. Classification begins by analyzing the problems presented by the individual through the use of social investigations; medical, psychiatric, and psychological examinations; and vocational, religious and recreational studies. When the studies are completed a staff conference is held to decide upon a program of treatment and training which the offender needs and which is aimed at helping him solve his problems. The progress of the inmate under this program is to be observed and changed when indicated.

Inmates are classified for security purposes by a classification committee made up of a cross-section of corrections personnel such as the inmate's counselor, security officer, psychologist, etc. A broad range of factors are taken into consideration in determining security classification. These include social history, emotional factors, risk factors, public policy factors and program of the inmate.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 11.5 contd.

3. Each correctional agency should provide for the psychiatric treatment of emotionally disturbed offenders. Psychotic offenders should be transferred to mental health facilities. Correctional institution treatment of the emotionally disturbed should be under the supervision and direction of psychiatrists.
 - a. Program policies and procedures should be clearly defined and specified in a plan outlining a continuum of diagnosis, treatment, and aftercare.
 - b. A diagnostic report including a physical examination, medical history, and tentative diagnosis of the nature of the emotional disturbance should be developed. Diagnosis should be a continuing process.
 - c. There should be a program plan for each offender based on diagnostic evaluation; assessment of current needs, priorities, and strengths; and the resources available within both the program and the correctional system. The plan should specify use of specific activities; for example, individual, group, and family therapy. Need for medication, educational and occupational approaches, and recreational therapy should be identified. The plan should be evaluated through frequent interaction between diagnostic and treatment staff.
 - d. All psychiatric programs should have access to a qualified neurologist and essential radiological and laboratory services, by contractual or other agreement.
 - e. In addition to basic medical services, psychiatric programs should provide for education, occupational therapy, recreation, and psychological and social services.
 - f. On transfer from diagnostic to treatment status, the diagnostic report, program prescription, and all case material should be reviewed within 2 working days.
 - g. Within 4 working days of the transfer, case management responsibility should be assigned and a case conference held with all involved, including the offender. At this time, treatment and planning objectives should be developed consistent with the diagnostic program prescription.
 - h. Cases should be reviewed each month to reassess original treatment goals, evaluate progress, and modify program as needed.
 - i. All staff responsible for providing service in a living unit should be integrated into a multidisciplinary team and should be under the direction and supervision of a professionally trained staff member.
 - j. Each case should have one staff member (counselor, teacher, caseworker, or psychologist), assigned to provide casework services. The psychologist or caseworker should provide intensive services to those offenders whose mental or emotional disabilities are most severe.
 - k. Reintegration of the offender into the community or program from which he came should be established as the primary objective.

- I. When an offender is released from a psychiatric treatment program directly to the community, continued involvement of a trained therapist during the first 6 months of the patient's reintegration should be provided, as least on a pilot basis.

ICJS

When the state director has cause to believe a prisoner is mentally ill, the prisoner may be transferred to the Iowa Security Medical Facility for examination, diagnosis or treatment. The prisoner may be confined at the Iowa Security Medical Facility or a state hospital until the expiration of sentence or until pronounced in good health. If pronounced in good mental health before expiration of sentence, the prisoner shall be returned to the penitentiary or reformatory until the expiration of the sentence. (See Sections 245.12, 246.16, Code. See also Revised Criminal Code, ch. 3, sec. 210.)

The Iowa Security Medical Facility is an institution established for persons displaying evidence of mental illness or psycho-social disorders and requiring diagnostic services and treatment in a security setting. The institution shall be under the jurisdiction of the department of social services. (Section 223.1, Code.)

The University of Iowa hospitals and facilities at Iowa City are also utilized for psychological testing and evaluative treatment for specific adjustment, behavioral, or emotional problems. The Iowa Security Medical hospital's 81 patient beds are organized into separate treatment units. Each unit has its own treatment unit headed by a member of the hospital's clinical staff who directs the other unit team members in the implementation of individualized treatment approaches.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 11.5 contd.

4. Each correctional agency and institution to which convicted offenders associated with organized crime are committed should adopt special policies governing their management during the time they are incarcerated.
 - a. Because of the particular nature of organized crime and the overriding probability that such offenders cannot be rehabilitated, primary recognition should be given to the incapacitative purpose of incarceration in these cases.
 - b. Convicted offenders associated with organized crime should not be placed in general institutional populations containing large numbers of younger, more salvageable offenders.
 - c. Education and vocational training would appear inappropriate for these offenders, and their "program" should involve primarily assignment to prison industries or institutional maintenance, particularly where they are unlikely to have contact with impressionable offenders.
 - d. They should not be considered eligible for such community-based programs as work- or study-release, furloughs or other privileges taking them into the community.
 - e. They are entitled to the same rights as other committed offenders. See Chapter 2.

ICJS

Special policies governing management of offenders associated with organized crime have not been adopted.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 11.6
WOMEN IN MAJOR INSTITUTIONS**

**RELATED IOWA STANDARD
9.6 WOMEN IN MAJOR INSTITUTIONS**

Each State correctional agency operating institutions to which women offenders are committed should reexamine immediately its policies, procedures, and programs for women offenders, and make such adjustments as may be indicated to make these policies, procedures, and programs more relevant to the problems and needs of women.

1. Facilities for women offenders should be considered an integral part of the overall corrections system, rather than an isolated activity or the responsibility of an unrelated agency.

ICJS

The Women's Reformatory at Rockwell City is under the supervision of the Department of Social Services, the Bureau of Correctional Institutions. "The women's reformatory shall be maintained for the purpose of preparing the inmates to lead orderly and virtuous lives and to become self-supporting and useful members of society, and to this end, to instruct them in the common school and other branches of learning, in morality, physical culture, domestic science, mechanical arts, and such other branches of industry as may be practicable." (Section 245.1, Code.)

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 11.6 contd.

2. Comprehensive evaluation of the woman offender should be developed through research. Each State should determine differences in the needs between male and female offenders and implement differential programming.

ICJS

Upon arrival at the Women's Reformatory, each offender moves through an evaluation process involving assessment of medical and psychological needs, educational and vocational plans, recreational and vocational program, therapy needs and program, gathering of social history and behavioral observation. Individual treatment programming is planned for each woman offender from the information compiled.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 11.6 contd.

3. Appropriate vocational training programs should be implemented. Vocational programs that promote dependency and exist solely for administrative ease should be abolished. A comprehensive research effort should be initiated to determine the aptitudes and abilities of the female institutional population. This information should be coordinated with labor statistics predicting job availability. From data so obtained, creative vocational training should be developed which will provide a woman with skills necessary to allow independence.

ICJS

Vocational training programs have been implemented with contracts to area schools and community college and resources in the community. These programs are somewhat limited due to the location of the Women's Reformatory and unavailability of resources.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 11.6 contd.

4. Classification systems should be investigated to determine their applicability to the female offender. If necessary, systems should be modified or completely restructured to provide information necessary for an adequate program.

ICJS

The Women's Reformatory does not have a formal classification system. A central programming committee reviews information in the diagnostic work up and structures a treatment program for each offender.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 11.6 contd.

5. Adequate diversionary methods for female offenders should be implemented. Community programs should be available to women. Special attempts should be made to create alternative programs in community centers and halfway houses or other arrangements, allowing the woman to keep her family with her.

ICJS

Community services and programs that are available in the community at the reformatory location, such as county mental health clinic, volunteer groups, and State Employment Service, are made available to women offenders through furloughs and work release. A women's residential treatment facility in the Fifth Judicial District Department of Court Services project operates as an alternative to commitment to the Women's Reformatory. Offenders may be transferred to this facility from the reformatory to participate in work and educational programs in the community. None of the facilities in the State allow the woman offender to keep her family with her.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 11.6 contd.

6. State correctional agencies with such small numbers of women inmates as to make adequate facilities and programming uneconomical should make every effort to find alternatives to imprisonment for them, including parole and local residential facilities. For those women inmates for whom such alternatives cannot be employed, contractual arrangements should be made with nearby States with more adequate facilities and programs.

ICJS

The population of the Women's Reformatory is relatively small in comparison to populations of the State Penitentiary at Ft. Madison and the Men's Reformatory at Anamosa. Plans have not been made to relocate the Women's Reformatory and to have coed work release centers. The Women's Residential Center in Des Moines operates as an alternative to imprisonment other than parole. Contractual arrangements for consolidation of

facilities with another state have not been formulated.

Arrangements may be made with other states through the Interstate Corrections Compact for interstate transfer and may be requested by the offender. Appropriate reasons for interstate transfer may include the following situations:

- (1) Closer located to family and relatives.
- (2) Present custody status may restrict realistic treatment program involvement; and
- (3) Treatment program may be facilitated at different correctional facility.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 11.6 contd.

7. As a 5-year objective, male and female institutions of adaptable design and comparable populations should be converted to coeducational facilities.
 - a. In coeducational facilities, classification and diagnostic procedures also should give consideration to offenders' problems with relation to the opposite sex, and coeducational programs should be provided to meet those needs.
 - b. Programs within the facility should be open to both sexes.
 - c. Staff of both sexes should be hired who have interest, ability and training in coping with the problems of both male and female offenders. Assignments of staff and offenders to programs and activities should not be based on the sex of either.

ICJS

There are no known plans to convert or consolidate present men's and women's correctional institutions to coeducational facilities. Iowa does not have male and female institutions of comparable populations as there is a much smaller number of women offenders in the Women's Reformatory than the relatively large numbers of male offenders in the Men's Reformatory and State Penitentiary. The Women's Reformatory is an open minimum security institution devoid of perimeter walls or fences in comparison to the design and operation of the Men's Reformatory as a medium security institution and the Penitentiary as a maximum security facility.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 11.7 RELIGIOUS PROGRAMS

RELATED IOWA STANDARD 9.7 RELIGIOUS PROGRAMS

Each institution should immediately adopt policies and practices to insure the development of a full range of religious programs.

ICJS

All correctional institutions in Iowa have allowed development of religious programs. The Department of Social Services has 24 chaplains and chaplain-interns assigned to 11 institutions including mental hospitals as well as the prisons and training schools. The chaplains are merit system employees who must meet qualifications set by the State.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is different than NAC

NAC 11.7 contd.

1. Program planning procedures should include religious history and practices of the individual, to maximize his opportunities to pursue the religious faith of his choice while confined.

ICJS

Included in the admission summary of each individual when received at an institution is religious preference and future needs while in the institution. During the diagnostic work up prior to meeting with the classification committee for program planning, a chaplain (if available) meets individually and with groups to discuss religious interests, preference, background and training and future needs. Religious services are discussed when meeting with the classification committee.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 11.7 contd.

2. The chaplain should play an integral part in institutional programs.

ICJS

Chaplains are a part of institutional programs, but not all institutions have a full time chaplain.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 11.7 contd.

3. To prevent the chaplain from becoming institutionalized and losing touch with the significance of religion in free society, sabbaticals should be required. The chaplain should return to the community and participate in religious activities during the sabbatical. Sabbatical leave also should include further studies, including study of religions and sects alien to the chaplain but existing in his institution. Funds should be provided for this purpose.

ICJS

Sabbaticals for the chaplain in an institution are not required but may be and have been taken for educational leave and exchange of positions in institutions. Some chaplains are part time and provide services to the community as well as the institution.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 11.7 contd.

4. The chaplain should locate religious resources in the civilian community for those offenders who desire assistance on release.

ICJS

The chaplain (if available) and other religious leaders and groups associated with the institution assist inmates in any reasonable request for religious programs.

Analysis

ICJS practice is the same as NAC Standard
ICJS principle is the same as NAC

NAC 11.7 contd.

5. The correctional administrator should develop an adaptive attitude toward the growing numbers of religious sects and beliefs and provide all reasonable assistance to their practice.
6. Community representatives of all faiths should be encouraged to participate in religious services and other activities within the institution.

ICJS

In all institutions in Iowa, community representatives of various faiths are included in institutional programs. One specific example of this participation is the Cursillo program involving community representatives of different faiths at the State Penitentiary in Ft. Madison. Approximately 30 men from the communities of Iowa live in the institution for 4 days and nights with an all day ongoing exchange of experience.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 11.8 RECREATION PROGRAMS

RELATED IOWA STANDARD 9.8 RECREATION PROGRAMS

Each institution should develop and implement immediately policies and practices for the provision of recreation activities as an important resource for changing behavior patterns of offenders.

1. Every institution should have a full-time trained and qualified recreation director with responsibility for the total recreation program of that facility. He also should be responsible for integration of the program with the total planning for the offender.
2. Program planning for every offender should include specific information concerning interests and capabilities related to leisure-time activities.

ICJS

Not all institutions have a full time recreation director but all have developed recreational activities and programs.

The policy and procedure guidelines manual of the Bureau of Correctional Institutions and other data points out that recreation, athletics, and hobbies are discussed when meeting with the Classification Committee for program planning. However, recreational periods are usually conducted at a time when the inmate population is on a "free time" schedule and participation by inmates is on a voluntary basis. Inmates are encouraged to participate and recreational programs have been set up to accommodate all inmates who are interested and express a desire to participate.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 11.8 contd.

3. Recreation should provide ongoing interaction with the community while the offender is incarcerated. This can be accomplished by bringing volunteers and community members into the institution and taking offenders into the community for recreational activities. Institutional restriction in policy and practice which bars use of community recreational resources should be relaxed to the maximum extent possible.

ICJS

There are presently certain recreation activities that do provide ongoing interaction between the inmate and the community. Various recreational activities such as competitive sports, music and entertainment groups, self-help groups and craft and hobby programs bring community members into the institution. Inmates may go out into the community by use of furloughs and work release.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 11.8 contd.

4. The range of recreational activities to be made available to inmates should be broad in order to meet a wide range of interests and talents and stimulate the development of the constructive use of leisure time that can be followed when the offender is reintegrated into the community. Recreational activities to be offered inmates should include music, athletics, painting, writing, drama, handcrafts, and similar pursuits that reflect the legitimate leisure-time activities of free citizens.

ICJS

A wide variety of recreation, self help and hobby programs are made available to inmates and are considered a highly important part of the rehabilitation program. All of the above named recreational activities are presently available to inmates. Sports activities include basketball, volleyball, weightlifting, shuffleboard, ping pong, table top (cards, dominoes, chess, etc.), football, softball, baseball, tennis, horseshoes, handball, etc. In many instances where crafts and hobby programs are scheduled, the completed items are placed for sale and offer revenue for the inmate involved.

It has been recognized that recreational activities are of paramount importance. Participation in recreation has proven to be a good morale booster and an excellent asset to inmates on parole.

Analysis

ICJS practice meets NAC Standard

ICJS principles is the same as NAC

**NAC CORRECTIONS STANDARD 11.9
COUNSELING PROGRAMS**

**RELATED IOWA STANDARD
9.9 COUNSELING PROGRAMS**

Each institution should begin immediately to develop planned, organized, ongoing counseling programs, in conjunction with the implementation of Standard 11.3, Social Environment of Institutions, which is intended to provide a social-emotional climate conducive to the motivation of behavioral change and interpersonal growth.

ICJS

All correctional institutions would generally meet recommendations of this standard as all have ongoing counseling programs to assist offenders in working out problems, adjusting, and planning for the future.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 11.9 contd.

1. Three levels of counseling programs should be provided:
 - a. Individual, for self-discovery in a one-to-one relationship.
 - b. Small group, for self-discovery in an intimate group setting with open communication.
 - c. Large group, for self-discovery as a member of a living unit community with responsibility for the welfare of that community.

ICJS

All institutions have individualized counseling programs for routine or intensive counseling on a one-to-one basis. The time available for individual counseling may be limited due to caseload, writing reports and other related duties of the counselors. Group counseling with varying sizes of groups has been used for years in institutions in problem areas such as drug abuse and alcohol but may be lacking or limited in some institutions due to caseload of counselors. In some institutions, small housing units have undertaken larger group counseling for the client population assigned therein. However, most institutions have not been definitive as to small and large group counseling but programs are tailored to meet needs of individuals, available personnel, and facilities.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 11.9 contd.

2. Institutional organization should support counseling programs by coordinating group living, education, work, and recreational programs to maintain an overall supportive climate. This should be accomplished through a participative management approach.

ICJS

In some small housing units in institutions, counseling programs are coordinated by group living. The Team Treatment approach is being used at the Men's Reformatory. However, as a general rule, assignment of counselors to inmates is on an individual selected basis upon admission to the institution.

A participative management approach involving inmates is not used but inmates are involved in the decision making process as it relates to each individual.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 11.9 contd.

3. Each institution should have a full-time counseling supervisor responsible for developing and maintaining an overall institutional program through training and supervising staff and volunteers. A bachelor's degree with training in social work, group work, and counseling psychology should be required. Each unit should have at least one qualified counselor to train and supervise nonprofessional staff. Trained ex-offenders and paraprofessionals with well-defined roles should be used.

CONTINUED

3 OF 4

ICJS

All institutions have a Supervisor of Counseling Services with a staff of vocational rehabilitation and institutional counselors. Counselors are involved with some of the self-help groups. The use of volunteers, ex-offenders and paraprofessionals in counseling areas would seem to be very limited. A bachelor's degree is required for most levels of counseling positions. The Work Release Center at Newton has had a counselor assistant training program to train qualified interested ex-felons to be correctional or parole staff on the assistant or paraprofessional level.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 11.9 contd.

4. Counseling within institutions should be given high priority in resources and time.

ICJS

It is apparent with the present staff of counselors at all institutions that counseling is stressed. Emphasis is on treatment and rehabilitation to help offenders to try to understand and make adjustments in regard to attitudes and behavior. However, it is only one component of the total treatment program for each individual.

Caseloads of counselors at some of the larger institutions are very large, and with other related responsibilities of counselors such as report preparation, one to one counseling time with inmates would be restricted.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 11.10 PRISON LABOR AND INDUSTRIES

RELATED IOWA STANDARD 9.10 PRISON LABOR AND INDUSTRIES

Each correctional agency and each institution operating industrial and labor programs should take steps immediately to reorganize their programs to support the reintegrative purpose of correctional institutions.

1. Prison industries should be diversified and job specifications defined to fit work assignments to offenders' needs as determined by release planning.

ICJS

The stated purpose of correctional industries operating within the correctional institutions is to provide training of the inmate in salable occupational and social skills and work experiences in using these skills productively for coping in the outside world when released.

Prison industries at the Men's Reformatory, Anamosa, include metal product manufacturing (license plates, road signs and classroom furniture), tire recapping, soap products manufacturing, dry cleaning, and printing. The manufacture of wood furniture and the reupholster and repair of furniture are industries at the State Penitentiary, Ft. Madison. The Women's Reformatory at Rockwell City has only one industry, garment manufacturing.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 11.70 contd.

2. All work should form part of a designed training program with provisions for:
 - a. Involving the offender in the decision concerning his assignment.
 - b. Giving him the opportunity to achieve on a productive job to further his confidence in his ability to work.
 - c. Assisting him to learn to develop his skills in a number of job areas.
 - d. Instilling good working habits by providing incentives.

ICJS

Institutional work programs are a part of the treatment program individually tailored for each inmate with training programs as needed. Although the inmate is involved in the decision concerning his work assignment, a recommendation is made to him during initial classification. Developing skills in a number of job areas would be improbable because of limited correctional industry programs. As an incentive, progress within a job allows periodic pay increases as improvements on the job occur. Work provides the inmate with money for necessary incidentals, commissary, and future savings but the pay scale ranges from sixteen to thirty one cents an hour.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 11.10 contd.

3. Joint bodies consisting of institution management, inmates, labor organizations, and industry should be responsible for planning and implementing a work program useful to the offender, efficient, and closely related to skills in demand outside the prison.

ICJS

Institutional management is primarily responsible and would plan and implement work programs. Correctional Industries have received support from business men and community leaders through advisory committees, production consultation, advice about trends and occupation, and in markets and assistance in job placements. However, the use or sale of prisonmade products is limited to public agencies. See Sections 246.21, 246.23, 246.24, Code.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 11.10 contd.

4. Training modules integrated into a total training plan for individual offenders should be provided. Such plans must be periodically monitored and flexible enough to provide for modification in line with individuals' needs.

ICJS

A system of standards is developed whereby an individual's work is evaluated and measured in terms of progress and effectiveness within the Industrial Program.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 11.10 contd.

5. Where job training needs cannot be met within the institution, placement in private industry on work-furlough programs should be implemented consistent with security needs.

ICJS

Work release and furlough programs with employment in the community are utilized by both the Men's Reformatory and the State Penitentiary. The minimum security work release unit that was part of the State Penitentiary at Ft. Madison, but located outside the perimeter of the institution, has been closed. Therefore, there are presently no work release placements in the Fort Madison area and inmates qualifying for work release are transferred to the Newton Work Release facility.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is similar to NAC

Recommendations made in "An Evaluation of Present Conditions at Iowa State Penitentiary, Fort Madison, Iowa" conducted by, The American Correctional Association, Report Submitted January 25, 1975, were:

"Work release procedures should be reviewed giving Penitentiary staff more decision making authority."

(Departmental action has transferred work release to community services and this requires that a member of the Parole Board, Community Services Division and Division of Corrections approve all work releases. Prior to this transfer, responsibility for administration of the work release program was in the institution).

"Immediate steps should be taken to increase the amount of productive, purposeful employment available for inmates. This should be done primarily through the establishment of added prison industries, and should not simply be 'made work' assignments."

NAC 11.10 contd.

6. Inmates should be compensated for all work performed that is of economic benefit to the correctional authority or another public or private entity. As a long-range objective to be implemented by 1978, such compensation should be at rates representing the prevailing wage for work of the same type in the vicinity of the correctional facility.

ICJS

Inmates are compensated for employment by Correctional Industries with a pay range from 16 cents to 31 cents an hour. Inmates on work release employed in the community are paid the prevailing wage.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is significantly different than NAC

The operation of Correctional Industries is supported from a revolving fund replenished by sale of goods to the State, its political units, agencies, and public institutions, and not-for-profit corporations. See Section 246.26, 246.27, Code.

**NAC CORRECTIONS STANDARD 12.1
ORGANIZATION OF PAROLING AUTHORITIES**

**RELATED IOWA STANDARD
10.2 ORGANIZATION OF PAROLING AUTHORITIES**

Each State that has not already done so should, by 1975, establish parole decisionmaking bodies for adults and juvenile offenders that are independent of correctional institutions. These boards may be administratively part of an overall statewide correctional services agency, but they should be autonomous in their decisionmaking authority and separate from field services.

ICJS

Iowa complies with this recommendation of the standard for adults only. The Iowa Board of Parole is a statutory state agency created by Chapter 247, Code of Iowa. The Parole Board is independent of correctional institutions and is not administratively part of the State Department of Social Services. Board members are appointed by the Governor with confirmation by the Senate. (See also Revised Criminal Code, ch. 3, sec. 401-405.)

A parole decisionmaking body has not been established for juveniles. Parole decision-making for juveniles is for the most part an administrative function of institutional personnel. Parole from the State Training Schools may be ordered by the state director of the Division of Community Services of the Department of Social Services (IOWA CODE sec. 242.12 (1975).)

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.1 contd.

The board responsible for the parole of adult offenders should have jurisdiction over both felons and misdemeanants.

ICJS

The Iowa Board of Parole has jurisdiction for parole decision making over felons only. The Board of parole determines which of the inmates of the "state penal institutions" qualify and are placed upon parole. (Section 247.5, Code of Iowa (1975); see also Revised Criminal Code, ch. 3, sec. 601-602.) Punishment for conviction of misdemeanors is imprisonment in the county jail and/or by fine. Felons are sentenced to state correctional institutions.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.1 contd.

1. The boards should be specifically responsible for articulating and fixing policy, for acting on appeals by correctional authorities or inmates on decisions made by hearing examiners, and for issuing and signing warrants to arrest and hold alleged parole violators.

ICJS

The Iowa Board of Parole is in accord with some recommendations of this standard. Section 247.6, Code of Iowa, 1975, provides: "Said board shall have power to establish rules and conditions under which parole may be granted." (See also Revised Criminal Code, ch. 3, sec. 602.) The Iowa Board of Parole has established rules of procedure. In **State v. Watts**, 186 N.W. 2d 611 (Iowa 1971), the court ruled the legislature can delegate to parole board the power to make rules and regulations to carry out objectives of this statute.

The Board of Parole has formulated rules concerning appeals by inmates from Board decisions. (See Iowa Board of Parole (615) Rules, ch. 9, effective 9-13-76.) The Board does not have specific rules for acting on appeals by correctional authorities.

Rules of the Board Parole provide that the Executive Secretary of the Board may issue a warrant for the detention of the parolee. (See Iowa Board of Parole Rules, 615-7.4 (247).) Pursuant to the Revised Criminal Code, a parole officer may arrest an alleged parole violator or the parole officer may make a complaint before a magistrate who shall issue an arrest warrant. (See Revised Criminal Code, ch. 3, sec. 801, 808.)

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.1 contd.

2. The boards of larger States have a staff of full-time hearing examiners appointed under civil service regulations.

ICJS

Currently in Iowa the Board of Parole has a staff of two full-time liaison officers employed under Merit rules who serve as hearing officers. The Executive Secretary who is appointed by the Board also acts as a hearing officer when necessary. (See Section 247.3, Code of Iowa; but see Revised Criminal Code, ch. 3, sec. 405.)

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 12.1 contd.

3. The boards of smaller States may assume responsibility for all functions; but should establish clearly defined procedures for policy development, hearings, and appeals.

ICJS

The Iowa Board of Parole is in accord with this standard. Written rules of the Board establish policy and define procedures for hearings and appeals. Hearing procedures also are set forth in the Revised Criminal Code. (See Revised Criminal Code, ch. 3, sec. 604-613, 801-809.)

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 12.1 contd.

4. Hearing examiners should be empowered to hear and make initial decisions in parole grant and revocation cases under the specific policies of the parole board. The report of the hearing and the evidence should constitute the exclusive record. The decision of the hearing examiner should be final unless appealed to the parole board within 5 days by the correctional authority or the offender. In the case of an appeal, the parole board should review the case on the basis of whether there is substantial evidence in the report to support the finding or whether the finding was erroneous as a matter of law.

ICJS

In Iowa, the Board of Parole makes the final decision to grant and revoke parole. The Board members make all decisions in parole grant cases. However, a pre-parole committee at the correctional institution interviews inmates and makes a recommendation for or against parole prior to submission of progress reports to the Parole Board. A parole interview may be conducted by parole board members or a designee of the board. (See Iowa Board of Parole Rules, 615 - 3.6 (247).) Information that is considered by the parole board is defined in their rules. (See 615 - 4.7 (247).)

The hearing officer makes initial decisions in parole revocation matters. However, the Board of Parole always makes the final decision relying on the findings of facts of the hearing officer. The hearing officer makes a summary report of the testimony and findings of fact of the preliminary hearing. A transcript of the hearing is not required. However, the preliminary parole revocation hearing is recorded. (See Iowa Board of Parole rules, 615 - 7.6 (247); See also Revised Criminal Code, ch. 3, sec. 806.)

As defined in Chapter 9, Iowa Board of Parole Rules, the Board has established policy for

inmate appeals. "Each inmate who is denied parole or who is aggrieved by any other decision of the Board of Parole or who wishes to appear before the board of parole may request the same...."

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is significantly different than NAC

NAC 12.1 contd.

5. Both board members and hearing examiners should have close understanding of correctional institutions and be fully aware of the nature of their programs and the activities of offenders.

ICJS

Parole board members and liaison officers work closely with institutional personnel. An Admission Summary report and progress reports of each inmate are prepared by institutional staff and delivered to the Board of Parole. The liaison officers work closely with Board of Parole members, institutional staff and inmates. The liaison officers are located at the State Penitentiary in Ft. Madison and at the Men's Reformatory at Anamosa.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

6. The parole board should develop a citizen committee, broadly representative of the community and including ex-offenders, to advise the board on the development of policies.

ICJS

In Iowa, a citizen committee has not been developed. Plans have not been made to develop a committee to advise the Parole Board on policy development. The Iowa Administrative Procedures Act, Chapter 17A, Code of Iowa, 1975, to be effective July 1, 1975, provides for public participation in the formulation of administrative rules of state agencies.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 12.2
PAROLE AUTHORITY PERSONNEL**

**RELATED IOWA STANDARD
10.3 PAROLE AUTHORITY PERSONNEL**

Each State should specify by statute by 1975 the qualifications and conditions of appointment of parole board members.

ICJS

Iowa has statutory provisions regarding appointment of parole board members:

"The board of parole shall consist of three electors of the state. Not more than two members shall belong to the same political party. One member shall be a practicing attorney at law at the time of his appointment. Each member shall serve for six years from July 1

of the year of his appointment, except appointees to fill vacancies who shall serve for balance of the unexpired term. The chairman of the board shall be the member whose term first expires." (Section 247.1, Code.) The Revised Criminal Code increases the number of parole board members to five. (Ch. 3, sec. 401.)

"The governor shall, during each regular session of the general assembly and within sixty days after the convening thereof, appoint, with the approval of two-thirds of the members of the senate, a successor to that member of board whose term will expire on July 1 following. Appointments may be made when the general assembly is not in session, to fill vacancies, but such appointments shall be subject to the approval of two-thirds of the members of the senate when next in session. Vacancies occurring during a session of the general assembly shall be filled as regular appointments are made and before the end of said session, and for the unexpired portion of the regular term." (Section 247.2, Code of Iowa; see also Revised Criminal Code, ch. 3, sec. 402.)

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 12.2 contd.

1. Parole boards for adult and juvenile offenders should consist of full-time members.

ICJS

In Iowa, adult parole authority positions are held by part-time personnel. Parole boards for juvenile offenders do not exist.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 12.2 contd.

2. Members should possess academic training in fields such as criminology, education, psychology, psychiatry, law, social work, or sociology.

ICJS

Currently, the only academic qualification required by statute is specified in Section 247.1, Code of Iowa, 1975: "One member shall be a practicing attorney at law at the time of his appointment." (See also Revised Criminal Code, ch. 3, sec. 401.)

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is significantly different than NAC

NAC 12.2 contd.

3. Members should have a high degree of skill in comprehending legal issues and statistical information and an ability to develop and promulgate policy.

ICJS

By statute, one member of the Parole Board must be a lawyer. See ICJS introductory commentary, this standard, 12.2.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.2 contd.

4. Members should be appointed by the governor for six-year terms from a panel of nominees selected by an advisory group broadly representative of the community. Besides being representative of relevant professional organizations, the advisory group should include all important ethnic and socio-economic groups.

ICJS

Iowa parole board members are appointed by the Governor with confirmation by the Senate (Section 247.1, Code of Iowa). Members serve six year terms except appointees to fill vacancies serve for the balance of the unexpired term (Section 247.2, Code of Iowa). The Revised Criminal Code changes the term to five years. (Ch. 3, sec. 401.)

Nominees are not selected by a nonpartisan citizen advisory group.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.2 contd.

5. Parole boards in the small States should consist of no less three full-time members. In most States, they should not exceed five members.

ICJS

The Iowa Board of Parole consists of three part-time members. The parole board will consist of five part-time members when the Revised Criminal Code goes into effect in 1978. (See Revised Criminal Code, ch. 3, sec. 401.)

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.2 contd.

6. Parole board members should be compensated at a rate equal to that of a judge of a court of general jurisdiction.

ICJS

Because Parole Board members only serve on a part-time basis, it is difficult to make a valid comparison of earnings to full-time judicial magistrates and district court judges.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.2 contd.

7. Hearing examiners should have backgrounds similar to that of members but need not be as specialized. Their education and experiential qualifications should allow them to understand programs, to relate to people, and to make sound and reasonable decisions.

ICJS

In Iowa, education and experience qualifications that are in accord with intent of this standard are required for Parole Board Liaison officers. Members of the Parole Board are not required to have specialized backgrounds other than one member must be a practicing attorney by law.

Education experience and special requirements through Merit for liaison officers are graduation from high school or G.E.D. and six years experience as a Parole or Probation Officer; or graduation from high school and six years of counseling experience one year of which was working with adult or juvenile criminal offenders; or an equivalent combination of experience and education with a maximum substitution of five years education for experience.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 12.2 contd.

8. Parole board members should participate in continuing training on a national basis. The exchange of parole board members and hearing examiners between States for training purposes should be supported and encouraged.

ICJS

Some Parole Board members have participated in National Parole Institute training sponsored by NCCD. Board members have attended and continue to attend meetings of the American Parole Association, Central States Association and American Correctional Association.

Parole Board members and Liaison Officers have not been exchanged between states for training purposes.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

**NAC CORRECTIONS STANDARD 12.3
THE PAROLE GRANT HEARING**

**RELATED IOWA STANDARD
10.4 THE PAROLE GRANT HEARING**

Each parole jurisdiction immediately should develop policies for parole release hearings that include opportunities for personal and adequate participation by the inmates concerned; procedural guidelines to insure proper, fair, and thorough consideration of every case; prompt decisions and personal notification of decisions to inmates; and provision for accurate records of deliberation and conclusions.

ICJS

The Iowa Board of Parole has developed policy and procedure for granting parole and has defined this policy in Iowa Board of Parole Rules (effective Sept. 13, 1976). Generally,

progress reports and parole recommendations must be submitted by the institution or facility staff to the board of parole at least once every 13 months. (615 - 3.1 (247).) The Revised Criminal Code defines procedures for parole. All persons, other than lifers, must be interviewed within the first year of commitment and have at least an annual review thereafter. (ch. 3, sec. 604.)

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.3 contd.

A proper parole grant process should have the following characteristics:

1. Hearing should be scheduled with inmates within one year after they are received in an institution. Inmates should appear personally at hearings.

NAC 12.3 contd.

2. At these hearings, decisions should be directed toward the quality and pertinence of program objectives agreed upon by the inmate and the institution staff.

ICJS

See previous commentary section for time of interviews. Chapters 3 and 4 of the Iowa Board of Parole rules set forth requirements for progress reports, inmate interviews, and parole considerations.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.3 contd.

3. Board representatives should monitor and approve programs that can have the effect of releasing the inmate without further board hearings.

ICJS

A Parole Board designee, the Executive Secretary, is involved in the decisionmaking process for work release. Parole board personnel are not involved in the granting of furloughs. Pursuant to Chapter 247A.3, Code of Iowa, 1975, the Executive Secretary, as designated by the Board of Parole, is a voting member of the Work Release Committee which approves work release for inmates. Institutional staff determine whether to grant furloughs. Annual progress reports for inmates submitted to the Board of Parole contain a work release record and information on all furloughs granted.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.3 contd.

4. Each jurisdiction should have a statutory requirement, patterned after the Model Penal Code, under which offenders must be released on parole when first eligible unless certain specific conditions exist.

ICJS

Iowa does not have a statutory requirement under which parole is granted automatically after the service of a certain portion of a prison term. Traditionally, the inmate, not the correctional authority bears the burden of proof by his record that he is ready for parole.

In Iowa, parole is granted by the discretionary action of the Parole Board which evaluates information about an inmate and determines whether he is ready to be reintegrated into society. Inmates are statutorily eligible for parole at the time of commitment to the institution except prisoners serving life terms or infected with venereal disease in communicable stage (Section 247.5, Code of Iowa, 1975).

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.3 contd.

5. When a release date is not agreed upon, a further hearing date within one year should be set.

ICJS

Progress reports and recommendations for or against parole must, except for inmates serving life sentences, be submitted by the institution staff to the Board of Parole at least once every thirteen months (615 - 3.1 (24) Iowa Board of Parole Rules). In accordance with Section 247.5, Code of Iowa, progress reports for inmates serving life sentences must be submitted after the inmate has served fifteen years of a life sentence. The Board of Parole must interview all such persons after they have served fifteen years of a life sentence and must make similar interviews at least every three years thereafter. A lifer cannot be paroled, but the parole board may recommend that the governor commute a lifer's sentence to a specific number of years, which makes parole possible. However, the Revised Criminal Code provides for interview of lifers after five years. (See ch. 3, sec. 202.)

Progress reports and parole recommendations initiated by the institution staff or a Board of Parole Liaison Officer may be presented to the Board at any time (615 - 3.2 (247) Iowa Board of Parole Rules).

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.3 contd.

6. A parole board member or hearing examiner should hold no more than 20 hearings in any full day.

ICJS

A maximum number of hearings to be held in any day has not been established.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.3 contd.

7. One examiner or member should conduct hearings. His findings should be final unless appealed to the full parole board by the correctional authority or the inmate within 5 days.

8. Inmates should be notified of any decision directly and personally by the board member or representative before he leaves the institution.

9. The person hearing the case should specify in detail and in writing the reasons for his decision, whether to grant parole or to deny or defer it.

ICJS

If the parole board decides to grant parole, the inmate is notified in writing. If the parole board makes a decision not to grant parole, the inmate is notified of such and the reasons therefor in writing. Inmates who have been denied a parole interview as a result of the board's review of the inmate's progress report are entitled to appear before the board. (See chapter 3, Iowa Board of Parole rules.)

However, prior to scheduling parole grant interviews at the institutions, the Parole Board reviews progress reports in chambers at their monthly meetings. At that time, the Board decides whether or not to schedule the inmate for an interview. When evaluating an offender's readiness for parole, the board now relies heavily on the periodic progress reports submitted by prison administrators. Factors that are considered in whether to grant parole include the nature of the offense, previous offenses, recidivism record, convictions or behavior indicating propensity for violence, participation in programs, including academic and vocational training, freedom from misconduct in the institution, record of court probation, prior parole, or work release, any history of drug or alcohol abuse, and formulation of a realistic parole plan by the inmate. (See Iowa Board of Parole rules, chapter 4; see also Revised Criminal Code, ch. 3, sec. 204.)

NAC 12.3 contd.

10. Parole procedures should permit disclosure of information on which the hearing examiner bases his decisions. Sensitive information may be withheld, but in such cases nondisclosure should be noted in the record so that subsequent reviewers will know what information was not available to the offender.

ICJS

Generally, information that is considered by the parole board is disclosed to the prisoner except where it is not deemed feasible. Guidelines for disclosure of information considered by the parole board is set forth in the Iowa Board of Parole rules, 615 - 4.7 (247).

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.3 contd.

11. Parole procedures should permit representation of offenders under appropriate conditions, if required. Such representation should conform generally to Standard 2.2 on Access to Legal Services.

ICJS

Parole revocation procedures allow representation of offenders. (See Revised Criminal Code, ch. 3, sec. 802, 807; see also Iowa Board of Parole rules, ch. 7.6 (9).) However, the parole board is not required to hear oral statements or arguments either by attorneys or other persons. (See Revised Criminal Code, ch. 3, sec. 606.) Communications by the public to the board of parole concerning inmates or parolees must be in writing. Oral presentations regarding inmates or parolees will be heard only with the consent of the board. (See Iowa Board of Parole rules, chapter 1.)

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 12.4 REVOCATION HEARINGS

RELATED IOWA STANDARD 10.5 PAROLE REVOCATION HEARINGS

Each parole jurisdiction immediately should develop and implement a system of revocation procedures to permit the prompt confinement of parolees exhibiting behavior that poses a serious threat to others. At the same time, it should provide careful controls, methods of fact-finding, and possible alternatives to keep as many offenders as possible in the community. Return to the institution should be used as a last resort, even when a factual basis for revocation can be demonstrated.

ICJS

Parole revocation procedures in Iowa are defined in the Iowa Board rules (effective September 13, 1976), Chapter 7, Termination and Revocation of Parole. These rules are in compliance with findings of the Supreme Court in **Morrissey v. Brewer**, 92 S.Ct. 2593 (1972) and **Gagnon v. Scarpelli**, 93 S.Ct. 1756 (1973) relating to parole revocation procedure.

"Under statutes, there is no provision for hearing before parole board revocation of suspension of sentence of parole." (**Curtis v. Bennett**, 131 N.W. 2d 1 (1964)).

The Board of Parole has the power by statute to direct parole officers to make any investigation which the Board may deem necessary in order to determine the facts relative to matters coming before it (See Section 247.13, Code).

Parole revocation procedures are defined by statute in the Revised Criminal Code. (See Revised Criminal Code, ch. 3, sec. 801-809.)

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

1. Warrants to arrest and hold alleged parole violators should be issued and signed by parole board members.

ICJS

Arrest warrants are issued and signed by the Executive Secretary of the Board of Parole. However, by statute (Section 247.24, Code), parole officers have all the powers of a peace officer. Therefore, parole officers can arrest parolees for an alleged violation. Rules and policy developed by the Board and Department of Social Services provide that parole officers can hold parolees in custody for up to five (5) working days. Over five working days, arrest warrants may be issued by the Board of Parole through the Executive Secretary.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.4 contd.

Tight control should be developed over the process of issuing such warrants. They should never be issued unless there is sufficient evidence of probable serious violation. In some instances, there may be a need to detain alleged parole violators. In general, however, detention is not required and is to be discouraged.

ICJS

Arrest warrants are issued by the Executive Secretary of the Board relying upon the recommendation of the Parole Officer. The parole officer has the discretion to arrest the parolee. The Revised Criminal Code provides that a parole officer may arrest a parole violator or the parole officer may make a complaint before a magistrate who will issue a warrant. (See Revised Criminal Code, ch. 3, sec. 801.)

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 12.4 contd.

Any parolee who is detained should be granted a prompt preliminary hearing.

ICJS

The present revocation procedure in Iowa complies with the intent of this recommendation.

In **Morrissey v. Brewer**, supra, the Supreme Court held, "People revocation hearing must be tendered within reasonable time after parolee is taken into custody. A lapse of two months, as the State suggests occurs in some cases would not appear to be unreasonable."

In **Thomas v. State, Board of Parole**, 220 N.W. 2d 874 (1974), the Iowa Supreme Court held, "Parole board should act with reasonable celerity in tendering a revocation hearing, and time lapse must not be unreasonable. Where parolee was arrested on September 13 for violating parole, and (preliminary) revocation hearing was held on October 24, time lapse was not unreasonable."

See also Revised Criminal Code, ch. 3, sec. 802.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 12.4 contd.

Administrative arrest and detention should never be used simply to permit investigation of possible violations.

2. Parolees alleged to have committed a new crime but without other violations of conditions sufficient to require parole revocation should be eligible for bail or other release pending the outcome of the new charges, as determined by the court.

ICJS

Although eligible for bail, a parolee is detained whenever charged with new offenses in most instances. If he is not arrested for allegedly committing a public offense, the parole authority can issue an arrest warrant and proceed to revoke the parole.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.4 contd.

3. A preliminary hearing conducted by an individual not previously directly involved in the case should be held promptly on all alleged parole violations, including convictions of new crimes, in or near the community in which the violation occurred unless waived by the parolee after due notification of his rights.

ICJS

The preliminary hearing procedure in Iowa is in compliance with the requirements of findings in **Morrissey v. Brewer**, supra, and **Gagnon v. Scarpelli**, 93 S.Ct. 1756 (1973) "On arrest for parole violation, due process requires inquiry in nature of preliminary hearing to determine whether there is probable cause or reasonable grounds to believe that parolee committed acts which would constitute violation of parole conditions; such inquiry should be conducted at or reasonably near place of alleged parole violation or arrest and as promptly as convenient after arrest, by someone, not necessarily judicial officer, not directly involved in the case." **Morrissey v. Brewer, Id.**

The preliminary hearings are held by hearing officers (liaison officers) of the Board of Parole.

A preliminary hearing is held promptly on alleged parole violations. See ICJS commentary, Standard 12.4, Section 1. However, a preliminary parole revocation hearing is not held if parolee is convicted of committing a public offense while on parole. Parolees who are sent to corrections institutions by reasons of new sentence need not be afforded preliminary parole revocation hearing, but are afforded a final parole revocation hearing. See Iowa Board of Parole Rules, Ch. 7.

Iowa complies with the ruling in **Morrissey v. Brewer**, supra, that preliminary hearing should be conducted at or reasonably near the place of alleged parole violation or arrest. This differs from the standard's recommendation of "in or near the community in which the violation occurred."

Parolee is notified of his rights and is given opportunity to waive preliminary hearing. (See Iowa Board of Parole Rules, ch. 7.)

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is the same as NAC

NAC 12.4 contd.

The purpose should be to determine whether there is probable cause or reasonable grounds to believe that the arrested parolee has committed acts that would constitute a violation of parole conditions and a determination of the value question of whether the case should be carried further, even if probable cause exists.

ICJS

This recommendation is being complied with in Iowa. Iowa Board of Parole Rules are in compliance with rulings of **Morrissey v. Brewer**, supra, for purpose of preliminary hearing. See ICJS commentary, Standard 12.4, Section 3.

Determination is made by the hearing officer at the preliminary revocation hearing of whether the case should be carried further, even if probable cause exists. But see Revised Criminal Code, ch. 3, sec. 806.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 12.4 contd.

The parolee should be given notice that the hearing will take place and of what parole violations have been alleged.

ICJS

This recommendation is being carried out. It was held in **Morrissey v. Brewer**, supra, "Parolee should be given written notice of preliminary hearing to determine whether there is probable cause to believe that parolee committed parole violation, and notice should state what parole violations have been alleged."

Iowa Board of Parole Rules comply with this ruling. The Executive Secretary sets the time and place of the preliminary parole revocation hearing and prepares a notice of the hearing which is served on the parolee not less than three (3) days prior to the hearing, unless time is waived.

See also Revised Criminal Code, ch. 3, sec. 806-809.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 12.4 contd.

He should have the right to present evidence, to confront and cross-examine witnesses, and to be represented by counsel.

ICJS

In compliance with the guarantee of due process set out in court cases, the parolee has the right to appear and present evidence in his own behalf, a conditional right to confront adverse witnesses and a right to have counsel. However, the right to counsel is not absolute and the state does not have to provide counsel in all cases. Counsel is appointed for the indigent parolee if the hearing officer determines that under the circumstances, fundamental fairness requires the appointment of counsel. However, "the state is not under a constitutional duty to provide counsel for indigents in all parole revocation cases; decision as to need for counsel must be made on a case-by-case basis in discretion by state authority charged with responsibility for administering the probation and parole system." **Gagnon v. Scarpelli**, supra.

The Supreme Court held in **Morrissey v. Brewer**, supra, "parolee may appear and speak in his own behalf and may bring letters, documents or individuals who can give relevant information to hearing officer..." The right to present evidence was upheld for the probationer or parolee at preliminary hearing in **Gagnon v. Scarpelli**, supra. In **Thomas v. State, Board of Parole**, supra, the Iowa Supreme Court held, "Due process requirement of disclosure to parolee of evidence against him applies as to both hearing-officer and parole board stages of revocation proceedings." Iowa Board of Parole Rules are in compliance with these rulings.

The Supreme Court held in **Morrissey v. Brewer**, supra, "on request of parolee, person who has given adverse information on which parole revocation is to be based is to be made available for questioning in his presence, but if hearing officer determines that informant would be subjected to risk of harm if his identity were disclosed, he need not be subjected to confrontation and cross-examination."

To exercise the right of confrontation in a revocation proceeding, a parolee must, prior to hearing-officer or parole board hearing, request production of individuals who made statements relating to alleged violations of conditions of parole. **Thomas v. State, Board of Parole**, supra.

Right of confrontation includes attendant opportunity to cross-examine, **Thomas v. State, Board of Parole**, supra.

In accordance with findings of the Supreme Court in **Gagnon v. Scarpelli**, supra, Iowa Board of Parole Rules provide that:

- (a) The parolee shall be afforded the right to retain his own counsel.
- (b) If the parolee waives counsel such shall be entered in the record.
- (c) If the state or the parole officer is represented by counsel, and the parolee requests appointed counsel, the request shall be granted.
- (d) In other cases where parolee asks that counsel be appointed for him, the request shall be granted if the hearing officer finds that the parolee does not have sufficient funds to retain his own counsel, and if the hearing officer further finds that (1) the parolee's request for counsel is based on a timely and colorable claim that he has not committed the alleged violation of the conditions of his parole; (2) or, that parolee's request for counsel is based on a timely and colorable claim that, even if the violation is a matter of public record or is uncontested by the parolee, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate, if those reasons are complex or otherwise difficult to develop or present.
- (e) If passing on a request for appointment of counsel, the hearing officer shall also consider, especially in doubtful cases, whether the parolee appears to be capable of speaking effectively for himself.
- (f) In every case in which request for counsel is denied, the grounds for refusal should be stated in the record.

The Revised Criminal Code establishes the right of an alleged parole violator to have an attorney. (See Revised Criminal Code, ch. 3, sec. 801).

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 12.4 contd.

The person who conducts the hearing should make a summary of what transpired at the hearing and the information he used to determine whether probable cause existed to hold the parolee for the final decision of the parole board on revocation.

ICJS

The hearing officer makes a report containing summary of testimony and his findings on the preliminary hearing. This is in compliance with the Court's ruling in **Morrissey v. Brewer**, supra, "Hearing officer determining whether there is probable cause to believe that parolee committed parole violation has duty of making summary or digest of what occurs at hearing in terms of responses of parolee and substance of documents or evidence given in support of parole revocation and of parolee's position and officer's determination should be based on information before him, but formalism is not required." In addition, Iowa Board of Parole rules provides that the preliminary and final parole revocation hearing are recorded by mechanized means.

But see Revised Criminal Code, ch. 3, sec. 803, 804.

Analysis

ICJS practice is the same as NAC Standard

ICJS principle is the same as NAC

NAC 12.4 contd.

If the evidence is insufficient to support a further hearing, or if it is otherwise determined that revocation would not be desirable, the offender should be released to the community immediately.

ICJS

If the hearing officer finds, upon the conclusion of the evidence, that probable cause does not exist, he orders the parolee to be released from custody and continued on parole. However, if the hearing officer finds that probable cause does exist, but also finds that

there exist circumstances which suggest that the violation does not warrant revocation of parole, he may order that the parolee be kept in custody or continue on parole pending the final decision of the Board of Parole. (Chapter 7, Iowa Board of Parole Rules)

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.4 contd.

4. At parole revocation hearings, the parolee should have written notice of the alleged infractions of his rules or conditions; access to official records regarding his case; the right to be represented by counsel, including the right to appointed counsel if he is indigent; the opportunity to be heard in person; the right to subpoena witnesses in his own behalf; and the right to cross-examine witnesses or otherwise to challenge allegations or evidence held by the State. Hearing examiners should be empowered to hear and decide parole revocation cases under policies established by the parole board. Parole should not be revoked unless there is substantial evidence of a violation of one of the conditions of parole. The hearing examiner should provide a written statement of findings, the reasons for the decision, and the evidence relied upon.

ICJS

Iowa Board of Parole final revocation hearing procedures are in compliance with rulings of the Supreme Court in **Morrissey v. Brewer**, supra, "Due process requires that parolee held pending final decision of parole board be given opportunity for hearing within reasonable time after he is taken into custody; minimal requirements include (a) written notice of claimed parole violations; (b) disclosure of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) right to confront and cross-examine adverse witnesses, unless hearing officer specifically finds good cause for not allowing confrontation; (e) "neutral and detached" hearing body such as traditional parole board; (f) written statement by factfinders as to evidence relied on and reasons for revocation."

Recommendations of the standard that differ are:

The "State is not under a constitutional duty to provide counsel for indigents in all probation or parole revocation cases." (**Gagnon v. Scarpelli**, supra). See ICJS commentary, Standard 12.4, Section 3.

Under Chapter 247, Iowa Code, the Board of Parole does not have specific power to subpoena witnesses. However, the Board of Parole will have power to subpoena witnesses when the Revised Criminal Code is enacted in 1978. (See ch. 3, sec. 607).

The parolee has a conditional right to confront and cross-examine adverse witnesses. See ICJS commentary, Standard 12.4, Section 3.

Hearing examiners do not hear and decide parole revocation cases. The Board of Parole conducts final revocation hearings and determines questions of fact.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 12.4 contd.

5. Each jurisdiction should develop alternatives to parole revocation, such as warnings, short-time local confinement, special conditions of future parole, variations in intensity of supervision or surveillance, fines, and referral to other community resources. Such alternative measures should be utilized as often as is practicable.

ICJS

Alternatives to parole revocation are being used by parole officers. However, it is the parole officer's discretion whether to utilize alternative measures.

Some of the alternatives being utilized by parole officers are warnings, short-time local confinement for investigative purposes, variations in intensity of supervision and surveillance, and referral to community resources such as alcohol and drug programs and mental health institutes. As there is no statutory authority, fines are not used.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 12.4 contd.

6. If return to a correctional institution is warranted, the offender should be scheduled for subsequent appearances for parole considerations when appropriate. There should be no automatic prohibition against reparole of a parole violator.

ICJS

Although there is no automatic prohibition against reparole of a parole violator, the parole record of the inmate is a factor to be considered in subsequent parole considerations.

Chapter 4.5, Iowa Board of Parole Rules provide, "Normally, an inmate whose parole has been revoked will not be considered for another parole for at least twelve months unless extraordinary circumstances indicate otherwise."

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 12.5 ORGANIZATION OF FIELD SERVICES

RELATED IOWA STANDARD 10.7 ORGANIZATION OF PAROLE FIELD SERVICES

Each State should provide by 1978 for the consolidation of institutional and parole field services in departments or divisions of correctional services. Such consolidations should occur as closely as possible to operational levels.

ICJS

In Iowa, correctional services have not been consolidated into a Department of Correctional Services. Most adult and juvenile correctional institutional and field services are under the State Department of Social Services but are administered by different divisions. However, some community-based institutional and parole services are locally administered but must comply with guidelines established for operation by the Department of Social Services. See Code of Iowa, Sections, 217.24, .26, .27, .28.

In addition to correctional institutions and services, the Department of Social Services administers programs and controls, manages, directs and, operates institutions concerned with family, child and adult welfare; economic assistance including costs of medical care; rehabilitation toward self care and support; treatment of the mentally ill and mentally retarded; and other related programs. (See Code of Iowa, Sections 217.1, 218.1).

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.5 contd.

1. Juvenile and adult correctional services may be part of the same parent agency but should be maintained as autonomous program units within it.

ICJS

Most juvenile and adult correctional services are separate divisions of the Department of Social Services.

Although some coordination and program planning exists and is necessary, close integration of lines of responsibility and consolidated program planning among the Divisions and Bureaus have not occurred.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.5 contd.

2. Regional administration should be established so that institutional and field services are jointly managed and coordinated at the program level.

ICJS

Iowa does not comply with this recommendation. Regional administration for coordination of programs has not been established for correctional institutions and field services. Each unit is separately administered. However, adult parole field services, administered by the Bureau of Community Correctional Services, was reorganized by establishing administration on the district level. District Supervisors are in charge of parole officers in defined areas of the state. The purpose of this organizational change was to make the Department of Social Services more responsive at the local level to program matters by delegating more authority at the operational level.

Like adult correctional services, state juvenile institutional and field services are organizationally under the Department of Social Services. However, consolidated planning does not occur between the adult and juvenile divisions and bureaus. Each tends to function as an autonomous unit under the umbrella of the Department. Also, all juvenile programs are not encompassed in statewide correctional agencies.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.5 contd.

3. Joint training programs for institutional and field staffs should be undertaken, and transfers of personnel between the two programs should be encouraged.

ICJS

For the most part, there have been very few training programs for institutional and field staffs. Adult institutional and field staffs have participated in a formalized training program, the Iowa Criminal Justice System, which was a component of the Iowa Correctional

Manpower Development Program. The program demonstrated the impact on persons from the time of arrest until return to the community. However, this is the only known joint training program undertaken to date. Joint staff meetings have been held with institutional and field staffs.

Although it is permissible for personnel to transfer from one program to another, there has not generally been a concerted effort to promote transfers. Also, most individually initiated transfers have involved transfer from institutional to field services.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 12.5 contd.

4. Parole services should be delivered, wherever practical, under a team system in which a variety of persons including parolees, parole managers, and community representatives participate.

5. Teams should be located, whenever practical, in the neighborhoods where parolees reside. Specific team members should be assigned to specific community groups and institutions designated by the team as especially significant.

6. Organizational and administrative practices should be altered to provide greatly increased autonomy and decisionmaking power to the parole teams.

ICJS

Iowa does not comply with these recommendations. Team methods of delivering parole services have not been undertaken. The present organizational structure for delivery of parole services is by assignment of individual offenders to individual officers. A parole officer is responsible for a caseload of parolees. Volunteers are being used in some areas of the state to work with parolees and parole officers.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC CORRECTIONS STANDARD 12.6 COMMUNITY SERVICES FOR PAROLEES

RELATED IOWA STANDARD 10.10 COMMUNITY SERVICES FOR PAROLEES

Each State should begin immediately to develop a diverse range of programs to meet the needs of parolees. These services should be drawn to the greatest extent possible from community programs available to all citizens, with parole staff providing linkage between services and the parolees needing or desiring them.

ICJS

Although parole officers do assist parolees in finding and utilizing community resources, programs to meet the needs of parolees have not been developed to the extent recommended by this standard. Program development has usually been by the parole officer on the local level.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.6 contd.

1. Stringent review procedures should be adopted, so that parolees not requiring supervision are released from supervision immediately and those requiring minimal attention are placed in minimum supervision caseloads.

ICJS

The Bureau of Community Correctional Services, the state agency administering parole services, has developed policy and procedure to establish a level of supervision in accordance with the need of the case. However, parolees remain on some level of supervision for a certain length of time and are not released to a minimum supervision level immediately. All cases receive close supervision when the parolee is initially released into the community. Following a period of observation and evaluation of the parolee, the probation-parole officer then determines the level of supervision to be used.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 12.6 contd.

2. Parole officers should be selected and trained to fulfill the role of community resource manager.

ICJS

It is evident parole officers have not been selected and trained primarily to assume the role of community resource manager because parole officers have not functioned strictly as a resource manager. Although community resources are used, the parole officer provides close supervision for those parolees requiring more supervision rather than or in addition to directing the parolee toward existing community resources.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 12.6 contd.

3. Parole staff should participate fully in developing coordinated delivery systems of human services.

ICJS

Although parole staff do assist parolees in finding needed resources in the community the parolee is expected and encouraged to take responsibility in seeking employment and other needed resources.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.6 contd.

4. Funds should be made available for parolees without interest charge. Parole staff should have authority to waive repayment to fit the individual case.

ICJS

Sections 247.17 and 247.18, Code of Iowa, 1975, provide for a parole relief fund that is available to paroled prisoners in distress because of illness, loss of employment, or conditions creating personal need. Amounts up to twenty-five dollars may be advanced and there is no interest charge. Repayment cannot be waived and must be made during the period of parole. The sum has been raised to one hundred dollars in the Revised Criminal Code (ch. 3, sec. 503).

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 12.6 contd.

5. State funds should be available to offenders, so that some mechanism similar to unemployment benefits may be available to inmates at the time of their release, in order to tide them over until they find a job.

ICJS

Iowa does not have any form of unemployment compensation for released offenders until they are gainfully employed. By statute, offenders cannot be released on parole until arrangements have been made for their employment or maintenance.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.6 contd.

6. All States should use, as much as possible, a requirement that offenders have a visible means of support, rather than a promise of a specific job, before authorizing their release on parole.

ICJS

As provided by Section 247.8, Code of Iowa, 1975:

"No person shall be released on parole until the board of parole shall have satisfactory evidence that arrangements have been made for his employment or maintenance."

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 12.6 contd.

7. Parole and State employment staffs should develop effective communication systems at the local level. Joint meetings and training sessions should be undertaken.

ICJS

Parole officers have developed working relationships with the Iowa State Employment Service and other agencies and organizations in the community that will help parolees in finding jobs. However, joint meetings and training sessions have not been undertaken by parole and State employment staffs.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.6 contd.

8. Each parole agency should have one or more persons attached to the central office to act as liaison with major program agencies, such as the Office of Economic Opportunity, Office of Vocational Rehabilitation, and Department of Labor.

ICJS

Each state probation-parole office does not have a central office liaison person to serve as a link to major program agencies. This is not possible with the existing limited manpower. This function is handled by the Bureau of Community Correctional Services central office administrative staff and by local parole officers making direct contacts to program agencies.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 12.6 contd.

9. Institutional vocational training tied directly to specific subsequent job placements should be supported.

ICJS

It is recognized the intent of the institutions is to have vocational training programs that can lead to future employment. However, it is realized vocational training in certain areas is not always tied to job placement.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.6 contd.

10. Parole boards should encourage institutions to maintain effective quality control over programs.

ICJS

Although parole boards do work closely with institutional personnel, the Parole Board is organizationally a completely independent agency from the Division of Corrections. The institutions have primary responsibility of maintaining programs therein and the Parole Board has no authority to make recommendations or endorsements of programs within the institutions.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 12.6 contd.

11. Small community-based group homes should be available to parole staff for prerelease programs, for crises, and as a substitute to recommitment to an institution in appropriately reviewed cases of parole violations.

ICJS

The Riverview Release Center, the state halfway houses, mental health centers and the Iowa State Medical Facility are used by parole staff for the purposes recommended by this standard. These facilities can be utilized for offenders while still on parole by having the parolee voluntarily sign an agreement which will be incorporated as a special condition of the parole agreement.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 12.6 contd.

12. Funds should be made available to parole staffs to purchase needed community resources for parolees.

ICJS

Parole staff do not have funds available to purchase needed community resources for parolees. However, pursuant to Section 247.8, Code of Iowa, 1975, parole officers may provide necessary assistance and will be paid for expenses incurred in obtaining employment for prisoners to be paroled.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 12.6 contd.

13. Special caseloads should be established for offenders with specific types of problems, such as drug abuse.

ICJS

In some urban areas with offices having several parole officers, an officer is assigned specific caseloads with problems such as alcohol or drug abuse. However, this is not widely used throughout the state which is predominately rural. In most areas, caseloads are generally assigned on a geographical and manpower basis.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

Each State should take immediate action to reduce parole rules to an absolute minimum, retaining only those critical in the individual case, and to provide for effective means of enforcing the conditions established.

1. After considering suggestions from correctional staff and preferences of the individual, parole boards should establish in each case the specific parole conditions appropriate for the individual offender.

ICJS

In Iowa, the Board of Parole and the Division of Correctional Institutions of the Department of Social Services have statutory authority (See Section 247.6, Code of Iowa) to establish rules and conditions of parole. By statutory authority, the chief parole officer and his staff (administratively under Bureau of Community Correctional Services - separate from Division of Correctional Institutions) enforce rules and conditions of parole. The Bureau is in the process of revising policies for criteria for parole release and revocation.

The Parole Agreement has five standard conditions with special conditions as needed for the individual offender. The five standard conditions are:

1. I will obey all laws, whether they be Federal or State laws, or City ordinances, and will contact my Supervising Agent upon any arrest. (Federal law prohibits the receipt, possession, or transportation of firearms by any person convicted of a felony.)

Special conditions are also included to comply with Interstate Commerce regulations.

2. I will secure and maintain employment as approved by my Supervising Agency and will notify my Agent when un-employed or when I decide to change employment.
3. I will be restricted to my county of residence within the State of Iowa unless exceptions are made by my Supervising Agent. Any change of address will be reported immediately to my Supervising Agent.
4. I will maintain contact with my Supervising Agent periodically as specified by my Agent and will submit a written report as required.
5. I will present proof of adequate liability insurance or proof of financial responsibility before owning or operating a motor vehicle."

Special conditions are established in each case after review of the progress report and institutional staff (inmate's counselor and institution pre-parole committee) parole recommendations. Preferences of the individual, such as the type of employment and where the parolee will live, are taken into consideration in formulating special conditions. Special conditions may include restriction as provided in Section 247.6, Code of Iowa, 1975: "The rules and conditions of parole may require that restitution be made by the parolee to the victims who suffered pecuniary damages as a result of the parolee's criminal activities."

Specific parole conditions are established at the discretion of the Parole Board and the Division of Correctional Institutions. In **Curtis v. Bennett**, 131 N.W. 2d 1 (Iowa 1964), it was held that: "Parole board has right to impose such conditions as it feels proper and, when prisoner accepts parole, he does so subject to its terms and conditions and cannot later in judicial hearing complain as to their fairness or propriety."

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 12.7 contd.

2. Parole staff should be able to request the board to amend rules to fit the needs of each case and should be empowered to require the parolee to obey any such rule when put in writing, pending the final action of the parole board.

ICJS

Parole staff in Iowa are able to amend rules to fit the needs of each case without approval of the Parole Board. By statutory provision of Section 247.6, Code of Iowa, 1975, the Parole Board establishes rules and conditions under which paroles are granted and the Department of Social Services establishes rules and conditions which are enforced by the parole staff regarding the supervision of parolees.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 12.7 contd.

3. Special caseloads for intensive supervision should be established and staffed by personnel of suitable skill and temperament. Careful review procedures should be established to determine which offenders should be assigned or removed from such caseloads.

ICJS

Iowa parole staff do not establish caseloads in the manner recommended by this standard. Each parole officer and his supervisor determine the level of supervision of each case. The parole officer then plans the kind and intensity of supervision and determines and makes any change in the level of supervision as he deals with and reviews the case.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly than NAC

NAC 12.7 contd.

4. Parole officers should develop close liaison with police agencies, so that any formal arrests necessary can be made by police. Parole officers, therefore, would not need to be armed.

ICJS

Section 247.24, Code of Iowa 1975, provides that parole officers have all the power of peace officers. Therefore, although parole staff do work closely with police agencies, parole officers do make arrests. However, administrative policy has been established by the Bureau of Community Correctional Services that parole officers should not carry firearms.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 12.3 MANPOWER FOR PAROLE

RELATED IOWA STANDARD 10.12 MANPOWER FOR PAROLE

By 1975, each State should develop a comprehensive manpower and training program which would make it possible to recruit persons with a wide variety of skills, including significant numbers of minority group members and volunteers, and use them effectively in parole programs.

Among the elements of State manpower and training programs for corrections that are prescribed in Chapter 14, the following apply with special force to parole.

1. A functional workload system linking specific tasks to different categories of parolees should be instituted by each State and should form the basis of allocating manpower resources.

ICJS

The Bureau of Community Correctional Services, the state agency administering parole services is developing a comprehensive manpower and training program.

A functional workload system linking specific tasks to different categories of parolees has not been instituted. Currently, parole manpower allocation is based on a ratio of number of parolees to a single parole officer. Allocation depends on the type of parolees supervised, geographic factors, and the limited number of staff available.

Analysis

ICJS practice is inconsistent with NAC Standard

ICJS principle is inconsistent with NAC

NAC 12.8 contd.

2. The bachelor's degree should constitute the requisite educational level for the beginning parole officer.

ICJS

The minimum educational requirement for state parole/probation officers is a BA degree. However, education-experience equivalents under the Merit System also constitute eligibility for the beginning parole officer position.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 12.8 contd.

3. Provisions should be made for the employment of parole personnel having less than a college degree to work with parole officers on a team basis, carrying out the tasks appropriate to their individual skills.

ICJS

Parole officers may be employed having less than a college degree. Experience in the field may be substituted for educational requirements. Provisions have been made by the Bureau of Community Correctional Services for the employment of paraprofessionals as community correctional aides for personnel having less than a college degree and no experience in the field. To date, very few individuals have been employed in this position.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is similar to NAC

NAC 12.8 contd.

4. Career ladders that offer opportunities for advancement of persons with less than college degrees should be provided.

ICJS

The Bureau has developed and adopted a career ladder that offers advancement of those at the community correctional aides level to the parole-probation officer level. Opportunities for advancement are also provided for parole-probation officers having less than a college degree.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 12.8 contd.

5. Requirement efforts should be designed to produce a staff roughly proportional in ethnic background to the offender population being served.

ICJS

At the present time, the staff of the Bureau is not proportional in ethnic background to the offender population being served. The offender population consists of a much larger number of minority group individuals. However, recruitment efforts have been designed and made a part of the Department of Social Service's Affirmative Action program. Satisfactory results have not been obtained.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 12.8 contd.

6. Ex-offenders should receive high priority consideration for employment in parole agencies.

ICJS

Ex-offenders have not received high priority consideration for employment in parole agencies. They have been accorded the same consideration as other eligible applicants under Merit Employment Department policies.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.8 contd.

7. Use of volunteers should be extended substantially.

ICJS

It is recognized the utilization of volunteers would provide an alternative method of decreasing the case load of parole-probation staff. A formalized program for the state probation-parole agency is nonexistent. However, volunteers are utilized on a local basis at the discretion of the parole-probation officer. Therefore, the use of volunteers is sporadic throughout the state.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 12.8 contd.

8. Training programs designed to deal with the organizational issues and the kinds of personnel required by the program should be established in each parole agency.

ICJS

A training program in the area of community corrections is presently being developed for parole-probation personnel.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 13.1 PROFESSIONAL CORRECTIONAL MANAGEMENT

RELATED IOWA STANDARD 11.1 PROFESSIONAL CORRECTIONAL MANAGEMENT

Each corrections agency should begin immediately to train a management staff that can provide, at minimum, the following system capabilities:

1. Managerial attitude and administrative procedures permitting each employee to have more say about what he does, including more responsibility for deciding how to proceed for setting goals and producing effective rehabilitation programs.
2. A management philosophy encouraging delegation of work-related authority to the employee level and acceptance of employee decisions, with the recognition that such diffusion of authority does not mean managerial abdication but rather that decisions can be made by the persons most involved and thus presumably best qualified.
3. Administrative flexibility to organize employees into teams or groups, recognizing that individuals involved in small working units become concerned with helping their teammates and achieving common goals.
4. Desire and administrative capacity to eliminate consciously as many as possible of the visible distinctions between employee categories, thereby shifting organizational emphasis from an authority or status orientation to a goal orientation.
5. The capability of accomplishing promotion from within the system through a carefully designed and properly implemented career development program.

ICJS

The organizational arrangement of correctional agencies in Iowa is highly fragmented. Iowa does not have an agency that exercises control over all correctional activities within the system. Many correctional services, adult and juvenile institutions, halfway houses, work release centers, probation/parole, and pre-sentence investigations are administered by state agencies under the Department of Social Services. Other correctional programs and services are locally administered through city and county jails and community based corrections projects. Some of the community based correctional projects are administered by the state agency providing probation/parole services, the Bureau of Community Correctional Services. Services provided by community based correctional projects include pre-trial programs, pre-sentence investigation, probation, residential treatment facilities, and parole.

The Department of Social Services is a large state department with over 7,000 employees. In addition to correctional services, the Department provides a wide range of health, welfare and similar social services. Correctional agencies under the umbrella of the Department of Social Services do have staffs with management training.

Reflecting the goal-oriented philosophy of MBO, an organizational goal of the Department of Social Services is to make the Department more responsive to the people's needs at the local level. This goal is to be realized by reliance on supervisory individuals and delegation of authority to the employee level.

To accomplish promotion from within the Department, a career ladder based on a task analysis of all positions is being developed.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 13.2 PLANNING AND ORGANIZATION

RELATED IOWA STANDARD 11.2 PLANNING AND ORGANIZATION

Each correctional agency should begin immediately to develop an operational, integrated process of long-, intermediate-, and short-range planning for administrative and operation functions.

ICJS

Correctional agencies that are not under the administration of the Department of Social Services (city and local jails, some community-based corrections projects) are not engaged in the full planning process. While some agencies may engage in specific aspects of planning such as programs and facilities, they are not involved in long-range, intermediate-range, and short-range comprehensive planning.

Department of Social Services correctional units are in the process of updating integrated planning efforts similar to the standard's recommendation. This planning is prompted by a need to coordinate community and institutional efforts plus consideration for fiscal and political realities.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 13.2 contd.

This should include:

1. An established procedure open to as many employees as possible for establishing and reviewing organizational goals and objectives at least annually.

ICJS

The MBO planning process that has been established by correctional agencies within the Department of Social Services is consistent with this recommended procedure.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 13.2 contd.

2. A research capability for adequately identifying the key social, economic, and functional influences impinging on that agency and for predicting the future impact of each influence (See Chapter 15).

ICJS

The research capability has not been developed at this time but will be developed for some correctional agencies in the future. This capability is currently being developed for correctional agencies administered by the Department of Social Services through the Department's Division of Management and Planning. This is a newly created unit and serves the entire Department.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is similar to NAC

NAC 13.2 contd.

3. The capability to monitor, at least annually, progress toward previously specified objectives.
4. An administrative capability for properly assessing the future support services required for effective implementation of formulated plans.

These functions should be combined in one organizational unit responsible to the chief executive officer but drawing heavily on objectives, plans, and information from each organizational subunit.

ICJS

The Division of Management and Planning of the Department of Social Services serves as a separate program audit unit for programs including corrections. This Division was created and will operate to achieve implementation of management by objectives within the Department.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 13.2 contd.

Each agency should have an operating cost-accounting system by 1975 which should include the following capabilities:

1. Classification of all offender functions and activities in terms of specific action programs.
2. Allocation of costs to specific action programs.
3. Administrative conduct, through program analysis, of ongoing programmatic analyses for management.

**NAC CORRECTIONS STANDARD 13.3
EMPLOYEE-MANAGEMENT
RELATIONS**

**RELATED IOWA STANDARD
11.3 EMPLOYEE-OFFENDER-MANAGEMENT
RELATIONS**

Each correctional agency should begin immediately to develop the capability to relate effectively to and negotiate with employees and offenders. This labor-offender-management relations capability should consist, at minimum, of the following elements:

1. All management levels should receive in-depth management training designed to reduce interpersonal friction and employee-offender alienation. Such training specifically should include methods of conflict resolution, psychology, group dynamics, human relations, interpersonal communication, motivation of employees, and relations with minority and disadvantaged groups.

ICJS

Correctional agencies under the administration of the Department of Social Services have had very limited in-service management training dealing with labor-offender-management relations. Training has not been designed specifically for developing effective negotiations capability with employees and offenders in the advent of unionization.

Management training received to date has been primarily for institutional management personnel. Under Correctional Manpower Development Project afforded by a grant through LEAA, management training was provided for institutional middle and upper management personnel. Although not directed toward coping with unionization of employees and offenders, this management training has included areas in supervisory and human resource utilization, improving effectiveness of a management unit, job enrichment, and correctional administration.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 13.3 contd.

2. All nonmanagement personnel in direct, continuing contact with offenders should receive training in psychology, basic counseling, group dynamics, human relations, interpersonal communication, motivation with emphasis on indirect offender rehabilitation, and relations with minority groups and the disadvantaged.

ICJS

All nonmanagement personnel have not received training in all areas recommended by the standard. However, institutional correctional employees have received courses of training through the Correctional Manpower Project in such things as group counseling, marriage and family counseling, social psychology, general psychology, contemporary social problems and abnormal psychology. Also, some correctional personnel have educational backgrounds incorporating the areas of training recommended by the standard.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 13.3 contd.

3. All system personnel, including executives and supervisors, should be evaluated, in part, on their interpersonal competence and human sensitivity.

4. All managers should receive training in the strategy and tactics of union organization, managerial strategies, tactical responses to such organizational efforts, labor law and legislation with emphasis on the public sector, and the collective bargaining process.

ICJS

All employees of the Department of Social Services are personally evaluated periodically with regard to MBO and State Merit regulations.

Management personnel of the Department have attended informational meetings and are working to implement procedures for collective bargaining. This effort is being initiated as a result of the Public Employment Relations Act, Chapter 20, Code, that became effective July 1, 1974. However, the provisions of the chapter relative to the duty to bargain does not become effective until July 1, 1975. Public employees of the state, its boards, commissions, departments, and agencies may not bargain collectively until June 1, 1976.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 13.3 contd.

5. Top management should have carefully developed and detailed procedures for responding immediately and effectively to problems that may develop in the labor-management or inmate-management relations. These should include specific assignment of responsibility and precise delegation of authority for action, sequenced steps for resolving grievances and adverse actions, and an appeal procedure from agency decisions.

6. Each such system should have, designated and functioning, a trained, compensated, and organizationally experienced ombudsman. He would hear complaints of employees or inmates who feel aggrieved by the organization or its management, or (in the case of offenders) who feel aggrieved by employees or the conditions of their incarceration. Such an ombudsman would be roughly analogous to the inspector general in the military and would require substantially the same degree of authority to stimulate changes, ameliorate problem situations, and render satisfactory responses to legitimate problems. The ombudsman should be located organizationally in the office of the top administrator.

ICJS

Chapter 601G, Code, provides for the appointment of a Citizens' Aide (ombudsman). However, although the Citizens' Aide may investigate any administrative action of any agency, he cannot investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency (Section 601G.9, Code).

The Citizen's Aide is appointed by the legislative council with the approval and confirmation of a constitutional majority of the senate and the house of representatives (Section 601G.3).

Requirements and qualifications for the Citizens' Aide are that he, "be a citizen of the United States and a resident of the state of Iowa, and shall be qualified to analyze problems of law, administration and public policy", (Section 601G.4, Code).

By provision of Section 601G.6, Code, the Citizens' Aide appoints an assistant who is responsible for investigating complaints relating only to penal or correctional agencies.

Section 601G.14, Code, provides that a letter to the Citizen's Aide from a person in a correctional institution must be immediately forwarded, unopened to the Citizens' Aide by the institutional where the writer of the letter is a resident. A letter from the Citizens' Aide to such a person must be immediately delivered, unopened to the person.

The Citizens' Aide has the power to investigate, on complaint or his own motion, any administrative action of any agency except, as stated previously, an employee's employment relationship with an agency. To carry out investigations relevant to matters under his inquiry, he has the power to issue a subpoena. The Citizen's Aide makes and may publish his conclusions, recommendations, and suggestions of appropriate subjects of his investigation. See Section 601G.9, Code.

ICJS

In response to the Public Employment Relations Act enacted in 1973, procedures are being developed for organization and collective bargaining by public employees. Most of the correctional employees of the Department of Social Services will be protected under the Public Employment Relations Act, Chapter 20, Code. Public employees excluded from the Act are cited in Section 20.4, Code.

At the present time, grievance procedures have been developed in accordance with Section 19A.9 (17), Code, for resolving employee grievances and complaints under the State Merit Employment System Appeal. Procedures for qualifying state employees who are discharged, suspended or reduced in rank or grade are provided in Section 19A.14, Code.

Grievance procedures under the Public Employment Relations Act are defined in Section 20.18, Code:

“Public employees of the state shall follow either the grievance procedures provided in a collective bargaining agreement, or in the event that no such procedures are so provided, shall follow grievance procedures established pursuant to chapter 19A.”

Appeal procedures for collective bargaining are provided in Section 20.11, Code.

Section 20.4 (8), Code, provides that patients and inmates employed, sentenced or committed to any state or local institution are excluded from the provisions of Chapter 20, Code, permitting public employees to organize and bargain collectively. Regular grievance procedures of state correctional institutions are defined in the Policy and Procedure Manual of the Bureau of Correction Services, Department of Social Services. Inmates must file any grievances first through normal channels to their supervisor of cellhouse or dormitory officers, secondly with a counselor or counselors so designated, thirdly with the Chairman of the Institutional Injuiy Board, and lastly with the Director of the Bureau of Correctional Institutions. Review of the grievance and the decision is made by the hearing officers of the Commissioner of the Department of Social Services who will recommend a decision to the Commissioner.

The ombudsman is located independent of any state agency with freedom to investigate complaints without administrative constraint.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC CORRECTIONS 13.4 WORK STOPPAGES AND JOB ACTIONS

RELATED IOWA STANDARD 11.4 WORK STOPPAGES AND JOB ACTIONS

Correctional administrators should immediately make preparations to be able to deal with any concerted work stoppage or job action by correctional employees. Such planning should have the principles outlined in Standard 13.3 as its primary components. In addition, further steps may be necessary to insure that the public, other correctional staff, or inmates are not endangered or denied necessary services because of a work stoppage.

1. Every State should enact legislation by 1978 that specifically prohibits correctional employees from participating in any concerted work stoppage or job action.

ICJS

Section 20.12, Code, enacted in 1973, prohibits public employees from participating in any concerted work stoppage or job action. This would apply to all correctional employees that are public employees. Section 20.3, Code, defines “public employee” as “any individual employed by a public employer, except individuals exempted under the provisions of Section 20.4.”

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

2. Every correctional agency should establish formal written policy prohibiting employees from engaging in any concerted work stoppage. Such policy should specify the alternatives available to employees for resolving grievances. It should delineate internal disciplinary actions that may result from participation in concerted work stoppages.
3. Every correctional agency should develop a plan which will provide for continuing correctional operations in the event of a concerted employee work stoppage.

ICJS

Other than the applicable Code provisions, correctional agencies have not developed formal written policy prohibiting employee work stoppages.

At this time, state correctional agencies have not developed a formalized back-up plan in the event of a work stoppage.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONAL STANDARD 14.1 RECRUITMENT OF CORRECTIONAL STAFF

RELATED IOWA STANDARD 12.1 RECRUITMENT OF CORRECTIONAL STAFF

Correctional agencies should begin immediately to develop personnel policies and practices that will improve the image of corrections and facilitate the fair and effective selection of the best persons for correctional positions.

ICJS

Correctional agencies throughout the State vary widely, as do personnel policies and practices within each agency. Large correctional institutions are controlled by the state and community based corrections facilities and programs have either local or state administration. Jails are in charge of the county sheriff, halfway houses are usually state controlled; but, some have local involvement, and field services such as probation and parole are either local (community based personnel) or state administered. Most agencies have adopted or changed personnel policies and practices that promote fair selection of persons for correctional positions. However, some agencies have not developed written personnel policies and practices.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 14.1 contd.

To improve the image of the corrections, agencies should:

1. Discontinue the use of uniforms.
2. Replace all military titles with names appropriate to the correctional task.
3. Discontinue the use of badges and, except where absolutely necessary, the carrying of weapons.
4. Abolish such military terms as company, mess hall, drill, inspection, and gig list.
5. Abandon regimented behavior in all facilities, both for personnel and for inmates.

ICJS

- (1) Section 246.3 of the Code requires the state director to provide custodial staff employees in the Penitentiary and Men's Reformatory with uniforms. However, employees are not required to wear uniforms, and most do wear their own clothing. Community based correctional personnel, field staff, and personnel in halfway houses and the Riverview release center do not wear uniforms. As the county law enforcement officer, county sheriffs are required to wear uniforms.
- (2) Most military titles have been abandoned; however, "officer" is still used in many job titles in correctional agencies.
- (3) No badges are used in institutions and no weapons are used unless required for towers, on escape searches or for disturbances. County sheriffs wear badges and may carry weapons, but most correctional agencies do not use badges or weapons.
- (4) Generally, military terms are not used in most correctional agencies except for the word "inspection."
- (5) Some regimented behavior continues in correctional institutions.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

In the recruitment of personnel, agencies should:

1. Eliminate all political patronage for staff selection.
2. Eliminate such personnel practices as:
 - a. Unreasonable age or sex restrictions.
 - b. Unreasonable physical restrictions (e.g., height, weight).
 - c. Barriers to hiring physically handicapped.
 - d. Questionable personality tests.
 - e. Legal or administrative barriers to hiring ex-offenders.
 - f. Unnecessarily long requirements for experience in correctional work.
 - g. Residency requirements.

ICJS

In recruitment of personnel, state correctional agencies are required by the State Merit System (Chapter 19A of Code of Iowa), Civil Rights Act of 1964 and Amendments of 1972, and State of Iowa Civil Rights Act of 1965, to eliminate political patronage and unfair personnel practices. Equal Opportunity and Affirmative Action programs have been implemented to ensure compliance with these requirements.

Locally administered community based correctional agencies throughout the state have not developed consistent policy in recruitment of personnel.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 14.1 contd.

3. Actively recruit from minority groups, women, young persons, and prospective indigenous workers, and see that employment announcements reach the general public.

ICJS

On the state level, the Department of Social Services' Affirmative Action Plan for recruitment and hiring requires a conscious effort to increase the minority, handicapped and female persons relative to the Department's total number of employees.

To aid in the recruitment of protected classes, the Bureau of Correctional Institutions through their Manpower Development program is undertaking a public relations and public information effort to improve the image of corrections and attract potential staff to the corrections field.

The Department of Social Services maintains a listing of all minority and protected classes organizations, groups; etc. to which it sends all employment announcements.

Recruitment practices of locally administered correctional agencies vary throughout the state. Staff of some community based programs include minorities, women and ex-offenders. Part time employees have also been utilized.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 14.1 contd.

4. Make a task analysis of each correctional position (to be updated periodically) to determine those tasks, skills, and qualities needed. Testing based solely on these relevant features should be designed to assure that proper qualifications are considered for each position.

ICJS

To fulfill an objective of the Affirmative Action Plan of the Department of Social Services, a survey of the available work force has been completed. This survey includes area population characteristics and statistics on available work force to determine the number of minority, handicapped individuals and women that are employed and in what capacity. On the state level, nonprofessionals have been hired as probation-parole aids to assist with tasks traditionally assigned to probation-parole officers.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is significantly different than NAC

NAC 14.1 contd.

5. Use an open system of selection in which any testing device used is related to a specific job and is a practical test of a person's ability to perform that job.

ICJS

Job related written tests are administered by the Merit Employment Department for all state positions. No overall state requirements or testing devices have been developed for selection of personnel for locally administered correctional projects; rather, the director or staff of the project makes this determination.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 14.2
RECRUITMENT FROM MINORITY GROUPS**

**RELATED IOWA STANDARD
12.2 RECRUITMENT FROM MINORITY GROUPS**

Correctional agencies should take immediate, affirmative action to recruit and employ minority group individuals (black, Chicano, American Indian, Puerto Rican, and others) for all positions.

ICJS

On the state level, the Iowa Department of Social Services has adopted an Affirmative Action Plan with emphasis on increasing the minority, handicapped and female persons relative to the Department's total number of employees. Affirmative Action means taking positive steps to actively hire and upgrade the protected classes to insure a condition of equal employment opportunity for all. Thirty-three affirmative action committees for the administration and implementation of the Department's program have been established throughout the state to function in a monitoring and advisory capacity.

Locally administered community based correctional agencies that are recipients of LEAA funds are required to formulate, implement and maintain an equal employment opportunity program if the agency has 50 or more employees' or will receive grants or subgrants of \$25,000 or more or have a service population with a minority representation of more than three percent.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 14.2 contd.

1. All job qualifications and hiring policies should be reexamined with the assistance of equal employment specialists from outside the hiring agency. All assumptions (implicit and explicit) in qualifications and policies should be reviewed for demonstrated relationship to successful job performance. Particular attention should be devoted to the meaning and relevance of such criteria as age, educational background, specified experience requirements, physical characteristics, prior criminal record or "good moral character" specifications, and "sensitive job" designations. All arbitrary obstacles to employment should be eliminated.

ICJS

Objectives of the Department of Social Services Affirmative Action Plan include review of employment practices.

All review is to be done by in-house affirmative action committees and not from specialists outside the hiring agency as recommended by the standard. Currently, affirmative action committees are reviewing the work force to identify utilization or underutilization of protected classes and employment patterns.

To ensure realistic qualifications and avoid artificial barriers, the committees plan to review minimum qualifications for existing and new class specifications utilized by the Department relative to Merit System requirements for job performance.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is different than NAC

NAC 14.2 contd.

2. If examinations are deemed necessary, outside assistance should be enlisted to insure that all tests, written and oral, are related significantly to the work to be performed and are not culturally biased.

ICJS

Examinations are administered via the Merit Employment Department and must be related to work to be performed. Outside help in interpreting test questions is available to minority group members. Under this planned program, if an applicant expresses difficulty in comprehending a test due to language or other cultural barriers and makes a request, assistance will be secured from consultants or training will be given at available workshops.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 14.2 contd.

3. Training programs, more intensive and comprehensive than standard programs, should be designed to replace educational and previous experience requirements. Training programs should be concerned also with improving relationships among culturally diverse staff and clients.

ICJS

A planned objective of the Department's affirmative action plan is to increase the utilization of the pre-testing orientation program for persons having difficulty passing the Merit exam by conducting training sessions at community colleges or neighborhood centers. Persons who do not meet education and previous experience requirements may qualify for positions through Merit examinations.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 14.2 contd.

4. Recruitment should involve a community relations effort in areas where the general population does not reflect the ethnic and cultural diversity of the correctional population. Agencies should develop suitable housing, transportation, education, and other arrangements for minority staff, where these factors are such as to discourage their recruitment.

ICJS

One of the on-going planned objectives of the Department's affirmative action plan is to develop community involvement by working with representatives of minority groups.

Analysis

ICJS is significantly different than NAC Standard
ICJS principle is different than NAC

**NAC CORRECTIONS STANDARD 14.3
EMPLOYMENT OF WOMEN****RELATED IOWA STANDARD
12.3 EMPLOYMENT OF WOMEN**

Correctional agencies immediately should develop policies and implement practices to recruit and hire more women for all types of positions in corrections, to include the following:

1. Change in correctional agency policy to eliminate discrimination against women for correctional work.

ICJS

On the state level, correctional agencies under the supervision of the Department of Social Services have adopted policy of non-discrimination in the recruitment and hiring of women for positions in corrections. This is to comply with the Department's commitment to the Federal and State Civil Rights laws through Equal Employment Opportunity and an Affirmative Action programs. The Affirmative Action program requires a conscious effort to increase the minority, handicapped and female persons relative to the Department's total number of employees. Objectives of the Affirmative Action plan include setting up and maintaining a file of minority and handicapped job applicants and a system to periodically monitor applications from women.

Women have been employed in supervisory positions, as probation-parole officers, as correctional officers and nurses in male institutions, and as counselors. However, the number of women in these positions is small and there are no women administrators as wardens or superintendents of correctional institutions in Iowa at the present time.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 14.3 contd.

2. Provision for lateral entry to allow immediate placement of women in administrative positions.
3. Development of better criteria for selection of staff for correctional work, removing unreasonable obstacles to employment of women.
4. Assumption by the personnel system of aggressive leadership in giving women a full role in corrections.

ICJS

To develop a realistic threshold for employment of all persons and to identify staff positions consistent with Department services, a career ladder has been developed by the Department of Social Services.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 14.4 RELATED IOWA STANDARD EMPLOYMENT OF EX-OFFENDERS 12.4 EMPLOYMENT OF PERSONS WITH CRIMINAL RECORDS

Correctional agencies should take immediate and affirmative action to recruit and employ capable and qualified ex-offenders in correctional roles.

1. Policies and practices restricting the hiring of ex-offenders should be reviewed and, where found unreasonable, eliminated or changed.

ICJS

Ex-offenders have been employed and are presently employed in a variety of roles in correctional agencies. Present policies and practices do not restrict the hiring of ex-offenders. However, affirmative action has not been taken to recruit and employ ex-offenders in correctional roles. Ex-offenders are also employed in the work release center, halfway houses, some of the community based corrections projects, and correctional institutions.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is different than NAC

NAC 14.4 contd.

2. Agencies not only should open their doors to the recruitment of ex-offenders but also should actively seek qualified applicants.
3. Training programs should be developed to prepare ex-offenders to work in various correctional positions, and career development should be extended to them so they can advance in the system.

ICJS

The Riverview Release Center at Newton had a counselor-assistant training program to train qualified interested ex-offenders for eventual placement in various correctional programs.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

Extensive training programs for ex-offenders have not been developed.

NAC CORRECTIONS STANDARD 14.5 EMPLOYMENT OF VOLUNTEERS

RELATED IOWA STANDARD 12.5 UTILIZATION OF VOLUNTEERS

Correctional agencies immediately should begin to recruit and use volunteers from all ranks of life as a valuable additional resource in correctional programs and operations, as follows:

ICJS

Volunteers are being used in many correctional agencies with organized programs in many areas. However, recruitment of volunteers by the correctional agencies has been limited. A need exists for effective staff coordination, for sound criteria for volunteer selection, and for appropriate training and orientation.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 14.5 contd.

1. Volunteers should be recruited from the ranks of minority groups, the poor, inner-city residents, ex-offenders who can serve as success models, and professionals who can bring special expertise to the field.

ICJS

From available information, volunteers from specific ethnic, culture and diverse backgrounds have not been recruited. Rather, those persons who volunteer their services from whatever background are used. Careful screening is necessary.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC 14.5 contd.

2. Training should be provided volunteers to give them an understanding of the needs and lifestyles common among offenders and to acquaint them with the objectives and problems of corrections.

ICJS

Some direct training is used in most volunteer programs. However, in-depth training is usually not undertaken and is not possible due to limited staff coordinating volunteer programs.

The Fifth Judicial District Court Services community corrections project has organized a "Volunteers in Corrections" program that has a three phase training program. Training for volunteers is coordinated first with the staff of the project, then with county attorney and judges, and lastly with placement with the individual offender.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 14.5 contd.

3. A paid volunteer coordinator should be provided for efficient program operation.

ICJS

The Department of Social Services has a Volunteer Services Bureau with a full time director for all agencies within the department. However, existing staff of correctional institutions and agencies have assumed the duty of coordinating volunteers.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is different than NAC

NAC 14.5 contd.

4. Administrators should plan for and bring about full participation of volunteers in their programs; volunteers should be included in organizational development efforts.

ICJS

Volunteers in correctional programs have and are being used in an advisory capacity. Although some program changes may be effectuated as a result of volunteer suggestions or contributions, volunteers have not been included in organizational development efforts.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 14.5 contd.

5. Insurance plans should be available to protect the volunteer from any mishaps experienced during participation in the program.

ICJS

From available data, it was disclosed that most correctional agencies do not have insurance plans available to the volunteer.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 14.5 contd.

6. Monetary rewards and honorary recognition should be given to volunteers making exceptional contribution to an agency.

ICJS

From information received, no correctional agency has an organized honorary recognition program or gives monetary awards to volunteers whose performances are particularly outstanding.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 14.6
PERSONNEL PRACTICES FOR
RETAINING STAFF**

**RELATED IOWA STANDARD
12.6 PERSONNEL PRACTICES FOR
RETAINING STAFF**

Correctional agencies should immediately reexamine and revise personnel practices to create a favorable organizational climate and eliminate legitimate causes of employee dissatisfaction in order to retain capable staff. Policies should be developed that would provide:

1. Salaries for all personnel that are competitive with other parts of the criminal justice system as well as with comparable occupation groups of the private sector of the local economy. An annual cost-of-living adjustment should be mandatory.

ICJS

Correctional agencies under the supervision of the Department of Social Services have personnel policies and practices implemented by the department that must comply with rules of the State Merit System of Personnel Administration.

Salaries for state employees are determined by the Merit System. A position classification plan and a schedule of pay is maintained for all positions. The Iowa Merit Employment Department seeks to equate salaries of state employees with those of comparable occupation groups in the State. However, a common complaint is that salaries are lower than similar occupations in the private sector of the economy. The variance of all salaries in corrections and other parts of the criminal justice system is too great to make a comparison. Salaries of other state agencies on the Merit System in the criminal justice system would be on an equivalent basis.

A cost-of-living adjustment has been given to state employees in the past. There is no annual cost-of-living adjustment that is mandatory.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 14.6 contd.

2. Opportunities of staff advancement within the system. The system also should be opened to provide opportunities for lateral entry and promotional mobility within jurisdictions and across jurisdictional lines.

ICJS

There are opportunities for staff advancement within all correctional agencies. Advancement and lateral entry from other elements of the criminal justice system such as police and courts is virtually non-existent. In order to develop employee work skills, the Correctional Manpower Development Program undertaken by the Bureau of Correctional Institutions of the Department of Social Services provides for courses of training in which academic credit is given.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 14.6 contd.

3. Elimination of excessive and unnecessary paperwork and chains of command that are too rigidly structured and bureaucratic in function, with the objective of facilitating communication and decisionmaking so as to encourage innovation and initiative.

4. Appropriate recognition for jobs well done.

5. Workload distribution and schedules based on flexible staffing arrangements. Size of the workload should be only one determinant. Also to be included should be such others as nature of cases, team assignments, and the needs of offenders and the community.

ICJS

For the most part, workload distribution of correction agencies in Iowa is on an individual basis determined by available staff, but other factors are considered in determining workload distribution. The limited number of staff workers is many times insufficient to handle the large workload.

The nature of cases and needs of offenders are considered in workload schedules. Policy has been established by the Bureau of Community Correctional Services for classification of supervision levels for offenders on probation-parole. Persons under supervision receive supervision in accordance with the needs of the case. Some cases receive close supervision with frequent contacts while others require a lesser degree of supervision with contact every 3 months.

As recognized by standard, team assignments have been used in Iowa. Team treatment living units are being used in some of the correctional institutions. Employees are assigned to a team based on their ability to interact or deal with the type of inmates who would most benefit from exposure to them. The team is composed of all persons who have direct contact with the inmates. These include correctional officers, counselors, instructors and other individuals.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is similar to NAC

NAC 14.6 contd.

6. A criminal justice career pension system to include investment in an annuity and equity system for each correctional worker. The system should permit movement within elements of the criminal justice system and from one corrections agency to another without loss of benefits.

ICJS

Iowa does not have a criminal justice career pension system. All state correctional personnel are members of the Iowa Public Employees Retirement System. A deferred compensation plan is available for investment in an annuity under this retirement system. IPERS does allow movement within the state agencies of the criminal justice system without loss of benefits.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 14.7
PARTICIPATORY MANAGEMENT****RELATED IOWA STANDARD
12.7 PARTICIPATORY MANAGEMENT**

Correctional agencies should adopt immediately a program of participatory management in which everyone involved - managers, staff, and offenders - shares in identifying problems, finding mutually agreeable solutions, setting goals and objectives, defining new roles for participants, and evaluating effectiveness of these processes.

ICJS

Correctional agencies under the Department of Social Services have adopted Management by Objectives. This is based on a participative management philosophy but does not include participation by offenders - only participation by administrators and staff.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 14.7 contd.

This program should include the following:

1. Training and development sessions to prepare managers, staff, and offenders for their new roles in organizational development.
2. An ongoing evaluation process to determine progress toward participatory management and role changes of managers, staff, and offenders.

ICJS

Participatory management program by correctional agency staff and managers does include training and development sessions. The Division of Correctional Institutions initiated a Correctional Manpower Development Program in 1969 with training components

concentrated in the areas of recruitment, basic and advanced training, supervisory and managerial development and organizational change. Community corrections personnel have been incorporated into some of the training areas.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is inconsistent with NAC

NAC 14.7 contd.

3. A procedure for the participation of other elements of the criminal justice system in long-range planning for the correctional system.
4. A change of manpower utilization from traditional roles to those in keeping with new management and correctional concepts.

ICJS

Present policy and practices of correctional agencies include planning and consulting with advisory committees, administrative boards, managers of correctional programs, etc. A defined procedure for participation of other elements of the criminal justice system has not been developed extensively in long range planning for the correctional system. There has been active participation of judges and law enforcement personnel with community corrections in planning and implementation of community based correctional programs.

The Iowa Correctional Manpower Development program was designed to develop all employees to their highest potential. The program involves some changes in manpower utilization.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 14.8 REDISTRIBUTION OF CORRECTIONAL MANPOWER RESOURCES TO COMMUNITY-BASED PROGRAMS

RELATED IOWA STANDARD 12.3 DISTRIBUTION OF CORRECTIONAL MANPOWER AND MONETARY RESOURCES

Correctional and other agencies, in implementing the recommendations of Chapters 7 and 11 for reducing the use of major institutions and increasing the use of community resources for correctional purposes, should undertake immediate cooperative studies to determine proper redistribution of manpower from institutional to community-based programs. This plan should include the following:

1. Development of a statewide correctional manpower profile including appropriate data on each worker.
2. Proposals for retaining staff relocated by institutional closures.
3. A process of updating information on program effectiveness and needed role changes for correctional staff working in community-based programs.
4. Methods for formal, official corrections to cooperate effectively with informal and private correctional efforts found increasingly in the community. Both should develop collaboratively rather than competitively.

ICJS

As the anticipated reduction in the use of institutions as a result of increasing use of community resources programs and services has not been realized, plans have not been made

or studies undertaken to ascertain redistribution of manpower from institutional to community based programs. Community-based correctional programs and services have been implemented and are being expanded in Iowa with programs operating in all eight judicial districts. Moreover, populations of institutions have increased.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

**NAC CORRECTIONS STANDARD 14.9
COORDINATED STATE PLAN
FOR CRIMINAL JUSTICE EDUCATION**

**RELATED IOWA STANDARD
12.9 COORDINATED STATE PLAN
FOR CRIMINAL JUSTICE EDUCATION**

Each State should establish by 1975 a State plan for coordinating criminal justice education to assure a sound academic continuum from an associate of arts through graduate studies in criminal justice, to allocate education resources to sections of the State with defined needs, and to work toward proper placement or persons completing these programs.

1. Where a State higher education coordinating agency exists, it should be utilized to formulate and implement the plan.

ICJS

A State Plan for coordinating criminal justice education has not been developed and a State higher education coordinating agency does not exist in Iowa. A State Higher Education Coordinating Council consisting of representatives of Board of Regents, State colleges and universities, Department of Public Instruction, private colleges, Higher Education Facilities Commission, and other consultants and lay people functions as a voluntary cooperative group. The State Higher Education Coordinating Council has no statutory authority, but has sponsored studies and made recommendations concerning higher education programs.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 14.9 contd.

2. Educational leaders, State planners, and criminal justice staff members should meet to chart current and future statewide distribution and location of academic programs, based on proven needs and resources.

ICJS

Statewide planning for the whole of criminal justice education has not taken place in Iowa. Colleges and universities have developed their own criminal justice programs independently.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 14.9 contd.

3. Award of Law Enforcement Education Program funds should be based on a sound educational plan.

ICJS

Actual awards of Law Enforcement Education Program grants and/or loans to students are made by participating schools. Twenty-two institutions of higher education in Iowa are presently participating in the Law Enforcement Education Program.

Analysis

ICJS practice is inconsistent with NAC Standard
ICJS principle is inconsistent with NAC

NAC 14.9 contd.

4. Preservice graduates of criminal justice education programs should be assisted in finding proper employment.

ICJS

The Summer Trainee program of the Department of Social Services is a means of recruitment for future graduates of criminal justice education programs.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 14.9 contd.

Each unified State correctional system should ensure that proper incentives are provided for participation in higher education programs.

1. Inservice graduates of criminal justice education programs should be aided in proper job advancement or reassignment.
2. Rewards (either increased salary or new work assignments) should be provided to encourage in-service staff to pursue these educational opportunities.

ICJS

Iowa does not have a unified State correctional system as recommended by the standards. However, incentives and encouragement are provided for state correctional employees to participate in training and higher education programs. In-service courses of training which are intended to improve the skills of employees and in which academic credit is offered are available to staff of the Department of Social Services.

The Department of Social Services has three formal educational leave programs: continuing education, full-time stipend education leave, and Affirmative Action Educational Leave.

Under the continuing education program, full-time employees may attend educational institutions on a part-time basis to pursue a planned course of study. The employee receives reimbursement for tuition by the Department providing grade requirements are met.

Full-time education leave may be granted to qualified persons who must be pursuing a certificate or degree program in an accredited institution of higher learning. Individuals must meet minimum qualifications for classification in the Department of Social Services and training must be related to the needs of the Department. Upon completion of training the individual returns to assume a position on the staff. The person on educational leave is an employee of the Iowa Department of Social Services and receives a salary while on educational leave. Each person who is approved for full-time educational leave is obligated by

contract, to render to the Department one calendar year of service of each academic year of educational leave.

The Affirmative Action Educational Leave program is for a potential employee who lacks sufficient formal education for a particular discipline and can qualify as a disadvantaged or protected class. The selective criteria are set forth by merit rules and regulations. Said individual may be hired and must receive at least 30 days of on the job orientation, where upon a leave may be granted for the individual to pursue educational endeavors.

Eligibility for promotion among correctional employees is based on completion of modules of experience including academic training in corrections.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 14.10 INTERN AND WORK-STUDY PROGRAMS

RELATED IOWA STANDARD 12.10 INTERN AND WORK-STUDY PROGRAMS

Correctional agencies should immediately begin to plan, support, and implement internship and work-study programs to attract students to corrections as a career and improve the relationship between educational institutions and the field of practice.

ICJS

Correctional agencies under the State Department of Social Services have worked cooperatively with educational institutions in implementing programs for college students. Intern and work study programs have been arranged with correctional agencies within the Department.

The Department has a summer trainee program that is intended to be a career testing program for the social work field and is a means of recruitment of employees for the Department.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 14.10 contd.

These programs should include the following:

1. Recruitment efforts concentrating on minority groups, women, and socially concerned students.

ICJS

All recruitment for employment (which would include the summer trainee program) by the Department of Social Services complies with the Affirmative Action program for equality of opportunity regardless of color, race, age, sex, national origin, religion, political affiliation, or physical or mental handicap.

Although educational institutions and correctional agencies have mutually developed internship and work study programs, primary selection of students for these programs has been through the educational institution.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 14.10 contd.

2. Careful linking between the academic component, work assignments, and practical experiences for the students.

ICJS

Provisions of the Summer Trainee Program of the Department of Social Services state that students will be placed in bonafide training situations and not in the performance of clerical duties or temporary replacement of or to supplement regular employees.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 14.10 contd.

3. Collaborative planning for program objectives and execution agreeable to university faculty, student interns, and agency staff.

ICJS

To facilitate academic program planning, correctional administrators have been included on advisory boards of area community colleges in the state. As a result of these joint planning efforts, a recommended core curriculum in the criminal justice field has been developed for students in area community colleges. To correlate program planning on the four year college level, discussions have taken place between correctional administrators and University officials.

In connection with the Iowa Correctional Manpower Development program for correctional employees, an advisory board consisting of personnel from local and Departmental community correctins programs, institutional staff, community and university college faculties and the Department of Public Instruction has been formed. The advisory board meets to discuss new educational methods and developments in the corrections field, to review existing correctional trainings programs and to make suggestions for improvements.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 14.10 contd.

4. Evaluation of each program.

ICJS

Correctional personnel are usually required to give a follow-up evaluation of each student's participation in internship and work study programs.

A method of evaluation has been developed for the summer trainee program by the Office of Staff Development and Training of the Department.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 14.10 contd.

5. Realistic pay for students.

ICJS

Students participating in the summer trainee program of the Department of Social Services are expected to work a full-time 40 hour week and are paid wages at a specified level on the Merit pay scale. Practices vary in each educational institution for internship and work study programs. In some programs, students are placed in a work setting for a defined period as part of course requirements and do not receive pay.

In most situations where students receive wages, the pay is considered low.

Analysis

ICJS practice is different than NAC Standard

ICJS principle is different than NAC

NAC 14.10 contd.

6. Followup with participating students to encourage entrance into correctional work.

ICJS

At the conclusion of a program, a followup evaluation is made by the correctional personnel supervising the student.

In the Department's summer trainee program, methods have been developed for further recruitment of each summer trainee. The purpose of the summer trainee program is to employ college students between their junior and senior years in preparation for future employment in the Department of Social Services.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

**NAC CORRECTIONS STANDARD 14.11
STAFF DEVELOPMENT**

**RELATED IOWA STANDARD
12.11 STAFF DEVELOPMENT**

Correctional agencies immediately should plan and implement a staff development program that prepares and sustains all staff members.

ICJS

A Correctional Manpower Development program was implemented in 1969 by the Bureau of Adult Corrections (now Bureau of Correctional Institutions by reorganization) of the Department of Social Services. The program offered in-service training in the areas of recruitment, basic and advanced training, supervisory and managerial development and organizational change. Although training was primarily for correctional institutional personnel, field staff and members of local community correctional projects were included in some of the training sessions.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

NAC 14.11 contd.

1. Qualified trainers should develop and direct the program.
2. Training should be the responsibility of management and should provide staff with skills and knowledge to fulfill organizational goals and objectives.

ICJS

The Correctional Manpower Development Program was initiated for the purpose of training correctional employees. See ICJS commentary in previous section. Objectives of the Manpower Development Program include advanced training for Bureau middle and upper management personnel in a variety of areas, 17 courses of training in which academic credit is offered in order to develop employees' skills in their work, and training for employees in the various aspects of the criminal justice system in Iowa. Also, other continuing education programs such as seminars, short courses, training sessions, workshops, symposiums, night classes and extension courses are provided to staff to upgrade and update skills and knowledge. The Department of Social Services does have a Division of Management and Planning that plans and coordinates some training within the Department.

Analysis

ICJS practice meets NAC Standard
ICJS principle is the same as NAC

NAC 14.11 contd.

3. To the fullest extent possible, training should include all members of the organization, including the clients.

ICJS

Training has included most staff employees of the Bureau of Correction Institutions. Field staff such as probation-parole officers have been included in some sessions. Members of local community corrections projects have been invited to attend some training sessions. Clients have not been included in the training sessions.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 14.11 contd.

4. Training should be conducted at the organization site and also in community settings reflecting the context of crime and community resources.
 - a. All top and middle managers should have at least 40 hours a year of executive development training, including training in the operations of police, courts, prosecution, and defense attorneys.
 - b. All new staff members should have at least 40 hours of orientation training during their first week on the job and at least 60 hours additional training during their first year.
 - c. All staff members, after their first year, should have at least 40 hours of additional training a year to keep them abreast of the changing nature of their work and introduce them to current issues affecting corrections.

ICJS

Most training sessions have been conducted at the institutions. A total of 17 courses of training have been taught by college staff at the correctional institutions. Some training sessions have been held in community settings.

Some management training has been held in college classrooms. Also, some out-of-state travel was necessary for some training sessions.

- (a) Advanced training has been provided for Division middle and upper management personnel in a variety of areas. However, the training does not meet the standard's recommendation of 40 hours a year of executive development training in all criminal justice areas.
- (b) Upon initial hiring, 80 hours of orientation training are given to institutional staff members. Field staff receive in-service training on a one-to-one basis with supervision. Forty hours of training in a program dealing with the Iowa Criminal Justice System is provided for all employees in the state correctional system.
- (c) A minimum of 20 hours per year is spent in refresher course training and in-service training for all employees in institutions.

Analysis

ICJS practice is different than NAC Standard
ICJS principle is different than NAC

NAC 14.11 contd.

5. Financial support for staff development should continue from the Law Enforcement Assistance Administration, but State and local correctional agencies must assume support as rapidly as possible.

ICJS

Financial support for the Correctional Manpower Development program was primarily through LEAA with a state buy-in share. Local correctional agencies have not contributed financial support.

Analysis

ICJS practice is similar to NAC Standard
ICJS principle is similar to NAC

NAC 14.11 contd.

6. Trainers should cooperate with their counter-parts in the private sector and draw resources from higher education.

ICJS

The Manpower Development Director and training officers have worked with the Iowa Merit Employment Commission; the Office of Staff Development and Training, a unit of the Department of Social Services; consultants from the Iowa Crime Commission; regional LEAA office and resources; courts and law enforcement personnel; staff of colleges and universities; and other outside speakers and personnel.

Analysis

ICJS practice is the same as NAC Standard
ICJS principle meets NAC

NAC 14.11 contd.

7. Sabbatical leaves should be granted for correctional personnel to teach or attend courses in colleges and universities.

ICJS

Full time educational leave with salary may be granted to correctional personnel that are employees of the Department of Social Services.

Analysis

ICJS practice is similar to NAC Standard

ICJS principle is similar to NAC

Some correctional agencies are not a part of the Department of Social Services and do not have policy for sabbatical or educational leave.

NAC CORRECTIONS STANDARD 15.1 STATE CORRECTIONAL INFORMATION SYSTEMS

RELATED IOWA STANDARD 13.1 STATE CORRECTIONAL INFORMATION SYSTEM

Each State by 1978 should develop and maintain, or cooperate with other States in the development and maintenance of, a correctional information system to collect, store, analyze, and display information for planning, operational control, offender tracking, and program review for all State and county correctional programs and agencies.

1. Statewide information system should be feasible for the larger States. Local and central correctional components (facilities, branch offices, programs) of all sizes should be included in such systems. Regional (multistate) systems should be feasible for smaller States.
2. In all cases, the State or regional system should store local data, with access provided through terminals at various points throughout the State. Control of the system should be in the hands of participating agency representatives. Until unified correctional systems are established, admission to the system should be voluntary, but benefits should be clear enough to encourage membership. A share of the development costs should be borne by the State or regional consortium.
3. In States where data processing for the department of corrections must be done on a shared computer facility under the administration of some other agency, the programmers and analysts for the department should be assigned full time to it and should be under the complete administrative control of the department of corrections.
4. The department of corrections should be responsible for maintaining the security and privacy of records in its data base and should allow data processing of its records only under its guidance and administrative authority. This should not be construed as prohibitive, as the department of corrections should encourage research in the correctional system and provide easy access to authorized social science researchers. (Only information that would identify individuals should be withheld).
5. The information-statistics function should be placed organizationally so as to have direct access to the top administrators of the department. The director of the information group should report directly to the agency administrator.
6. The mission of the information-statistics function should be broad enough to assume informational and research support to all divisions within the department of corrections and to support development of an offender-based transaction system. Priorities of activity undertaken should be established by the top administrators in consultation with the director of the information system.

ICJS

At this time, neither a statewide correctional information system nor a regional (multi-state) system has been developed in Iowa. However, a feasibility study for a comprehensive correctional information system has been undertaken.

The objective of the feasibility study is to determine the possibility of a comprehensive correctional information system in Iowa. If it is not feasible, the study will produce recommendations for alternative ways to resolve the problem of overlapping systems, inefficiency, duplication, etc. If the system is determined to be feasible, the study will produce a plan for a comprehensive correctional information system, consistent with applicable reg-

ulations, laws, and policies, and with the endorsement of administrators of agencies involved.

If it is determined a correctional information system is feasible, it will be statewide for correctional programs and services but will be for adult offenders only.

Currently in Iowa, there are several fragmented types of correctional information systems in operation. In the Department of Social Services, there is an information system for the correctional institutions (Men's Reformatory at Anamosa, Prison at Ft. Madison, Women's Reformatory at Rockwell City, Security Medical Facility at Oakdale, and the two work release camps at Harpers Ferry and Newton), another for the Bureau of Community Correctional Services, as well as a third which is related to the Bureau of Correctional Evaluation. In addition, the Parole Board maintains its own records. There are ten court services projects in Iowa, (one each in six of the Judicial Districts and two each in two of the districts) each of which has its own information system which may or may not be related to the others.

The "Feasibility Study of a Comprehensive Information System" will be undertaken in four steps as follows:

1. Development of a thorough understanding of current information systems in use by correctional agencies and institutions within the State, analyze their relationships, determine information needs, and generate the methods for integrating all information sources into a single Corrections Information System.
2. Analyze the data gathered in Step 1 to determine the potential for success of the product.
3. This stage of the project will seek additional detailed user information, secure participant cooperation, begin hardware evaluations and refine the internal workings of the information system through systematic sharing of the proposal with agencies and institutions.
4. All information will be brought together along with technical documents for the purpose of producing a plan that details a complete and thorough corrections information system. Included will be an applications section and an implementation strategy.

The feasibility study and report will be carried out by the Bureau of Correctional Evaluation of the Department of Social Services. There will be consultation and coordination with the state criminal justice information system, TRACIS, while the feasibility study is being conducted and the report prepared.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is similar to NAC

NAC CORRECTIONS STANDARD 15.2 STAFFING FOR CORRECTIONAL RESEARCH AND INFORMATION SYSTEMS

RELATED IOWA STANDARD 13.2 STAFFING FOR A CORRECTIONAL INFORMATION SYSTEM

Each State, in the implementation of Standard 15.1, should provide minimum capabilities for analysis and interpretation of information. For all but the largest components (facilities, branch offices, programs), a small information and statistics section capable of periodic reports on the consequences of policy and decisionmaking will suffice. Larger components will benefit from having a professional staff capable of designing and executing special assessment studies to amplify and explicate reports generated by the information system. Staffing for research and information functions should reflect these considerations:

1. Where the component's size is sufficient to support one or more full-time positions, priority should be given to assigning an information manager who should have minimum qualifications as a statistician. The manager should have full responsibility for coordination and supervision of inputs into the system. He also should edit, analyze, and interpret all output material, preparing tables and interpretive reports as indicated.

2. Where the size of the component does not warrant the allocation of full-time positions to information and statistics, one professional staff member should be designated to perform the functions outlined above on a part-time basis.
3. The manager of the State information system should use members of his staff as training officers and technical consultants. In States where unification has not been achieved, these persons should be responsible for familiarizing county and local correctional administrative and information staff with system requirements and the advantageous use of output.
4. Other steps to achieve effective communication of information include the following:
 - a. Researchers and analysts should be given formal training in communication of results to administrators. Such training should include both oral and written communications.
 - b. The training program of the National Institute of Corrections should include a session for administrators that covers new techniques in the use of computers, information, and statistics.
 - c. Where feasible, management display centers should be constructed for communication of information to administrators. The center should have facilities for graphic presentation of analyses and other information.

ICJS

At this time, Iowa has not determined the feasibility of a State Correctional Information System. See Commentary, Standard 15.1. Therefore, staffing needs have not been determined.

Analysis

ICJS practice is inconsistent with NAC Standard
 ICJS principle is significantly different than NAC

NAC CORRECTIONS STANDARD 15.3 DESIGN CHARACTERISTICS OF A CORRECTIONAL INFORMATION SYSTEM

RELATED IOWA STANDARD 13.3 DESIGN CHARACTERISTICS OF A CORRECTIONAL INFORMATION SYSTEM

Each State, in the establishment of its information system under Standard 15.1, should design it to facilitate four distinct functions:

1. Offender accounting.
2. Administrative-management decisionmaking.
3. Ongoing departmental research.
4. Rapid response to ad hoc inquiries.

The design of the correctional information system should insure capability for provision of the following kinds of information and analysis:

1. Point-in-time net results—routine analysis of program status, such as:
 - a. Basic population characteristics.
 - b. Program definition and participants.
 - c. Organizational units, if any.
 - d. Personnel characteristics.
 - e. Fiscal data.
2. Period-in-time reports—a statement of flow and change over a specified period for the same items available in the point-in-time net results report. The following kinds of data should be stored:
 - a. Summary of offender events and results of events.
 - b. Personnel summaries.
 - c. Event summaries by population characteristics.
 - d. Event summaries by personnel characteristics.
 - e. Fiscal events summarized by programs.

3. Automatic notifications—the system should be designed to generate exception reports for immediate delivery. Four kinds of exception reports are basic:
 - a. Volume of assignments to programs or units varying from a standard capacity.
 - b. Movement of any type that varies from planned movement.
 - c. Noncompliance with established decision criteria.
 - d. Excessive time in process.
4. Statistical-analytical relationships—reports of correlations between certain variables and outcomes, analysis of statistical results for a particular program or group of offenders, etc.

ICJS

Currently, the determination has not been made whether a comprehensive correctional information system is feasible in Iowa. See Commentary Standard 15.1. The first step of the proposed procedure of the feasibility study is development of a thorough understanding of current information systems in use by correctional agencies and institutions within the State, analyze their relationships, determine information needs, and generate the methods for integrating all information sources into a single Corrections Information System.

Analysis

ICJS practice is significantly different than NAC Standard
 ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 15.4 DEVELOPMENT OF A CORRECTIONAL DATA BASE

RELATED IOWA STANDARD 13.4 DEVELOPMENT OF A CORRECTIONAL DATA BASE

Each State, in the establishment of its information system under Standard 15.1, should design its data base to satisfy the following requirements:

1. The information-statistics functions of offender accounting, administrative decisionmaking, ongoing research, and rapid response to questions should be reflected in the design.
2. The data base should allow easy compilation of an annual statistical report, including sections on population characteristics tabulated for given points in time, a recapitulation of population movement for the full year, and an analysis of recidivism by offense and other characteristics.
3. The data base should include all data required at decision points. The information useful to corrections personnel at each decision point in the correctional system should be ascertained in designing the data base.
4. The requirements of other criminal justice information systems for corrections data should be considered in the design, and an interface between the corrections system and other criminal justice information systems developed, including support of offender-based transaction systems.
5. All data base records should be individual-based and contain elements that are objectively codable by a clerk. The procedures for coding data should be established uniformly.
6. The integrity and quality of data in each record is the responsibility of the information group. Periodic audits should be made and quality control procedures established.
7. The corrections information-statistics system should be designed and implemented modularly to accommodate expansion of the data base. Techniques should be established for pilot testing new modules without disrupting ongoing operations of the system. Interactions with planners and administrators should occur before introduction of innovations.
8. Data bases should be designed for future analyses, recognizing the lag between program implementation and evaluation.
9. The results of policies (in terms of evaluation) should be reported to administrators, and data base content should be responsive to the needs of changing practices and policies to guarantee that the all-important feedback loop will not be broken.

10. The initial design of the corrections data base should recognize that change will be continual. Procedures to assure smooth transitions should be established.

ICJS

At the present time, it has not been determined if a statewide correctional information system is feasible. Therefore, the design of the data base for a comprehensive correctional information system has not been established.

There are basically two types of information being provided the current correctional systems. The various types of charges or other grouped information comes from either the Bureau of Correctional Evaluation for community based corrections or the Division of Correctional Institutions for the state institutions.

Personal type of information, such as individual criminal histories, comes from the State Bureau of Criminal Investigation. Rap sheets are provided to local officials, and these are used primarily for pre-sentence investigations by corrections' personnel. When the TRACIS system becomes fully operational, criminal histories will be provided by this system.

The information system operated by the Bureau of Correctional Evaluation is primarily an evaluation system. Data is gathered on individuals as they enter a community corrections program (be it pre-trial release, a community-based residential facility or parole or probation), and again upon their termination from the program. Data gathered includes socio-demographic information, criminal history, drug and alcohol history and employment. Upon termination, changes in these characteristics are examined as well as aspects of the program an individual has participated in. This information is stored by magnetic tape by individual, but a discrete identification number is used to identify the individual, with the only master list existing in the BCI offices. The individual's name and social security number, as well as any BCI or FBI numbers, are not recorded in the magnetic file. This limits the use of this data system to program evaluation and management information. Reports are prepared for state-wide evaluation as well as program evaluations and district evaluations of programs. Correctional institutions (other than community-based) are not included in this system, although future plans call for their eventual inclusion.

The second primary data system in existence is maintained by the Division of Correctional Institutions in the Department of Social Services. The population covered by this system is that of the three main institutions, as well as the two work release camps and the medical facility at Oakdale. Information is obtained on data sheets upon entrance to one of the institutions and process information sheets are completed whenever an individual is discharged or transferred from the institution. This system, as opposed to the Correctional Evaluation's system, records the BCI and FBI identification numbers, as well as the individual's name and social security number. At the present time however, the system is not used for information retrieval on specific individuals. Its main use is for the required Federal reports, as well as the annual State report.

Analysis

ICJS practice is significantly different than NAC Standard
ICJS principle is significantly different than NAC

**NAC CORRECTIONS STANDARD 15.5
EVALUATING THE PERFORMANCE OF THE
CORRECTIONAL SYSTEM**

**RELATED IOWA STANDARD
13.5 EVALUATING THE PERFORMANCE OF THE
CORRECTIONAL SYSTEM**

Each correctional agency immediately should begin to make performance measurements on two evaluative levels - overall performance or system reviews as measured by recidivism, and program reviews that emphasize measurement of more immediate program goal achievement. Agencies allocating funds for correctional programs should require such measurements. Measurement and review should reflect these considerations:

1. For system reviews, measurement of recidivism should be the primary evaluative criterion. The following definition of recidivism should be adopted nationally by all correctional agencies to facilitate comparisons among jurisdictions and compilation of national figures:

Recidivism is measured by (1) criminal acts that resulted in conviction by a court, when committed by individuals who are under correctional supervision or who have been released from correctional supervision within the previous three years, and by (2) technical violations of probation or parole in which a sentencing or paroling authority took action that resulted in an adverse change in the offender's legal status.

Technical violations should be maintained separately from data on reconvictions. Also, recidivism should be reported in a manner to discern patterns of change. At a minimum, statistical tables should be prepared every 6 months during the 3-year followup period, showing the number of recidivists. Discriminations by age, offense, length of sentence, and disposition should be provided.

2. Program review is a more specific type of evaluation that should entail these five criteria of measurement:

- a. Measurement of effort, in terms of cost, time, and types of personnel employed in the project in question.
- b. Measurement of performance, in terms of whether immediate goals of the program have been achieved.
- c. Determination of adequacy of performance, in terms of the program's value for offenders exposed to it as shown by individual followup.
- d. Determination of efficiency, assessing effort and performance for various programs to see which are most effective with comparable groups and at what cost.
- e. Study of process, to determine the relative contributions of process to goal achievement, such as attributes of the program related to success or failure, recipients of the program who are more or less benefited, conditions affecting program delivery, and effects produced by the program. Program reviews should provide for classification of offenders by relevant types (age, offense category, base expectancy rating, psychological state or type, etc.) Evaluative measurement should be applied to discrete and defined cohorts. Where recidivism data are to be used, classifications should be related to reconvictions and technical violations of probation or parole as required in systems reviews.

3. Assertions of system or program success should not be based on unprocessed percentages of offenders not reported in recidivism figures. That is, for individuals to be claimed as successes, their success must be clearly related in some demonstrable way to the program to which they were exposed.

ICJS

Only community corrections projects are being evaluated in Iowa at the present time. This evaluation measurement is primarily program review.

When legislation was enacted in 1973 to establish community based corrections, it mandated that guidelines to be issued by the Department of Social Services must provide for "gathering and evaluating performance data," Section 217.28 (6), Code. Pursuant to this legislation, the Bureau of Correctional Evaluation under the Division of Management and Planning of the Department of Social Services was established to conduct a continuous comprehensive program effectiveness evaluation for all community based correctional programs. The guidelines issued by the Department of Social Services list the five criteria against which programs are to be evaluated:

- . Community Safety - protection of the community from additional crime during the correctional process.
- . Social Effectiveness - ability of offenders to function legally and effectively within society.
- . Correctional Effectiveness - reduction of future criminal behavior.
- . Financial Effectiveness - cost effectiveness.
- . System Impact - effects upon crime rates, jail and prison populations, use of community resources.

Prior to implementation of the Bureau of Corrections Evaluation, studies had been made and reports issued by the National Council on Crime and Delinquency (NCCD) since 1970 of community based programs and services in the Fifth Judicial District. An evaluation model was developed by which programs were to be evaluated. The NCCD developed data collection sheets which were completed by NCCD staff and by field personnel of the projects studied. The Correctional Evaluation Bureau was formed in late 1974 and the new

staff continued the data collection process. All operating community correction projects in the state are studied by the Correctional Evaluation unit.

Recidivism has not been defined by all correctional agencies. The community corrections programs for offenders who have been convicted are assessed according to new arrests after termination from the program.

The current ongoing evaluation of community based corrections provides information about: (a) the relative effectiveness of community based corrections and incarceration in preventing repeat crimes by the same offenders; (b) the degree to which selected offenders can be released to the community without endangering the public, and (c) the dimensions of Iowa's community correction projects, the characteristics of offenders in those projects, and the processes which those offenders undergo.

Analysis

ICJS practice is significantly different than NAC Standard

ICJS principle is different than NAC

NAC CORRECTIONS STANDARD 16.1 COMPREHENSIVE CORRECTIONAL LEGISLATION

RELATED IOWA STANDARD 2.2 COMPREHENSIVE CORRECTIONAL LEGISLATION

Each State, by 1978, should enact a comprehensive correctional code, which should include statutes governing:

1. Services for persons awaiting trial.
2. Sentencing criteria, alternatives, and procedures.
3. Probation and other programs short of institutional confinement.
4. Institutional programs.
5. Community-based programs.
6. Parole.
7. Pardon.

The code should include statutes governing the preceding programs for:

1. Felons, misdemeanants, and delinquents.
2. Adults, juveniles, and youth offenders.
3. Male and female offenders.

Each legislature should state the "public policy" governing the correctional system. The policy should include the following premises:

1. Society should subject persons accused of criminal conduct or delinquent behavior and awaiting trial to the least restraint or condition which gives reasonable assurance that the person accused will appear for trial. Confinement should be used only where no other measure is shown to be adequate.
2. The correctional system's first function is to protect the public welfare by emphasizing efforts to assure that an offender will not return to crime after release from the correctional system.
3. The public welfare is best protected by a correctional system characterized by care, differential programming, and reintegration concepts rather than punitive measures.
4. An offender's correctional program should be the least drastic measure consistent with the offender's needs and the safety of the public. Confinement, which is the most drastic disposition for an offender and the most expensive for the public, should be the last alternative considered.

**NAC CORRECTIONS STANDARD 16.2
ADMINISTRATIVE JUSTICE**

**RELATED IOWA STANDARD
1.18 ADMINISTRATIVE JUSTICE**

Each State should enact by 1975 legislation patterned after the Model State Administrative Procedure Act, to regulate the administrative procedures of correctional agencies. Such legislation, as it applies to corrections, should:

1. Require the use of administrative rules and regulations and provide a formal procedure for their adoption or alteration which will include:
 - a. Publication of proposed rules.
 - b. An opportunity for interested and affected parties, including offenders, to submit data, views, or arguments orally or in writing on the proposed rules.
 - c. Public filing of adopted rules.
2. Require in a contested case where the legal rights, duties, or privileges of a person are determined by an agency after a hearing, that the following procedures be implemented:
 - a. The agency develop and publish standards and criteria for decisionmaking of a more specific nature than that provided by statute.
 - b. The agency state in writing the reason for its action in a particular case.
 - c. The hearings be open except to the extent that confidentiality is required.
 - d. A system of recorded precedents be developed to supplement the standards and criteria.
3. Require judicial review for agency actions affecting the substantial rights of individuals, including offenders, such review to be limited to the following questions:
 - a. Whether the agency action violated constitutional or statutory provisions.
 - b. Whether the agency action was in excess of the statutory authority of the agency.
 - c. Whether the agency action was made upon unlawful procedure.
 - d. Whether the agency action was clearly erroneous in view of the reliable, probative, and substantial evidence on the record.

The above legislation should require the correctional agency to establish by agency rules procedures for:

1. The review of grievances of offenders.
2. The imposition of discipline on offenders.
3. The change of an offender's status within correctional programs.

Such procedures should be consistent with the recommendations in Chapter 2, Rights of Offenders.

**NAC CORRECTIONS STANDARD 16.3
CODE OF OFFENDERS' RIGHTS**

**RELATED IOWA STANDARD
1.22 CODE OF OFFENDERS' RIGHTS**

Each State should immediately enact legislation that defines and implements the substantive rights of offenders. Such legislation should be governed by the following principles:

1. Offenders should be entitled to the same rights as free citizens except where the nature of confinement necessarily requires modification.
2. Where modification of the rights of offenders is required by the nature of custody, such modification should be as limited as possible.
3. The duty of showing that custody requires modification of such rights should be upon the correctional agency.
4. Such legislation should implement the substantive rights more fully described in Chapter 2 of this report.
5. Such legislation should provide adequate means for enforcement of the rights so defined. It should authorize the remedies for violations of the rights of offenders listed in Standard 2.18, where they do not already exist.

**NAC CORRECTIONS STANDARD 16.4
UNIFYING CORRECTIONAL PROGRAMS**

**RELATED IOWA STANDARD
2.1 UNIFYING CORRECTIONAL PROGRAMS**

Each State should enact legislation by 1978 to unify all correctional facilities and programs. The board of parole may be administratively part of an overall statewide correctional services agency, but it should be autonomous in its decisionmaking authority and separate from field services. Programs for adult, juvenile, and youthful offenders that should be within the agency include:

1. Services for persons awaiting trial.
2. Probation supervision.
3. Institutional confinement.
4. Community-based programs, whether prior to or during institutional confinement.
5. Parole and other aftercare programs.
6. All programs for misdemeanants including probation, confinement, community-based programs, and parole.

The legislation also should authorize the correctional agency to perform the following functions:

1. Planning of diverse correctional facilities.
2. Development and implementation of training programs for correctional personnel.
3. Development and implementation of an information-gathering and research system.
4. Evaluation and assessment of the effectiveness of its functions.
5. Periodic reporting to governmental officials including the legislature and the executive branch.
6. Development and implementation of correctional programs including academic and vocational training and guidance, productive work, religious and recreational activity, counseling and psychotherapy services, organizational activity, and other such programs that will benefit offenders.
7. Contracts for the use of nondepartmental and private resources in correctional programming.

This standard should be regarded as a statement of principle applicable to most State jurisdictions. It is recognized that exceptions may exist, because of local conditions or history, where juvenile and adult corrections or pretrial and postconviction correctional services may operate effectively on a separated basis.

**NAC CORRECTIONS STANDARD 16.6
REGIONAL COOPERATION**

**RELATED IOWA STANDARD
2.4 REGIONAL COOPERATION**

Each State that has not already done so should immediately adopt legislation specifically ratifying the following interstate agreements:

1. Interstate Compact for the Supervision of Parolees and Probationers.
2. Interstate Compact on Corrections.
3. Interstate Compact on Juveniles.
4. Agreement on Detainers.
5. Mentally Disordered Offender Compact.

In addition, statutory authority should be given to the chief executive officer of the correctional agency to enter into agreements with local jurisdictions, other States, and the Federal Government for cooperative correctional activities.

**NAC CORRECTIONS STANDARD 16.12
COMMITMENT LEGISLATION**

**RELATED IOWA STANDARD
2.3 COMMITMENT LEGISLATION**

Each State should enact, in conjunction with the implementation of Standard 16.1, legislation governing the commitment, classification, and transfer of offenders sentenced to confinement. Such legislation should include:

1. Provision requiring that offenders sentenced to confinement be sentenced to the custody of the chief executive officer of the correctional agency rather than to any specific institution.
2. Requirement that sufficient information be developed about an individual offender and that assignment to facility, program, and other decisions affecting the offender be based on such information.
3. Authorization for the assignment or transfer of offenders to facilities or programs administered by the agency, local subdivisions of government, the Federal Government, other States, or private individuals or organizations.
4. Prohibition against assigning or transferring juveniles to adult institutions or assigning nondelinquent juveniles to delinquent institutions.
5. Authorization for the transfer of offenders in need of specialized treatment to institutions that can provide it. This should include offenders suffering from physical defects or disease, mental problems, narcotic addiction, or alcoholism.
6. Provision requiring that the decision to assign an offender to a particular facility or program shall not in and of itself affect the offender's eligibility for parole or length of sentence.
7. A requirement that the correctional agency develop through rules and regulations (a) criteria for the assignment of an offender to a particular facility and (b) a procedure allowing the offender to participate in and seek administrative review of decisions affecting his assignment or transfer to a particular facility or program.

**NAC CORRECTIONS STANDARD 16.16
PARDON LEGISLATION**

**RELATED IOWA STANDARD
2.5 PARDON LEGISLATION**

Each State by 1975 should enact legislation detailing the procedures (1) governing the application by an offender for the exercise of the pardon powers, and (2) for exercise of the pardon powers.

**NAC CORRECTIONS STANDARD 16.17
COLLATERAL CONSEQUENCES OF A CRIMINAL
CONVICTION**

**RELATED IOWA STANDARD
1.20 RETENTION AND RESTORATION OF RIGHTS**

Each State should enact by 1975 legislation repealing all mandatory provisions depriving persons convicted of criminal offenses of civil rights or other attributes of citizenship. Such legislation should include:

1. Repeal of all existing provisions by which a person convicted of any criminal offense suffers civil death, corruption of blood, loss of civil rights, or forfeiture of estate or property.
2. Repeal of all restrictions on the ability of a person convicted of a criminal offense to hold and transfer property, enter into contracts, sue and be sued, and hold offices of private trust.
3. Repeal of all mandatory provisions denying persons convicted of a criminal offense the right to engage in any occupation or obtain any license issued by government.
4. Repeal of all statutory provisions prohibiting the employment of ex-offenders by State and local governmental agencies.

Statutory provisions may be retained or enacted that:

1. Restrict or prohibit the right to hold public office during actual confinement.
2. Forfeit public office upon confinement.
3. Restrict the right to serve on juries during actual confinement.
4. Authorize a procedure for the denial of a license or governmental privilege to selected criminal offenders when there is a direct relationship between the offense committed or the characteristics of the offender and the license or privilege sought.

The legislation also should:

1. Authorize a procedure for an ex-offender to have his conviction expunged from the record.
2. Require the restoration of civil rights upon the expiration of sentence.

END