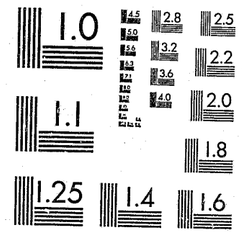

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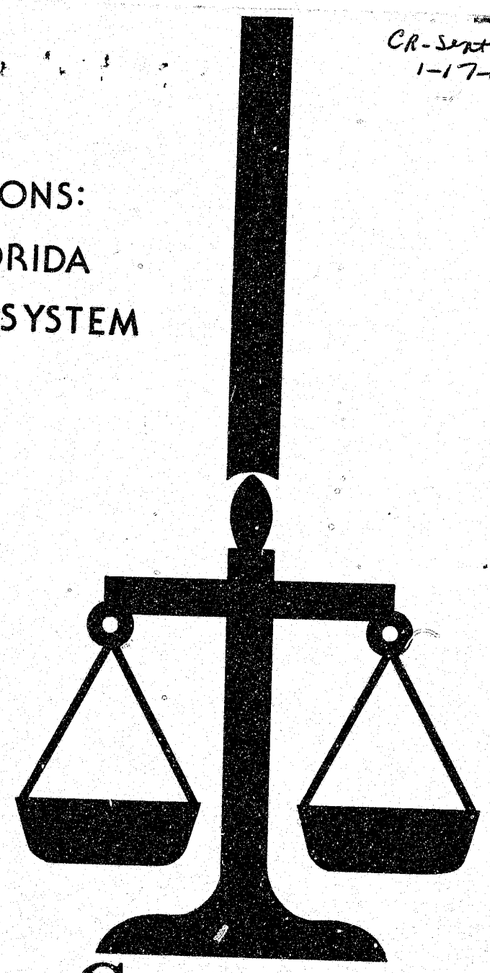
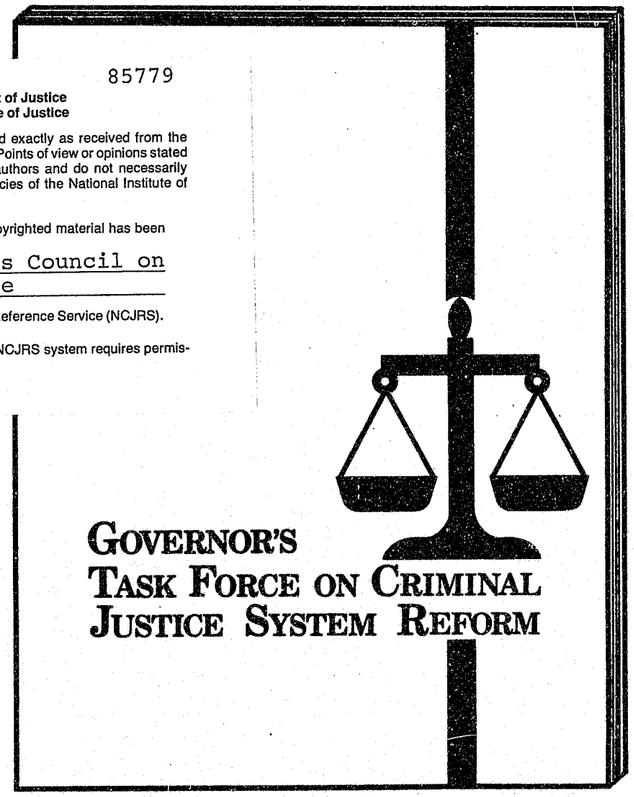
FINAL RECOMMENDATIONS: REFORMING THE FLORIDA CRIMINAL JUSTICE SYSTEM



OVERNOR'S
SK FORCE ON CRIMINAL
STICE SYSTEM REFORM

Sundberg, Chief Justice; Co-Chairman • Jim Smith, Attorney General; Co-Chairman

FINAL RECOMMENDATIONS: REFORMING THE FLORIDA CRIMINAL JUSTICE SYSTEM



Governor's Task Force on Criminal Justice

System Reform

Alan Sundberg
Chief Justice
Co-Chairman

Jim Smith
Attorney General
Co-Chairman

Task Force Members:

Gerald T. Bennett
David Brierton
Senator Joe Carlucci
Dean Eugene Czajkoski
Rosemary DuRocher
Commissioner Barbara Greadington
Judge Bobby Gunther
Archie Hardwick
Kenneth Harms
Ron Harshman
Veryl McIntyre
Elliott Metcalfe
Guy Revell
Barry Richard
James T. Russell
Representative Ron Silver
Representative Larry Smith
Frank Soler
Senator Paul Steinberg
David Strawn

Task Force Staff:

Phase I - August 1980 - September 1981

Vance Arnett, Executive Director
Angela McCloy, Staff Assistant
Jennifer Davis, Staff Analyst

Phase II - September 1981 - June 1982

Vance Arnett, Executive Director
Byron Brown, Staff Analyst
JoAnn Skinner, Staff Analyst
Terri Tabb, Secretary
Roy Allen, Graduate Research Assistant

State of Florida

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 80-109

(Amendment to Executive Order 80-78)

WHEREAS, the problem of crime is a major concern of the people of Florida, and

WHEREAS, there is a growing public concern as to whether the criminal justice system can effectively cope with the increasing responsibilities thrust upon it by an increased crime rate, probation and parole activity, prison population, and other factors, and

WHEREAS, there is a public perception of vast disparity and uncertainty in sentencing, and

WHEREAS, the Legislature has previously endorsed the continuing work of the Sentencing Study Committee appointed by the Supreme Court, and

WHEREAS, there is a critical need to re-examine the role and function of the Florida Parole and Probation Commission, and

WHEREAS, there is a critical necessity to consider the needs of the Florida Department of Corrections as it relates to inmate population, staffing requirements and facilities requirements, and

WHEREAS, there is presently no mechanism for review of the entire criminal justice system, and an appropriate inquiry into the entire system can best accomplish the objectives of a system-wide analysis, as opposed to a piecemeal review of various components, and

WHEREAS, there is a need for public participation in the reform of the criminal justice system.

NOW, THEREFORE, I, BOB GRAHAM, Governor of the State of Florida, acting under and by virtue of the authority vested in me by the Constitution and the Laws of the State of Florida, hereby promulgate the following order effective September 2, 1980:

Section 1.

The Governor's Task Force on Criminal Justice System Reform is hereby created to study and propose changes in Florida's criminal justice system.

Section 2.

The Task Force shall be composed of sixteen members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House of Representatives.

Section 3.

Chief Justice Alan Sundberg and Attorney General Jim Smith shall be Co-chairmen of the Task Force.

Section 4.

All state agencies are directed and other governmental entitites are requested to assist the Governor's Task Force on Criminal Justice System Reform to the fullest extent possible.

Section 5.

Executive Order 80-78 is hereby amended in conformity with the provisions of this Order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 9th day of December 1980.

GOVERNOR

ATTEST:

SECRETARY OF STATE

GOVERNOR'S TASK FORCE ON

Criminal Justice System Reform

ALAN C. SUNDBERG
CHIEF JUSTICE
Co-Chairman

JIM SMITH
ATTORNEY GENERAL
Co-Chairman

Dear Governor Graham:

In September of 1980 you appointed the Governor's Task Force on Criminal Justice System Reform to examine Florida's criminal justice problems and to recommend solutions. To that end, the Task Force has worked during the past two years to identify problems, analyze solutions, and generate the recommendations in this, the final statement.

Over the course of our term we have heard testimony from agency officials, victims, offenders, criminal justice line personnel, special interest groups, and citizens. Our findings are not greatly different from those of similar groups in the past. The state's criminal justice efforts lack coordination, adequate resources, and long-term planning perspectives. Elements within the justice process often must compete with each other for resources. Changes in the capabilities of one component affect the requirements of other elements. In its present structure there is no mechanism for projecting the impact of changes on the entire system.

The recommendations contained in this document represent a reform package designed to address the above problems. As a package, it may contain controversial shifts in philosophy or practice. But the recommendations are founded on the information gathered and the work conducted in support of your request. We have but begun the process for needed reform in the Florida system. We have provided the foundation for a structured program for needed change. It remains for the leaders of Florida to act in innovative capacities to build a system with greater coordination and a common sense of purpose. It remains for those who follow to explore the more controversial issues we raise. It is hoped that our effort will measure up to the expectations of those who felt compelled to come before us or write us with their testimony. Without their dedication and courage this effort would not have been possible.

Respectfully,

Alan C. Sundberg
Chief Justice

Jim Smith
Attorney General

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The Task Force

Membership

Alan Sundberg is currently the Chief Justice of the Florida Supreme Court and has served in that office since July 1, 1980. Chief Justice Sundberg was appointed to the Supreme Court in May 1975. Prior to his investiture, he practiced law for seventeen years. He served on the Board of Governors of the Young Lawyers section of The Florida Bar, the Board of Governors of The Florida Bar and The Florida Bar Foundation, as Vice President.

Jim Smith is currently Attorney General of Florida. He was elected in 1978 in his first bid for public office. He previously served in government as Deputy Secretary of State, Deputy Secretary of Commerce, Senior Aid to Governor Reubin Askew and member of the State Board of Regents. Between 1972 and 1978, Mr. Smith was senior partner in a Tallahassee law firm. As Attorney General, Mr. Smith has served as chairman of the Governor's Advisory Committee on Corrections. He is also a member of the advisory board of the National Federation of Parents for Drug Free Youth.

Gerald T. Bennett is currently a Professor of Law at the University of Florida. Professor Bennett was formerly a member of the Governor's Task Force for Court Administration, a member of the Florida Executive Committee for Implementation of ABA Standards in Criminal Justice, a member of the special Florida Supreme Court Advisory Committee to revise Florida Rules of Criminal Procedure, and a member of the Florida Bar Criminal Rules Committee. He has also acted as Coordinator for the Advanced Trial Advocacy Program and served as Director for the Criminal Trial Practice Institute, a trial training program for assistant state attorneys and public defenders.

David Brierton is currently Inspector General for the Department of Corrections. He was Superintendent of Florida State Prison for 27 months and has worked in the prison system for 21 years. Mr. Brierton was appointed to the Florida Council on Criminal Justice by Governor Graham. In addition, he has served on various task forces concerning criminal justice, correctional problems and management on the state and national level.

Joe Carlucci is a member of the Florida Senate elected in 1978. From 1968 to 1978 he served as Councilman-at-Large for the City of Jacksonville and has received numerous awards for his dedicated service. Senator Carlucci currently serves as Chairman of the Senate Corrections, Probation and Parole Committee.

Eugene Czajkoski is Dean of the School of Criminology at Florida State University. Dean Czajkoski has gained national recognition in the field of criminology with special emphasis in criminal justice administration. He has extensive publications and is currently serving on the Executive Committee for the Florida Council on Criminal Justice and as Chairman for the Research and Development Task Force.

Rosemary DuRocher is currently a teacher for the Orange County School System in the Executive High School Internship Program. Mrs. DuRocher served as President of the Orange County League of Women Voters, past Justice Chair for the League of Women Voters of Florida, chaired a task force on Women in the Criminal Justice System for the Board of County Commissioners, and is presently serving on the Executive Committee of the Orlando Crime Prevention Commission. Mrs. DuRocher has a Masters Degree in Counseling from Rollins.

Barbara Greadington is currently serving as Chair of the Florida Parole and Probation Commission after being elected to this position on July 1, 1980. Dr. Greadington has a Ph.D. from the University of Miami with an educational background in Counseling Psychology. She is from Miami and has worked in the area of rehabilitation of women offenders, specifically with the Dade County Women's Detention Center.

Bobby Gunther is currently serving as Circuit Judge, 17th Judicial Circuit of Florida, appointed in March of 1981. Judge Gunther served seven and one half years as County Judge. She was appointed to the Judicial Coordinating Council and serves as Secretary of the Broward County Commission on the Status of Women. Judge Gunther also serves as a menber of the Broward County Sheriff's Advisory Committee on the Women's Detention Center. She is a graduate of the University of Florida and served in the private practice of law from 1965 to 1972.

Archie Hardwick is currently the Executive Director of the James E. Scott Community Association (1968 to present), Dade County, a private foundation established to improve living conditions and community relations in the black community. He pioneered halfway houses for ex-offenders, both male and female; pioneered street worker programs for assistance to juvenile and adult offenders. Mr. Hardwick has served on the Governor's Commission on Crime and the Elderly, and on the Committee for Neighborhood Improvement by the Dade County Commission.

Kenneth Harms is serving as the Chief of Police of the City of Miami having been selected from a field of 160 candidates in March of 1978. Chief Harms' law enforcement experience extends from 1959 and he currently serves on numerous committees and forums related to professional law enforcement. A graduate of the FBI National Academy and the FBI National Executive Institute, Chief Harms holds a B.S. in Criminology and a M.S. in Administration and Human Resource Development.

Ron Harshman is currently involved in private enterprise in Ocala, Florida. He was formerly with the Department of Corrections specializing in volunteer programs and working with staff and inmates to promote racial harmony and to improve inmate peer relations. In addition to these positions, Mr. Harshman was a psychologist at Florida Correctional Institute and an instructor at Central Florida Community College.

Veryl McIntyre is currently Center Manager for the John H. Dickerson Community Center in Daytona Beach, Florida. Mr. McIntyre has served as the Director of the Youth Alternatives Runaway Shelter in Daytona, and Director of Youth Alternatives, Inc., which was the first runaway center established in Florida. He has extensive experience in dealing with programs for youth in crisis, and development and implementation of programs for youth, adults, and senior citizens. Mr. McIntyre is a member of the Advisory Board of Youth Alternative, and a past member of the Volusia County Youth Advocacy Commission.

Elliott Metcalfe was elected in 1976 as Public Defender of the Twelfth Judicial Circuit of Florida. Prior to becoming Public Defender, Mr. Metcalfe was Chief Assistant Public Defender of the Twelfth Judicial Circuit and Trial Attorney General with the United States Department of Agriculture in Washington, D.C. He is the youngest attorney ever awarded the Certificate of Merit in the Department of Agriculture. Mr. Metcalfe also served on the Florida Bar Task Force for Minimum Standards of Courtroom Facilities in Florida, and the Special Sarasota County Drug Task Force.

Guy Revell is currently an operations and management consultant with the Department of Health and Rehabilitative Services. Mr. Revell has professional experience with adult and juvenile correctional systems and was the first director of Florida's statewide juvenile probation and parole system. He has provided consulting services to state governments and national organizations, has served on several Task Forces and is a member of several professional organizations.

Barry Richard is currently a partner in the Tallahassee law firm of Roberts, Baggett, LaFace, Richard & Wiser. Mr. Richard served as Deputy Attorney General of Florida from 1972 to 1974, and was a member of the Florida House of Representatives from 1974 to 1978 where he served as Vice-Chairman of the Criminal Justice Committee, a member of the Judiciary Committee and Chairman of the Joint Select Committee on Sentencing Reform. He served as Special Counsel to the Florida House of Representatives on 1982 reapportionment.

James Russell is currently the State Attorney of the Sixth Judicial Circuit of Florida. Mr. Russell served as Assistant State Attorney from 1965 until 1969 at which time he was appointed State Attorney by the Governor. He served in the Florida Legislature from 1958 until 1964. In addition to these positions, he has served as a judge for several municipalities, served as the City Attorney for Gulfport, Florida and spent twenty five years in private practice in St. Petersburg, Florida.

Ron Silver is a member of the Florida House of Representatives, elected in 1978 and reelected subsequently. Representative Silver has also served as Miami Assistant City Attorney, Lauderdale Lakes Municipal Judge, and North Miami Beach Prosecuting Attorney. Representative Silver is Chairman of the House Select Committee on Juvenile Justice.

Larry Smith is an attorney and currently a member of the Florida House of Representatives, elected in 1978 and reelected subsequently. Representative Smith has served as Chairman of the Hollywood Planning and Zoning Board and a member of the Broward County Attorneys Advisory Board. Representative Smith is Chairman of the House Criminal Justice Committee.

Frank Soler is the President of Quintus Communications Group and Publisher and Editor of Miami Mensual. His career in professional journalism spans two decades, primarily with the Miami Herald where he served as a reporter, columnist and foreign correspondent attached to the Latin American division. In 1975 he assisted in the development of the first major Spanish-language newspaper published daily - El Miami Herald. He was Executive Editor for El Herald and member of the Herald's Editorial Board. Mr. Soler serves on numerous local boards including Greater Miami United, the Downtown Center for Fine Arts, the Mercy Hospital Foundation, and the International Center of Florida.

Paul Steinberg is an attorney and currently a member of the Florida Senate, elected in 1978, after having served in the House of Representatives from 1972 to 1978. Senator Steinberg is the recipient of many local and national awards and has served on numerous committees and councils. Senator Steinberg is the Chairman of the Senate Governmental Operations Committee, and past Chairman of the Senate Economic, Community & Consumer Affairs Committee.

David Strawn is currently a partner in the Orlando law firm of Akerman, Senterfitt & Eidson. He is a former Circuit Judge, Eighteenth Judicial Circuit of Florida, and former Sheriff of Brevard County. Mr. Strawn has served as a consultant on various aspects of the criminal justice system and has directed research concentrating on jury comprehension of judges' legal instructions. He serves as Chairman of the Board of Directors of the Institute for the Study of the Trial and is a member of the faculty of the National Judicial College. He has served as Visiting Professional Lecturer at the University of Florida College of Law. Mr. Strawn is a frequently published author on subjects concerning the judicial system.

OTHER TASK FORCE PUBLICATIONS

1. Staff Reports
   a. Parity: A First Step Toward Professionalization of Florida's Correctional Officers
   b. Correctional Officer Training: A Survey of Selected States
   c. Crime and Manpower Statistics: UCR Data for Selected Areas, 1971-1980
   d. A Comparative Analysis of Court Unification
   e. Comparison of Florida's Rules of Juvenile Procedure to Florida's Rules of Criminal Procedure
   f. Jails: State, Regional, or Local?
   g. Analysis of State and Local Prosecution Systems
   h. Report on Presentence Investigations
   i. Analysis: Crime and the Elderly
   j. Report on Victim/Witness Management Services
   k. Pretrial Diversion

2. Task Force Reports
   a. Florida's Criminal Justice System: An Overview (May, 1981)
   b. Balancing Equity, Safety and Justice Through Pretrial Reform (December, 1981)
   c. Funding the Florida Criminal Justice System (June, 1982)

Copies of the above documents are available through the Executive Office of the Governor, Office of General Counsel, Tallahassee, Florida, (904) 488-3494.

INTRODUCTION

For the past two years, the Governor's Task Force on Criminal Justice System Reform has been examining the State's criminal justice system. Testimony was received from citizens, professionals within the field, agency administrators and researchers. The evidence indicates that Florida does have a functioning criminal justice process, but not a coherent system. All too often, the different components of the system appear to be working against each other through lack of coordination, competition for resources, and an inability to adjust to different rates of growth.

The Task Force came into existence at a time of great public concern over what appeared to be several failings within the criminal justice apparatus. New types of criminal behavior, including the use of advanced technology for the commission of crimes, the possible lack of equity within the system, a perceived low level of professional conduct, and the shifts in public attitudes about crime and punishment, all formed a setting for Task Force deliberations. Additional social problems such as the population growth, a troubled economy, refugees, and limited opportunities for disadvantaged segments of our citizenry were all suggested as root causes for the Task Force to explore.

Statewide public hearings were conducted. The Task Force elected to meet on a monthly basis to receive testimony, review data, and debate the issues. The Task Force learned early that one of the largest problems it would face was the lack of reliable, accessible information on the system. What data existed had not been collected under uniform circumstances or with similar definitions which would allow it to be utilized for purposes of comparison.

From testimony the Task Force identified several issues which were under consideration by other groups or agencies. In such cases, elements of the system were taking action of their own, some stimulated by Task Force interest, others by their own motivation, which made extensive inquiry by the Task Force unnecessary. Some examples are the sentencing guidelines program adopted by the Legislature, the position of correctional officer parity first researched by the Governor's Advisory Committee on Corrections, and the state assumption of costs for all court operations investigated by the Legislature.

The Task Force also learned that some problems seemed beyond current solution, considering the lack of reliable information. In such instances, the Task Force recommended further study and concentrated on those problem areas with identifiable and current solutions.

During its deliberation, several fundamental principles became evident to the Task Force. These principles became the foundation for the Task Force recommendations contained in this report. The membership felt that law enforcement career potentials must be expanded horizontally as well as vertically, that training throughout the system - from prevention to corrections - was essential. The group believed that it was necessary to strike a new balance between individual rights to fair treatment and the community's right to be safe. The Task Force agreed that the certainty of a system response to every offense is essential, Members believed that every crime, whether committed by a juvenile or an adult, should be subject to a common response from a unified system although procedural and correctional options should be available for use with younger offenders. The Task Force was concerned that the corrections system not be dominated by a single model, such as "rehabilitation", but that it be reflective of additional public goals including punishment and incapacitation of the violent and of the repeat offender.

The ideas adopted and the realities faced by the Task Force suggested an interdependent foundation for beginning reform based on six fundamental goals:

Increasing the Certainty of Apprehension;

Increasing the Assurance of Equity Within the System;

Increasing the Assurance of Prosecution;

Assuring Adequate and Fair Punishment;

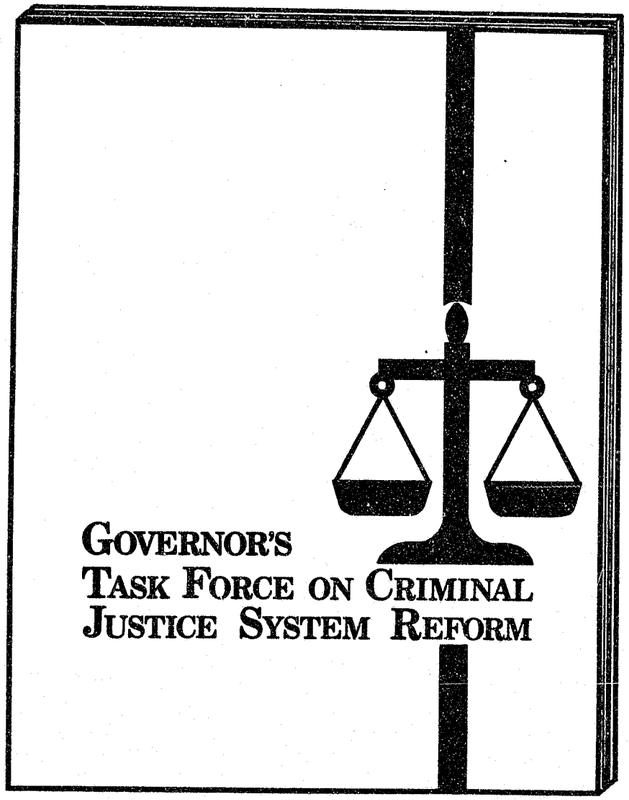
Assuring an Adequate Response for Juvenile Offenders;

Establishing a More Systemic Criminal Justice Response.

None of the recommendations taken separately from the others should be expected to provide significant positive change. They are powerful ideas together, but only interesting singly.

It is the Task Force's purpose and hope that implementation of these ideas will not only provide short-term relief, but are steps to provide a system which can begin to cure its own ills, and continually adapt to the changing needs of the community of which it is a dynamic part. All system components must understand the public objectives of the system. They must operate consistently and interdependently to assure coherent handling of criminals, from the commission of a crime to subsequent discharge from corrections. Developing common communication between system segments and model-driven management policies will provide for a dynamic, self-evaluating, and self-modifying criminal justice system.

INCREASING THE CERTAINTY OF APPREHENSION



INTRODUCTION

The criminal justice response can only be effective if the system designed to discover crimes and apprehend offenders is fully operational. Whether or not one accepts the concept of deterrence, it must be admitted that the system depends upon information about crime and the apprehension of criminals to begin the process. Severity of punishment is of little significance to a criminal who has no expectation of getting caught. If there is little or no expectation of apprehension in Florida today, it is understandable when only twenty percent of reported crimes result in arrest. Considering that the number of unreported crimes is reliably estimated to be as high as seventy-five percent, it is clear that the chances of arrest in Florida are extremely remote.

There are several observations which form the foundation for the recommendations made by the Task Force in this area of consideration. First, the problem of crime in Florida has surpassed the old models of general patrol and reactive response. The job of apprehending offenders must be conducted in a proactive manner. A proactive response utilizes information concerning the occurrence of offenses and places law enforcement resources in areas where they are needed when they are needed.

The level of sophistication and complexity of the offender population, the geographic considerations imposed by Florida's environment, and the rapidly growing requirement for police services require that professionals involved in the apprehension of offenders must be highly trained and skilled in their duties. In addition, the professionals must have adequate benefit programs which offer career emoluments to remain in the law enforcement field, and be provided opportunities for career advancement and personal growth already embodied in other professions.

Law enforcement alone cannot accomplish the huge task of controlling the incidence of crime. Greater ends can be achieved by a close coalition between the law enforcement agency and the community. Efforts underway related to active crime prevention participation on the part of Florida's citizenry are making a difference in the ability to enforce the law in the communities where the programs exist. This close alliance not only educates the population concerning steps which can be taken to prevent crime but provides an opportunity for the community to come in contact with law enforcement professionals in a positive setting. This closer union of agency and community, officer and citizen, insures that all possible resources which can be directed toward the criminal have been assembled and organized into a systemic response. With such a team approach, greater numbers of offenses will come under scrutiny, and with adequate resources, greater numbers of offenders will stand answerable for their crimes.

POLICE MANPOWER AND EFFICIENCY

Discussion

The directed purpose of this area of concern is to accentuate the work already begun in new methods of police deployment and information handling exemplified by the Integrated Criminal Apprehension Program. This program, developed through several years of criminal justice research, was directed at the problem of producing the tactical information necessary to make more effective and efficient police deployment decisions. It was substantiated in the research of the early seventies that law enforcement personnel, while maintaining crime-related patrol activities as a high priority, actually spent the majority of their time in duties unrelated to the investigation of crimes or the apprehension of criminals. Today, additional duties of conflict resolution, crisis management, and the many social services now provided by a modern police force take up ever increasing amounts of time. Information about such demands for service should be used in placing enough officers in the right place at the right time to handle requests for service. As demands for police service increases, the need for this more rational decision making method becomes greater.

In a time period when apparently law enforcement resources are insufficient, it is essential that any decision directed at determining the number and distribution of officers needed incorporate the following:

- Information on the demand for patrol services;
- Up-to-date information on the available manpower to meet those demands;
- Matching the demands with the manpower capability in a way which maximizes the available manpower to those times and geographical areas which need the most attention;
- A thorough analysis of the type and amount of criminal activity;
- Identification of suppressible crimes by location, time, and unique characteristics; and
- Constant evaluation and reassessment of existing systems of deployment.

The historical approach to such problems has always made less use of the more scientific forms of analysis, and has been hampered by the inability to feed operational information back to decision makers. If Florida is to accomplish any

advance in the reduction of crime through increasing the risk of apprehension, the law enforcement community must grasp the concept of proactive police decision making firmly.

Many of Florida's more populated areas have shifted to an integrated model already. For example, the Duval County Sheriff's Office presented testimony to the Task Force and outlined an adaptation of the Integrated Criminal Apprehension Program (ICAP), which they have implemented to keep pace with the demands for service in their area. Through a funding program administered by the Bureau of Criminal Justice Assistance, Department of Veteran and Community Affairs, other large departments are experimenting with the ICAP program. This program will be shifted to the Florida Department of Law Enforcement in July of 1982, supported with state funds. During the 1982-83 fiscal year, an evaluation of the thirteen Criminal Apprehension Programs currently existing in Florida will be conducted to provide funding information to the legislature. A more complete description of the ICAP model of law enforcement decision making is presented in Appendix B.

No model for law enforcement decision making can overcome the problem of grossly inadequate levels of manpower. The state of research in the area of law enforcement manpower needs assessment has come a long way through the work conducted in relation to the above model. However, Florida has not initiated the state-wide steps to collect the needed informational elements to determine what level of manpower is required to meet the demand. As a rough measure, the ratio of law enforcement officers to population has been used traditionally. The highest state-wide ratio ever reported with defensible data has been 2.1 officers per 1,000 population (reported in Crime in Florida, 1975-76). This ratio has been dropping ever since and for the most current statistics available we find 1.9 officers per 1,000 population state-wide. This ratio by jurisdiction varies within the state from less than 1 to as high as 3.7 per 1,000. The Task Force felt that, pending the collection and analysis of more scientific methods for determining strength, the ratio of 2.5 officers per 1,000 population should serve as a minimum standard. While the Task Force understands the problems of adopting an arbitrary standard, it still feels that a minimum guideline is necessary to support efforts to increase the number of officers state-wide to meet criminal justice needs.

Recommendations

1. It is recommended that programs be adopted to encourage state-wide uniformity in methods of criminal investigation and information.

2. It is recommended that the Florida Legislature, in coordination with local law enforcement agencies, identify those information elements most pertinent to determining the optimum formula for the level and distribution of law enforcement strength. It is further recommended that the results of such studies be utilized to establish state-wide guidelines for optimum law enforcement strength.

3. It is recommended that the State adopt as a minimum level of law enforcement strength the ratio of 2.5 officers per 1,000 population, to be adjusted for seasonal population variation.

LAW ENFORCEMENT PROFESSIONALIZATION

Discussion

The role of the law enforcement officer is pivotal to increasing the certainty of apprehension. An officer performs the essential functions whereby a crime is detected, the suspected offender is apprehended, and the initial evidence against the accused is collected. This work serves as the basis for the prosecution of the offender, and incompetence or non-professionalism on the law enforcement level will have a negative impact on other components of the criminal justice system.

While significant strides have been made in recent years in professionalizing Florida's law enforcement organizations, the Task Force identified a number of concerns. These concerns have been grouped into three major categories: recruitment, education and training, and rank and promotion.

Recruitment. Two major recruitment problems were identified by the Task Force. The first was the shortage of qualified recruits. As the size of most law enforcement agencies in Florida is growing, some jurisdictions have had difficulty finding qualified recruits to fill both new positions and positions opened through attrition.

A second problem has been the recruitment of minorities. The need for minority officers has been particularly emphasized in Florida with the influx of refugees and the racial issues related to the Miami rioting in 1980.

Although officer recruitment is primarily a concern of the individual agency, the statewide magnitude of the problem suggests that the state can provide support and assistance to the local agencies.

Training and Education. Florida has made great progress in the area of law enforcement training and education through a combination of minimum standards and career development programs established pursuant to the Criminal Justice Standards and Training provisions under Chapter 943, Florida Statutes. The Task Force believes that these programs provide a foundation for an expanded program designed to lead eventually to degrees in specialized fields of law enforcement.

The basic recruit training curriculum consists of 320 academy training hours, taught at any of 42 law enforcement institutes throughout the state. Some of these academies are attached to Community Colleges or Vo-Tech Institutes, and some are run by local law enforcement agencies. The Criminal Justice Standards and Training Commission issues certificates of compliance to persons who complete this basic training, thus authorizing them to be employed as law enforcement officers.

Some individual agencies require additional hours of recruit training beyond this state standard. Certification is based only on completion of the training requirements and not on any demonstration of proficiency. Thus there is no measure to insure that the quality of training received at one institute is comparable to another.

A basic problem existing today is a lack of coordination between academy training and college education. A number of Florida's colleges and universities offer courses in criminal justice leading to degrees. However, each such college or university establishes its own curriculum with no effort to coordinate such courses with the needs of the law enforcement community. The Standards and Training Commission has established curriculum for a number of advanced training courses through the institutes. Such training, however, is not counted as credit toward academic degrees in Florida's colleges and universities nor is academic degree work credited toward completion of academy requirements.

One of the major efforts of the state to this time has been the offering of salary incentives of up to $130 per month for education and advanced training. Incentive monies can be earned for up to 480 hours of approved training courses in the career development program. Incentives monies are also awarded for a community college degree or its equivalent and for a Bachelor's Degree. No credit is offered for work beyond a Bachelor's Degree, and no distinction is made regarding the course of academic study. Thus, as presently structured, the incentive is to leave law enforcement rather than to remain with it.

The State pays all incentive monies and funds all of the training academies connected with state community colleges. Some local governments run their own academies at their own expense. The major training expense of all local agencies is the salaries paid to recruits while in training.

Rank and Promotion. In Florida, as in most other states, law enforcement promotion is upward through an administrative pyramid. This creates several problems. First, it results in an obvious limitation on promotional opportunities, particularly in smaller agencies. Second, as an officer gains more experience, promotion often results in movement away from front line and into more administrative responsibilities. This deprives the system of experience on the front line and is often undesirable to an officer who wishes to remain on the front line rather than serving in an administrative function. For the officer, this is a difficult decision since turning down a promotion will often mean lower pay and stagnation of his career.

The Task Force recommends a shift from a system based entirely upon "vertical" advancement into a combination of both "vertical and horizontal" advancement similar to that utilized by the United States military forces. Law enforcement officers would be encouraged to designate any of a number of recognized fields of specialization. Advancement in a specialty field by virtue of education and training would be designated by special insignia and titles and would be separate from and unrelated to administrative promotion. The shift to horizontal advancement would substantially increase the career opportunities in law enforcement since each officer could look forward to an unlimited opportunity for advancement in his field of specialty with corresponding increases in compensation and professional respect. At the same time, the system would be able to retain a larger number of experienced, trained personnel at the front line level.

Uniformity in the ranking of law enforcement officers implies both a common standard for qualifications and training within a given rank and the use of substantially similar insignia for the designation of rank. While there appears to be some uniformity throughout Florida, particularly within the larger agencies, it is by no means universal. A standardization of the criteria for ranking law enforcement officers would accomplish two things. First, it would increase mobility by making it easier for an officer to transfer from one agency to another agency in a different location and, second, it would increase awareness, both by the law enforcement community and by the public generally, of the significance of rank and insignia with a resulting additional prestige attached to increased rank.

A movement toward horizontal advancement in specialty would necessitate the adoption of a uniform standard for designating specialty fields and degrees of advancement. In order to have the desired effect as a career incentive, training and education toward advancement in a specialty field would have to be recognized uniformly throughout the state. Again, this would result in greater mobility and increased professional status, two factors which the Task Force considers to be essential to career incentive.

The law enforcement pension was a commonly identified problem in discussions about the law enforcement profession. Pensions impede interagency mobility, although a number of agencies have joined the Florida Retirement System to reduce this problem. A portable pension system would be one designed to maximize the pension benefits to employees and to facilitate movement between agencies.

While effective law enforcement depends upon professional officers, the professionalization of the agency itself is also important. The Commission on Accreditation for Law

Enforcement Agencies is presently developing accreditation standards. This Commission, primarily supported by the International Association of Chiefs of Police, The National Organization of Black Law Enforcement Executives, Police Executive Research Forum, and the National Sheriff's Association, will field test these standards during late 1982, with a target date for implementation of April 1983. The Commission will encourage agencies to seek accreditation voluntarily as a means of evaluating organization, procedures, and services.

Recommendations

Recruitment

1. It is recommended that the state begin a statewide recruiting effort for law enforcement officers with the objective of increasing the pool of qualified personnel for potential hiring by local police agencies.

2. To assure fair and equal treatment of applicants for law enforcement positions, it is recommended that the State require independent validation of all hiring criteria utilized by individual agencies beyond those required under state standards.

Training and Education

3. It is recommended that the State focus state level training efforts on those areas having a direct impact on crime, community involvement, and effective police management (e.g., I.C.A.P.).

4. It is recommended that the Criminal Justice Standards and Training Commission encourage the upgrading of the quality of local recruit training by requiring all recruits to pass a statewide validated and job-based proficiency exam, assessing both the knowledge and skills components prior to final certification.

5. It is recommended that the State reimburse local governments for all costs related to the training of law enforcement officers, including recruit salaries, tuition, uniforms, and materials. Local police academies not funded by the State may be reimbursed for staff and material costs.

6. It is recommended that the State adopt policies designed to encourage universities and colleges to offer courses leading to academic degrees which fulfill the needs of Florida law enforcement. Advanced training should be expanded and modified so that at least certain segments can be acceptable for credits toward degrees at Florida's universities and colleges, and so that applicable credits earned in pursuit of academic degrees may be credited toward professional academy requirements.

7. To encourage effective communication with non-English speaking citizens, it is recommended that the State require that in-service training in conversational Spanish and other foreign languages be available to English speaking public contact personnel as may be appropriate in specific jurisdictions and departments.

8. It is recommended that Florida's current salary incentive program be strengthened and expanded to allow credit beyond a bachelor's degree and to increase the limit of incentives available.

Rank and Promotion

9. It is recommended that the State establish a uniform system of rank to be utilized by all Florida law enforcement agencies. The minimum requirements for employment as law enforcement officers established pursuant to Section 943.14, F.S., should be expanded to establish minimum criteria of education, training, and experience for advancement to each rank. Rank insignia should be standardized throughout the State.

10. It is recommended that the State fund an appropriate research program, coordinated with national efforts, to develop a professional promotional model that will encourage the use of validated knowledge, skill and attitude components in determining upward law enforcement mobility.

11. The State, through the Criminal Justice Standards and Training Commission or some other independent board, should establish a standardized program for horizontal advancement in specialized fields. As with advancement in rank, a uniform system for qualifying for such advancement and a uniform insignia should be adopted to indicate advancement within specialty.

12. To encourage greater mobility of law enforcement officers and managers between agencies and to reduce the number of qualified officers leaving the profession, it is recommended that the State develop a program of portable pensions.

13. The Task Force endorses the effort to establish an accreditation process for law enforcement agencies, undertaken by the Commission on Accreditation for Law Enforcement Agencies. As the accreditation standards are presented for implementation, it is recommended that the State consider their adoption as statewide guidelines.

COMMUNITY CRIME PREVENTION

Discussion

The present involvement of the State in community crime prevention efforts is primarily through a program operated by the Department of Legal Affairs, Help Stop Crime. This program functions as a coordinator of local crime prevention by law enforcement agencies and citizen groups. The program provides training, technical assistance to, and development of program components and materials for, these local organizations. Staff of Help Stop Crime suggest that the educational aspects of the program are one of the most beneficial services provided. Specific educational models which have been developed by Help Stop Crime focus on crime prevention activity in areas such as burglary, robbery, theft, and sexual assault. Other areas of involvement include agricultural crime prevention and crime against the elderly. The budget for this program in 1981-82 was approximately $134,000. This amount will be provided for funding the program in 1982-83 as well. An evaluation of the Help Stop Crime effort is being conducted in the form of an intensified public awareness campaign called Strike Force. This program has just begun and there is no completion date available at this time.

In 1982-83 the Help Stop Crime Program will be taking on a new responsibility. Senate Bill 89 was passed by the Legislature and provides for the establishment of the Florida Crime Prevention Training Institute to be administered by the Department of Legal Affairs. This is not an entirely new area for Help Stop Crime due to the current training aspects of the program. The Institute will be funded through participant fees, and possibly donations and grants. Thus far three program areas have been developed, each entailing forty hours of course work. These areas are residential security, commercial security, and the development and management of crime prevention programs. Participants will receive certification in crime prevention upon successful completion of course work.

Other programs which address the issue of community crime prevention are the Crime and the Elderly Programs coordinated by the Bureau of Criminal Justice Assistance, Department of Community Affairs. There are nine of these programs in the state which deal with crime prevention for the elderly. These programs are presently funded through a combination of Law Enforcement Assistance Administration, local and state monies. The federal portion of this funding is

scheduled to expire in July of 1982. Services provided by these programs include neighborhood watch, home security inspections, distribution of information and education regarding crime prevention, property engraving and telephone hot-lines. Some programs specialize in the installation of window locks and security lights.

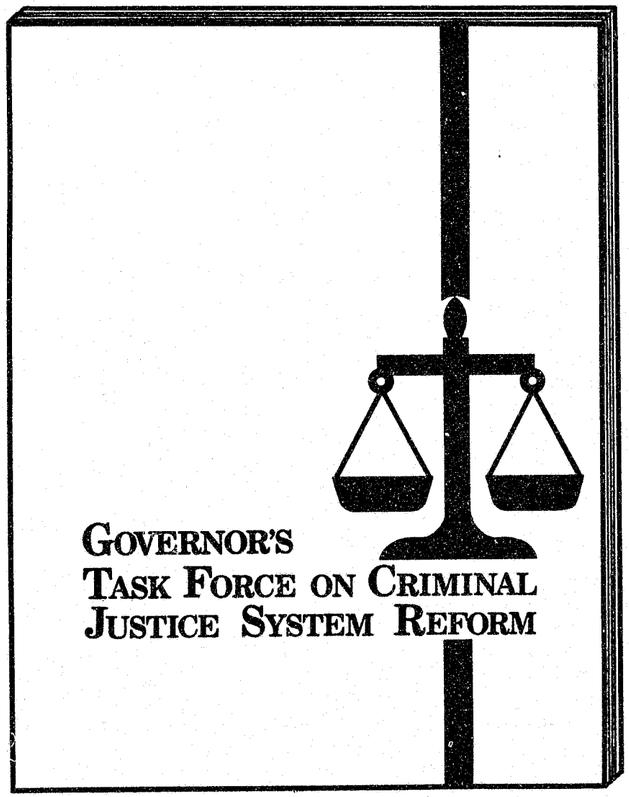
The 1982 Appropriations Act, includes proviso language which grants each state attorney the option of expending one percent of his or her budget on crime prevention.

The above describes the current state involvement in community crime prevention. Whether the new provision will expand this role to the extent suggested in the recommendation is yet to be determined. However, efforts are being made in this direction and the information obtained in the Strike Force evaluation will be valuable in determining the direction these programs should take.

Recommendation

The State should assist local crime prevention citizen involvement efforts, especially through providing adequate funds to initiate and expand Community Crime Prevention Programs where local need and support are demonstrated.

INCREASING THE ASSURANCE OF EQUITY WITHIN THE SYSTEM



INTRODUCTION

For rules and procedures to be obeyed they must be respected. There is no respect in a system that detains individuals for lengthy periods of time for any reason other than potential danger to the community or the possibility of flight. Much of the testimony received by the Task Force indicated that, in many cases, detention is a matter of finances. Testimony further indicated that this situation reinforces the notion that the state distributes justice on a discriminatory basis.

The delicate balance required to assure both the safety to the community and the fair treatment of the accused has long been a concern of advisory efforts. The concept of money bail has constantly been identified as an obstacle to establishing equity within the criminal justice system. Every major study commission* that has looked at the system has found that commercial bail creates problems for the equitable process of justice.

The Task Force published a report detailing its findings entitled "Balancing Equity, Safety and Justice through Pre-Trial Reform", in December 1981. The discussion and recommendations contained in this section are restated for continuity from that report.

* Including the President's Advisory Commission on Criminal Justice Standards and Goals, the American Bar Association, the Board of Directors of the National Association of Pre-Trial Service Agencies, the National Center for State Courts, and the Uniform Rules Committee of the National Conference of Commissioners on Uniform State Laws.

PRETRIAL REFORM AND DANGEROUSNESS TO THE COMMUNITY

Discussion

Pre-trial reform has been recommended repeatedly by study groups and commissions for two decades, and attempted in the Legislature, the Courts, and with the electorate. All of these attempts have been directed at establishing a presumption in favor of the release of a defendant prior to trial, based on the principle that one is innocent until proven guilty. These attempts have sought to correct the inequity existing in the present system of financial bail, but all have failed.

The present Task Force recommendations go beyond these past efforts by integrating a policy of "preventive detention" with a presumption in favor of release. Whereas past efforts to develop a policy of pre-trial release have failed to offer safeguards to insure the detention of dangerous persons, the Task Force has concluded that a policy of presumptive release can only be successful when designed in coordination with a policy of preventive detention.

There are three major thrusts to the recommendations stated below. First, Florida Statutes and court rules would be amended to state a presumption in favor of the release of the defendant prior to trial based upon the defendant's promise to appear. This presumption, built upon the premise that one is innocent until proven guilty, places the burden upon the state to show that a person should be detained while awaiting trial. If the state cannot show good cause for such detention, then the defendant should be released. The court can set conditions of release deemed appropriate to insure the safety of the community, the integrity of the judicial process, or the appearance of the defendant at trial.

Second, the Task Force would remove the dominant role that financial considerations play in release and base the release decision on non-financial considerations such as residence, family ties, and employment. This would take away the role of commercial bail bonding agency in providing for the release of defendants. At the present time, the release decision is usually based on a defendant's ability to raise bail, and the commercial bail bondsman is the primary source of money for bail. The shift from financial to non-financial considerations is designed to increase the equity of the system of pre-trial release so that indigent defendants will not be detained simply because they cannot raise bail.

Third, in recognition of the problem of "revolving door" criminal justice, by which a person arrested one day is back on the street committing a crime the next, the Task Force has recommended

the establishment of criteria for the detention of arrestees considered dangerous. At present, only those arrested for capital and life felonies may be denied the right to bail and the only legitimate purpose for denying release is to assure the defendant's appearance at trial. Under the proposed modification, a defendant could also be detained if his or her release would constitute a threat to the safety of the community or to the integrity of the trial.

During the 1982 Session, the Florida Legislature established a Commission to study the issue of bail reform and submit findings to the Legislature in 1984. A provision to establish a system of public bail was included in the legislation, but implementation of this provision was deferred until 1984 when it will be dependent upon the Study Commission findings and subsequent sunsetting of commercial bail bond regulations and review. The concept of public bail was the only similarity between the Task Force recommendations and the enacted legislation. The concepts of a presumption toward release of pretrial defendants, preventive detention of dangerous defendants, and the abolition of commercial bail were omitted. Regulations governing commercial bail were strengthened and sunset review of the bail bondsmen statutes was deferred until 1984.

Recommendations

1. The Florida Rules of Criminal Procedure and/or the Florida Statutes should be amended to create a presumption in favor of pre-trial release on a defendant's promise to appear on personal recognizance, provided that the defendant cooperates with the pre-trial investigation as recommended in Recommendation 6(a) of this report. This presumption may be overcome by a finding that there is a substantial risk of non-appearance unless clearly defined additional conditions of release are imposed, or that the defendant may be denied pre-trial release pursuant to those recommendations contained in the next section of this report.

2. Upon finding that release on personal recognizance is unwarranted, there should be imposed the most appropriate conditions necessary to assure the defendant's appearance in court, protect the safety of the community, prevent intimidation of witnesses or interference with the orderly administration of justice. The conditions imposed should be directly related to the defendant and/or the nature of the risk created by release of the defendant.

3. Monetary conditions should be set only when it is found that no other conditions of release will reasonably assure the defendant's appearance in court. Upon finding that a monetary condition should be set, the judicial officer

should require the first of the following alternatives considered sufficient to provide reasonable assurance of the defendant's appearance;

a. The execution of an unsecured bond in an amount specified by the judicial officer;

b. The execution of an unsecured bond in an amount specified by the judicial officer, accompanied by the deposit of cash or securities equal to ten percent of the face amount of the bond. The deposit should be returned at the conclusion of the proceedings less a specified amount for administration, provided the defendant has not defaulted in the performance of the conditions of the bond; or

c. The execution of a bond secured by the deposit of the full amount in cash or other property or by the obligation of qualified, uncompensated sureties.

4. A person with authority to release an arrested defendant should be available 24 hours a day to make the release decision.

5. Although the ultimate authority in pre-trial detention must always rest with the judiciary, authority to release those who come within articulated standards may be delegated, where appropriate, to law enforcement personnel, specifically appointed magistrates, a pre-trial services agency or an existing state agency in order to assure presence of a release authority at all hours.

6. Prior to a release decision being made by the pre-trial release authority, law enforcement officers or individuals designated from existing state agencies should conduct a pre-trial release investigation to the extent required to make an informed release decision.

   a. The arrested defendant should be required to assist the investigation by giving to the pre-trial investigator, under oath if necessary, information pertinent to the release decision, including information regarding family ties, employment, residence, financial status, and prior criminal record including arrests and court appearances, whether resulting in conviction or not.

   b. A defendant should not be required to divulge to the investigator any information relating to the offense for which he is being considered for pre-trial release. Any information elicited from the defendant pursuant to a pre-trial release investigation may be used solely for purposes of determining eligibility for pre-trial release and may not be used against the defendant in any other proceeding, other than prosecution for perjury.

7. A pre-trial services authority should be created, funded by administrative fees and surcharges imposed upon defendants, for purposes of administering release programs. It may be good, from a cost-benefit standpoint, to examine the potential for expanding the resources in this area to allow more participation by the probation officers in performing such duties. This would represent an alternative to creating an additional pre-trial release agency. The authority would:

   a. Conduct release investigations pursuant to Recommendation 6;

   b. Monitor compliance with release conditions for all released into its custody;

   c. Promptly inform the court of all apparent violations of pre-trial release conditions, the arrest of persons released, and recommend appropriate modifications of release conditions;

   d. Remind persons released prior to trial of their court dates and assist them in getting to court, if necessary;

   e. Make initial release decisions and release, pre-trial, defendants who fall within eligibility standards.

8. Upon motion by either the defense or the prosecution, or upon information supplied by the pre-trial services authority indicating that there should be additional release conditions imposed, the court should promptly re-examine the release decision.

9. Upon sworn affidavit by the prosecuting attorney, law enforcement officer or representative of a pre-trial services authority establishing reasonable grounds to believe that a defendant has intentionally violated the conditions of release, a judicial officer may issue an order directing that the defendant be taken into custody and brought forthwith before the appropriate judicial officer to review the conditions of release. After the defendant is taken into custody the judicial officer shall:

   a. Set new or additional conditions of release, or;

   b. Schedule a pre-trial detention hearing within five (5) calendar days.

10. A law enforcement officer having probable cause to believe that a defendant has violated conditions of release should be authorized, when it is impractical to secure an order, to arrest the defendant and take him or her forthwith before the appropriate judicial officer to review conditions of release.

Recommendations for Pre-Trial Detention

1. The state constitution should be amended to permit denial of pre-trial release under highly restrictive procedures. The categories of persons to whom release may be denied should be specifically set forth, carefully defined and limited. Pre-trial detention should be permitted only when it is deemed absolutely necessary in obtaining the presence of a defendant at trial, insuring the integrity of the judicial process or protecting the community from imminent, serious criminal offenses.

2. Pre-trial release should be denied only after a judicial hearing at which the court shall have found, by clear and convincing evidence, that the safety of the community, the integrity of the judicial process, or the defendant's reappearance cannot be reasonably assured by any mode of pre-trial release.

3. A pre-trial detention hearing should be convened by a judicial officer whenever the prosecutor, law enforcement officer or representative of the pre-trial release authority alleges, in a verified statement, that a defendant if released is likely to flee, threaten or intimidate witnesses or court personnel, or constitutes a danger to the community through serious criminal activity. Any such complaint shall include specific factual allegations that led to the filing of such statement.

4. At the conclusion of a pre-trial detention hearing, a finding of probable cause having been made, the judicial officer should issue an order of detention if he finds by clear and convincing evidence that:

   a. The defendant, for purposes of interfering with or obstructing, or attempting to interfere with or obstruct, justice has threatened, has injured, or intimidated or has attempted to threaten, injure or intimidate any prospective witness, juror, prosecutor or court officer, and that no condition of release is adequate to protect the integrity of the judicial process; or

   b. The defendant constitutes a danger to the community because:

      i. The defendant is charged with a criminal offense involving violence and;

         (a) has been convicted of a crime punishable by death or life in prison, or;

         (b) has been convicted of a criminal offense involving violence within the ten years prior to the date of the current arrest, and;

         (c) the court finds that no conditions of release are sufficient to protect the safety of the community from serious criminal offenses by the defendant, or;

      ii. The defendant is charged with a felony which does not involve violence, and

         (a) has been convicted within the ten years preceding the current arrest of at least three other felony offenses which would not be defined as "related offenses" under the Florida Rules of Criminal Procedure, and

         (b) the court finds that no conditions of release are sufficient to protect the safety of the community from serious criminal offenses by the defendant, or

      iii. The defendant is on pre-trial release and is arrested for a crime and the court finds that no conditions of release are sufficient to protect the safety of the community, or;

   c. The defendant is likely to flee and no conditions of release will reasonably assure the defendant's re-appearance, or;

   d. No conditions of release will reasonably assure the re-appearance of a defendant charged with trafficking in cannibus, cocaine, or an illegal drug as defined in Florida Statute 893.135 which carries a mandatory minimum sentence and the judge finds by a preponderance of evidence that the defendant has committed the offense charged, or;

   e. The defendant has violated the condition of release, and no additional conditions are reasonably likely to assure his or her presence at trial, to insure the integrity of the judicial process, or to protect the community from imminent, serious criminal offenses.

5. Pre-trial detention hearings should meet the following criteria:

   a. The pre-trial hearing should be held within five days from the date that the individual is taken into custody; no continuance of the hearing should be permitted except with the consent of the defendant;

b. In order to provide adequate information to both sides in their preparation for a pre-trial detention hearing, discovery prior to the hearing should be as full and free as possible;

c. The burden of proof and of going forward at the pre-trial detention hearing should be on the prosecution. The defendant should be entitled to be represented by counsel, to present witnesses and evidence on his or her behalf, and to fully cross-examine witnesses testifying against him or her. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the determination for danger to the community, danger to the prosecution of the case, or the likelihood of flight on the part of the defendant. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. This section shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida.

6. A pre-trial detention order should:

a. Be based solely upon evidence introduced at the pre-trial detention hearing;

b. Be in writing;

c. Be entered within 24 hours of the conclusion of the hearing;

d. Include the findings of fact and conclusions of law of the judicial officer with respect to the reasons for the order of detention and the reasons why the integrity of the judicial process, the safety of the community, and the presence of the defendant cannot be reasonably assured by advancing the date of trial or imposing additional conditions on release.

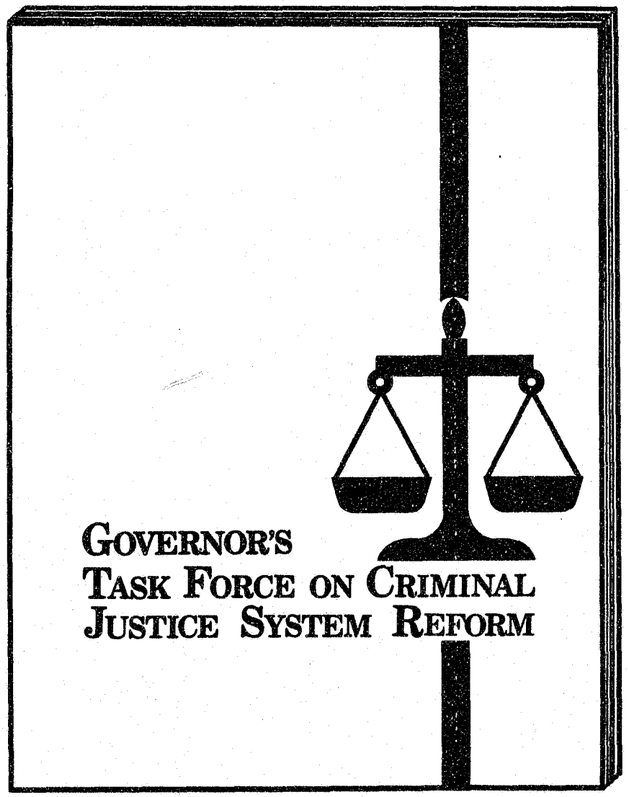
7. The speedy trial time for a defendant in custody pursuant to a pre-trial detention order should be no more than sixty days. Failure to try a defendant held in custody within that period should result in the defendant's immediate release from custody pending trial.

8. Every convicted defendant should be given credit, both against maximum and minimum term, for all time spent in custody as a result of the criminal charge for which a prison sentence is imposed, including such time as a result of a pre-trial detention order.

9. Temporary release of a defendant should be available if necessary in order to adequately prepare his defense. Such release may be made to the custody of the defense attorney, or when this is inadequate to insure the defendant's presence at trial and the safety of the community, the custody of a law enforcement officer.

10. A defendant prior to trial should be confined in facilities separate from those convicted persons awaiting or serving sentences or being held in custody pending appeal. Any restrictions on the rights that the defendant detained pre-trial would have as a free citizen should be as minimal as institutional security and order require. The rights and privileges of defendants detained pre-trial in no instance should be more restricted than those of convicted defendants who are detained.

INCREASING THE ASSURANCE OF PROSECUTION



INTRODUCTION

A criminal case does not end with the arrest of the suspect. The process of prosecution must proceed according to the charges brought against the subject, the nature and strength of the evidence and the cooperation of the victims and witnesses. With the sophistication exhibited by criminals in today's setting, evidence collection and case investigation must be conducted scientifically and with careful regard for the rights of the accused. Recommendations made in the section of this report dealing with improving law enforcement's ability to apprehend criminals should provide a partial solution. However, other steps are necessary as well.

It is essential that the judicial process have the planning and funding necessary to meet the demands of prosecution. This means that the responsibility for planning and funding must be centralized and supported. No system can survive for long when the limitations imposed by fiscal restrictions force professionals to select out only those cases that are assured of success or are the most serious and demand action.

Prosecution can also be improved through better incorporation of victim and witness services. These types of programs promote greater cooperation between the criminal justice system and victims and witnesses. This increased unity improves the quality of cases. In addition, witness management programs have been shown to reflect great savings in the expenditure of precious judicial resources. Victims have been neglected for too long in the justice process. If the system is to improve its effectiveness, then all the participants including the victims of crime must be considered.

Another step to produce a better prosecution environment is to emphasize the alternatives to prosecution. Not all cases require the full-blown judicial setting and any relief through the implementation of alternatives to traditional prosecution such as citizen dispute settlement programs will reduce the burden of more formal settings. In addition, diversion programs should be designed to reflect the current research results from national and state programs. A diversion from prosecution should not be instituted at the expense of justice nor be designed merely to reduce workload. Nor should diversion be implemented in such a way that would bring under state supervision persons who would not otherwise qualify for prosecution.

Finally, the Task Force found that misconceptions exist concerning "plea bargaining". No system can function when there is mistrust in the process. The Task Force recommendations are designed to structure information and ease misconceptions about the settlement of criminal cases without trial.

STATE ASSUMPTION OF COURT COSTS

Discussion

Since the adoption of Article V and the centralization of a state-wide court system the problem of who pays for the judiciary has been a consistent and pervasive issue. A decade has passed and the State while closer to having the responsibility has not adopted the cost of operation for the judicial system. A large portion of the bill is still contributed by local government particularly in the area of facilities, support personnel, court reporting, and court appointed counsel.

The Senate Judiciary Civil Committee has been conducting inquiries into the issue for some time. Their work has resulted in reform issues related to witness fees, court appointed attorney fees, and more recently, court reporting costs.

A major problem and one addressed in the Task Force Report on funding in the criminal justice system is the determination of cost. It is impossible to assess the projected state fiscal impact of assumption if the figures are not available for the verification of what is presently being spent. In 1981, the Legislature mandated the use of the Uniform Accounting System for the reporting of local expenditures. This reform will not be realized until 1983 because of "implementation problems" for the new system. This problem should not be considered an excuse for delaying the state assumption of costs. Emphasis should be given to determining the cost and assuming the responsibility as soon as possible.

Recommendation

It is recommended that the state should pursue an incremental assumption of circuit and county court costs, setting a five year goal for total assumption of all costs. As the financial obligations of the counties are removed, monies received for fines and court costs should be directed to the State General Fund.

VICTIM AND WITNESS SERVICES

Discussion

The significant role of both victims and witnesses in the criminal justice system has been stressed in recent years. Agencies and programs for victims have been developed as local administrators, citizens and governments realized the need for specific services in their area. Many of these programs have been funded through federal grants acting as seed monies. As these grants have expired, programs have sought funding through local governments, fund raising and the use of volunteers. The availability of various victim services is dependent upon the type of program which may exist in a particular area. Most programs provide specialized services to victims of rape, domestic assault, or child abuse. Witness services have developed in much the same way as those programs which provide victim services. These witness programs have focused on management services as a function of the court. Due to continuance and plea negotiation practices, witnesses are often subpoenaed to appear in court only to find their appearance not necessary. Witnesses who appear, as subpoenaed, are entitled to witness fees per Florida Statutes Chapter 92.142. Entitlement to witness fees is not dependent on the necessity of the appearance. Unnecessary witness appearances results in the loss of witness fees on the part of the county and frustration on the part of the witness. When considering the case loads of Florida's courts and the common use of continuances and plea negotiations, this situation has become costly.

Witness management programs already exist in some Florida counties. Ten of these programs are described in Appendix C. Some of these programs originated in the State Attorney's Offices when federally funded and were transferred to other branches of the court when funding was assumed by the county. The administrative location of a witness program does not seem to have an impact on the success of the program. The target witness population does vary, however, as only two programs provide court appearance notification for public defender witnesses. Both of these programs are located within the Court Administrators' Offices.

The first witness program in Florida was established in Broward County in July of 1975. Four of the programs in Florida began operation in 1981 and one in 1980. As other local governments become aware of what can be done to alleviate the problems of unnecessary witness appearances and payment of fees, commitments are being made to do so.

The 1982 Legislature provided for state assumption of witness fees in criminal cases for counties which establish Witness Coordinating Offices. These offices would provide court appearance notification for all witnesses. The Office of State Courts Administrator has the responsibility for setting procedures and staffing levels which the county programs must follow in order to comply with the match requirements. At this time these procedures and staffing levels have not been determined.

A sampling of the cost savings of some of these programs is contained in Appendix C. Financial savings depend upon the procedures, types of services provided, and targeted witness population. The program located in Orange County reports a savings to the county in witness fees of $332,648 in 1981, with an annual operating budget of $40,000. Services provided by this program include court appearance notification for prosecution witnesses in felony, misdemeanor and juvenile court, and assistance in the fee payment process. The program located in Broward County reports a savings in witness fees, for prosecution witnesses in felony cases, of $112,637 in 1981 and assisted in the documentation of restitution, resulting in $313,686 being paid to victims. Services such as restitution advocacy and assistance with crimes compensation applications can result in a savings to the victims of crime which can be considered an indirect benefit to the county. It is also felt that this is the logical place for services to be provided to victims of crimes who have not been provided necessary services prior to a case being processed by the court. Staff of these offices can identify service needs within a community and facilitate the development of such services.

Other benefits to the system include increased prosecution due to increased witness cooperation. By publicizing the existence of such a program the public becomes aware of the system's responses not only to defendants but to those who become involved in the system through no fault of their own. By providing witnesses with information regarding the court system and helping victims contact agencies which can assist them with special needs resulting from the criminal activity, the system can meet the needs of the public to a greater extent than currently appears to be the case.

The opportunity for identification of victim needs resulting from a criminal act lies with law enforcement personnel. Those who arrive at the scene of the crime should be able to insure that victims receive necessary physical as well as psychological attention. Law enforcement officers who are aware of victim needs and who have been effectively trained in this regard can meet the initial needs of victims and provide for continuation of services through resources within the

community. For example, an officer can provide crisis counselling, make sure a victim is not left in an unsecured residence following a burglary, contact relatives or friends in order to insure that an emotionally distraught victim is not left alone, contact an abuse shelter for the victim who needs an option to their present living environment, and last but not least, insure that the physically abused victim receives the proper medical attention.

According to the State of Florida Police Standards and Training Commission's Basic Recruit Training Course Handbook, training is provided to law enforcement recruits in areas such as crisis intervention and human behavior. In the description of these course areas the focus appears to be on offender rather than victim needs. For example, in the description of the course titled Human Problems and Services, it is stated, "Instruction should include, but not be limited to, problems and services relating to mental illness, mental retardation, and alcoholism". These are not victim services per se. No reference is made to victims of crime in the entire section on Human Skills or Crisis Intervention. The only section which refers to victims is the Crime Investigations: Interviews and Interrogations Section.

Career Development courses for law enforcement officers provide for courses in areas such as "Working with People", which according to Department of Law Enforcement personnel include various aspects of victimization, and one course on Crime and the Elderly specifies emphasis on victimization of the elderly. In the section on Sex Crime Investigation reference is made to victim interviews. These are the only sections of the Career Development Program which make specific reference to victims of crime. The situation and needs of the crime victim are given little attention in the training of law enforcement recruits and the continuing career development of law enforcement officers.

Recommendations

1. It is recommended that witness management services be provided for all witnesses.

2. It is recommended that the state make funds available to trial courts for the establishment and operation of witness management programs within their respective jurisdictions. Witness management programs funded through the state would be responsible for:

   a. provision of information regarding the criminal justice system to witnesses. This information would include only that which would be necessary to the witnesses in understanding their role in the system;

b. provision of court appearance notification to witnesses for each subpoenaed appearance. This would include information on cases scheduled which have been continued, pled, or dismissed, or are going to trial;

c. administration of victim impact questionnaires to victims, for use by the court in considering restitution at the time of sentencing or during plea negotiations;

d. notification of witnesses and victims of sentencing hearings in their respective cases;

e. assistance to victims of crime in the completion of crimes compensation applications;

f. follow-up on payment of restitution;

g. referral to victim and/or social service programs when requested by a victim of crime or at such time as the need for such a referral is deemed appropriate;

h. encouragement of local governments and/or agencies for the establishment of a victim service where none exists and a need for such service is present in the community. These would include rape counselling and crisis service, child abuse treatment and counselling services, and domestic assualt services.

3. It is recommended that the Office of State Courts Administrator be responsible for providing technical assistance regarding the establishment and operation of witness management programs to the judicial circuits. This office would be responsible for monitoring and evaluating circuit programs. Documentation of all cost savings and expenditures will be kept by circuit programs and submitted to the Office of the State Courts Administrator for monitoring and evaluation purposes.

4. Recognizing the extent to which the victim has been neglected within the criminal justice process, it is recommended that the following steps be taken to insure that victim concerns be given special attention by law enforcement agencies, local governments and the courts.

   a. An incentive program be developed by the state which would provide financial assistance to local governments for evaluation of the need for victim services, and for the development of those services not presently available in the community.

   b. The training of recruits and continuing education courses for all law enforcement officers be developed in the areas of victim needs with training conducted by professionals actively providing victim services.

ALTERNATIVES TO PROSECUTION

Discussion

Problems related to the over-burdened nature of the courts, and criminal justice system as a whole, have been receiving great attention in recent years. As crime rates have increased, the problems of handling large caseloads have become more apparent. Court budgets and staffs have not increased in proportion to the crime rate, thus time lapses between arrest and disposition have expanded and the court's capacity to effectively monitor settlement of all cases and resultant sanctions has diminished.

Options have been developed regarding the problems of court overcrowding. These options can be considered as alternatives to, or "diversion" from, prosecution. Clearing court calendars of minor criminal offenses and civil disputes provides for optimum use of the system's time and resources for more serious cases and for cases in which settlement can be reached by no other means. There are several types of programs which have been developed and which focus on the goal of easing the caseload burden of the criminal justice system while at the same time providing a service to the community. The overall objective of many of these programs is to divert cases from court which could be handled in a more effective and efficient manner.

Alternatives to prosecution such as Citizen Dispute Settlement (CDS) and pretrial intervention not only ease the burden of the court system but also provide services to the community. The expansion of such programs is a practical goal. The development and/or expanded use of these options to the traditional prosecution system should be explored and developed by those in the system with special emphasis on misdemeanant offenders and civil disputes which might not be appropriate for the courts.

In order to maximize the use of CDS programs existing in the state, referral sources should encompass all persons who would be aware of disputes, anticipated disputes, or criminal acts which would be appropriate for mediation and offenses which could be settled through arbitration. This group would include court staff, state attorneys, public defenders, law enforcement agencies, business bureaus, landlord-tenant associations, consumer fraud agencies, legal aid organizations and citizen groups. Public awareness campaigns should be conducted within jurisdictions in order to facilitate direct program contact by citizens prior to possible contact with the criminal justice system and to avoid more serious situations or problems. Programs should be developed and implemented in areas of the state where no program exists and a need for such program exists. Procedure for the determination of the need for this type of program are outlined in the Citizen Dispute Settlement Guideline Manual by the Dispute Resolution Alternatives Project, January 1981.

When considering the continued and expanded use of pretrial intervention programs caution should be used in the determination of criteria required for participation and the types of cases which are referred for diversion purposes. According to the Performance Standards and Goals for Pretrial Release and Diversion by the Board of Directors of the National Association of Pretrial Services Agencies, August 1978, the definition of diversion includes the following elements:

1. offers the person charged with an offense an alternative to traditional prosecution;

2. participation is voluntary;

3. access to counsel is available;

4. takes place no sooner than filing of formal charges and no later than adjudication; and

5. charges are dismissed after successful completion.

Standard 1.1 specifically states that individuals should not be approached with the option of participation in a diversion program until after the formal filing of charges has taken place and consultation with counsel has been available. This is to insure that the decision to participate in a diversion program is made only after being completely informed as to the circumstances of the situation. If a person has not been formally charged with an offense, then this person is not fully informed as to the situation. The requirement of a guilty plea is discouraged in Standard 2.3. It is stated that eligibility for participation in a diversion program not be based on a guilty plea and that an informal admission of guilt not be required unless caution is used to insure that this is not later used against a defendant. Furthermore, it is stated that defendants who maintain their innocence should not be denied participation in a diversionary program.

The National Advisory Commission on Criminal Justice Standards and Goals, 1973, addresses the issue of unjustified diversion. This term refers to the diversion of cases which could not have been successfully prosecuted for one reason or another. Unjustified diversion is difficult to measure or to control. One measure could be the number of cases dropped after having been referred back to the prosecutor for failure to complete the diversion contract.

These standards should be used as guidelines for development of new diversion programs in the state and those programs presently in existence should conform to these standards in order to insure equitable treatment of persons accused of crime.

Recommendations

1. It is recommended that Citizen Dispute Settlement Centers be available in every jurisdiction in the state as an alternative to the traditional system of case processing. Therefore, these Settlement Centers would be funded by the state, and administered by the state.

2 It is recommended that standards be developed in Florida for all pretrial diversion programs.

THE PLEA NEGOTIATION PROCESS

Discussion

The public perception of the plea negotiation process has been based on a lack of understanding and available information about the issues relating to this process. As stated by Judge Bobby Gunther in her paper, Plea Bargaining Process, "When a criminal case is settled without a trial an impression is created that the defendant 'got a good deal'". The issue of plea negotiations being open to the public is addressed in the American Bar Association (ABA) Standards Relating to the Administration of Justice, Pleas of Guilty, Standard 14-3.3(a) regarding the responsibilities of the judge. It is stated that a plea of guilty or nolo contendere should not be accepted by the judge until an inquiry as to the existence of a negotiated agreement has been made. If there is an agreement, the judge should require that the "terms, conditions and reasons be disclosed". Sub-paragraph (f) states that any discussion regarding an agreement at which the judge is present should be on the record. An exception to this standard would be appropriate in extraordinary cases in which the interest of justice would not be served by public disclosure. The intent of these sections is not only to insure that the judge is aware of any agreements between the prosecutor and the defense but also to enhance the visibility of the process by having the terms, conditions and reasons stated in open court for the record and to quash the public perception of plea negotiations being outside of judicial control.

Other misunderstandings of the plea negotiation process concern the resources within the system. The notion that plea negotiations take place because there are an insufficient number of judges, prosecutors or defenders to process all cases through trial is a common public perception. The commentary on ABA Standard 14-3.1 suggests that this is not an accurate interpretation of the facts in most situations and regardless of the availability of resources, settlement by means of plea is the most appropriate option in many criminal cases. Equally important is that those who prefer trial to negotiation be provided adequate resources, to prepare for trial, so that they do not feel pressured to plea and that the individuals in the system do not regard plea negotiation as a means for easing caseloads. In order to insure an equitable process adequate resources must be available in the system to provide appropriate means of case settlement whether it be by trial or plea.

The ABA Standards are also specific in relation to the victim's role in the plea negotiation process. Standard 14-3.1 (d) stresses that the prosecutor should contact the victims in order to explain the negotiation process and be aware of their "attitudes and sentiments". The basis for this standard is to avoid the victim being "shut out" of the process and to insure that the victim understands the process. The stipulation for prosecutor contact of law enforcement officials was also recommended in this standard in order to obtain input for the decision and to promote an understanding by officials as to the reasons and basis for the negotiation. This standard does not intend to indicate that the prosecutor would be bound by the views of the victim or the law enforcement officials. Rather, the emphasis is on the opportunity for these individuals to be heard.

With respect to pleas of nolo contendere, Standard 14-1.1 (b) states that the court should consider the victims. The effect of a nolo contendere plea with regard to the victim concerns civil remedies. The nolo plea could not be used as evidence as to the defendant's responsibility for the offense in a civil action by the victim or aggrieved party for damages resulting from the criminal offense. The Florida Rules of Criminal Procedure, Rule 3.171 gives the prosecutor the option of consulting the victim, law enforcement officer, and interested persons during the plea negotiation process. Whether this is a common practice in the state is unknown.

During the 1982 Legislative Session, three bills were proposed which related to the notification of victims upon plea negotiation and/or sentencing and provide the victim the opportunity to be heard regarding the disposition of the case in which they are involved. These bills were Senate Bill 635, Senate Bill 210 and House Bill 122. Each of these bills died in the process of legislative review.

Recommendation

It is recommended that plea negotiations in Florida be conducted along the lines of the American Bar Association Standards Relating to the Administration of Justice, Pleas of Guilty.

JUDICIAL EDUCATION

The Florida Court Educational Council was established in 1978 to oversee continuing judicial education in Florida. The Council has established courses within the state and approved courses offered outside of Florida for participation by Florida's judges. The Council has set standards, goals, and curriculum to guide the State's involvement in judicial education.

The Council, which consists of members of all levels of the state judiciary, is staffed within the Office of the State Courts Administrator. At the present time, the Council offers two general courses on both circuit and county levels each year. It also offers a specialty course for new judges each year.

Goals of the Council's judicial education program include improving the judiciary's ability to expedite cases, keeping the judiciary aware of developments in substantive law and rules of procedure, avoiding judicial errors that contribute to appellate overload, and fostering effective use of the supportive resources of state and local agencies. Judicial education is thus intended to facilitate greater efficiency within the court process, reducing delays and overload. For this reason, as well as the inherent value of education to personal development, judicial education has merited the attention of the Task Force.

The funding source of the Council has varied since its inception through a LEAA grant. The state has provided funding each year, although the money has not always come from General Revenue. The 1982 Legislature provided what could be an on-going funding resource at a substantially higher level. The Legislature authorized the assessment of an additional $1 service charge on each civil action brought in circuit or county court, thus establishing a Court Education Trust Fund. This is expected to provide an annual budget of over $400,000, an increase from approximately $240,000 in 1981.

Recommendation

The Task Force endorses the Legislature's increase in funding for continuing judicial education.

ORDINANCE VIOLATIONS

Discussion

Violations of county and municipal ordinances are often sanctioned by incarceration. The Task Force heard testimony that incarceration is not an appropriate sanction for ordinance violations, as it is a criminal penalty assessed for behavior that is not expressly criminal.

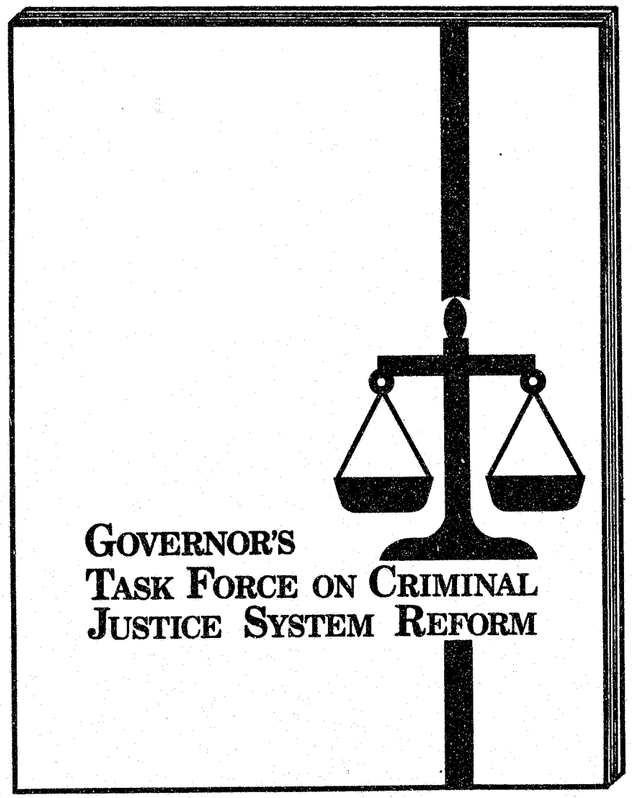
Presently, municipal and county codes may specify that violations of particular ordinances are misdemeanors, for which the possible penalties of incarceration and fines are prescribed by state law. Violations of county ordinances which specify no penalty are covered by Chapter 125.69, Florida Statutes, which provides that these violations shall be prosecuted in the same manner as misdemeanors are prosecuted, with the penalty not to exceed 60 days in the county jail or a fine of $500. There is no comparable blanket provision for municipal ordinance violations.

The Task Force found that the use of incarceration as a sanction for municipal and county ordinance violations was unwarranted. Rather than considering these violations in the same class as misdemeanors, the Task Force has suggested that municipal and county ordinance violations be considered infractions. An infraction is a law violation for which the only authorized sentence is a fine.

Recommendation

It is recommended that any ordinance violation be considered an infraction rather than a criminal violation.

ASSURING ADEQUATE AND FAIR PUNISHMENT



INTRODUCTION

Once offenders have been apprehended and prosecuted, a society must be capable of applying sanctions fairly and reasonably, whether the sanction is deprivation of liberty or some other form of social control. The appropriateness and the severity of a sanction and its potential effect upon both the perpetrator and the general population are important concepts within any correctional model. With Florida's crime problem comes a highly diversified population of offenders. The correctional response must be adequately funded, staffed by professionals, driven by models clearly understood and responsive to the need for safety within the community and the corrections system and coherent with all other system segments.

The problems with Florida's correctional response are acute and growing more serious each day. Correctional officials have faced a variety of correctional models dictated by executive, legislative and judicial concerns. Most of these shifts have come within a short historical time frame and have served to compound the problems of operating a system under strain.

By virtue of its position within the criminal justice sequence, the correctional element endures the impact of any shift in policy or procedure by other criminal justice elements which precede it. Any shift toward more vigorous enforcement policy or any increase in the prosecutorial effort may increase the need for correctional services. Shifts in sentencing patterns and in the public's attitude on crime and criminals also effect correctional operations. With the many shifts in policy for criminal apprehension, prosecution, adjudication, and sentencing, it is little wonder that Florida's prisons are facing an overcrowding crisis and probationary caseloads are stretched beyond limits.

To help offset this problem the Task Force has made recommendations which if taken as a whole rather than piecemeal will provide for a model driven correctional response. This response will emphasize alternatives to incarceration, shorter sentences, and a simpler release format. Community corrections and restitution likewise are components of this model.

PROFESSIONALIZATION OF

FLORIDA'S CORRECTIONAL OFFICERS

Discussion

In January 1981, as its first official report and resolution, the Task Force published the staff report entitled "Parity: The First Step Toward Professionalization of Florida's Correctional Officers". That report documented the problems which can arise when standards and practices are inadequately funded and not consistent with standards and practices of other law enforcement agencies. In addressing these problems, the 1981 Legislature took an important first step to professionalize the status of correctional officers by merging the Police Standards Commission and the Correctional Officers Standards Council in order to create the Criminal Justice Standards and Training Commission. Funds were allocated to increase the salaries of correctional officers. This was intended to decrease the disparity between correctional officers and other law enforcement officers. However, the disparity still exists at the level of compensation for entry level correctional officers. Only when this disparity is non-existent will correctional officers enjoy the professional status similar to their counterparts in other criminal justice agencies. The following recommendations first offered in the January 1981 report still apply. It is imperative to any reform of the correctional response that the personnel be given first consideration and that all steps necessary to make the correctional officer adequately trained and compensated in good faith are carried forward.

Recommendations

1. The concept of correctional officer parity with other law enforcement agencies at the entry level, with similar pay and benefits, is endorsed. Correctional officers will never be able to develop an esprit de corps and professional identity as long as they are placed beneath other law enforcement officers.

2. It is recommended that reasonable and improved standards of training and performance for correctional officers as enforcement specialists in institutional settings be developed. Standards should be developed as a result of a job task analysis. Training should be delivered in a professional academy or similar training setting.

3. It is recommended that correctional officers should serve in a range of custody capacities, depending upon the institution and its mission. Much debate has centered on whether correctional officers should be counselors or

therapists as opposed to custody and control specialists. There can be no question of the necessity for officers to be respected. The establishment of that respect should be obtained through professional identification of correctional officers as enforcement officers with training, uniforms, and standards for the creation of an esprit de corps.

4. It is recommended that commitments made to improve the salaries and benefit packages for correctional officers be honored and continued.

Presentence Investigations

Discussion

The Presentence Investigation (PSI) is an informational document based on the criminal offender's history and present circumstances. When ordered by the sentencing judge, information concerning the offender is collected by the Department of Corrections (DC) probation personnel and provided to the judge for use in making the sentencing decision. If the offender receives probation, the PSI is provided to probation staff for supervision purposes. If the offender is sentenced to a term of incarceration, a copy of the PSI is sent to institutional staff for admission and classification purposes and to the Parole Commission for use in determining a Presumptive Parole Release Date.

Florida Statutes Chapter 921.231 specifies the type of information to be included in the PSI. The requirements are extensive and the information gathered must be verified by DC staff. Rule 3.710, Rules of Criminal Procedure, mandates the PSI for all cases in which the defendant is convicted for the first time of a felony or when the defendant is under the age of eighteen. A PSI may be ordered by the court, but is not required, in all other criminal cases in which the court has sentencing discretion. Due to the amount of information which must be compiled, many judges and probation field personnel feel that it would be an unreasonable goal to expect a PSI to be prepared in every case, even though much of the information provided would be relevant to the sentencing decision.

Rule 3.711 provides that PSIs can be initiated, if the defendant consents, prior to a finding of guilt. This investigation can speed up the sentencing process, enabling a defendant who expects to plead guilty and who may be considered for probation or a sentence other than incarceration to reduce his time in jail. The Rule specifies that this investigation can be authorized by the Court only on the condition that nothing disclosed by the investigation can come to the attention of the prosecution, the Court, or the jury prior to a finding of guilt.

During the Training Session on Increasing the Efficiency and Effectiveness of the Presentence Investigation, held in Orlando in February 1982, members of the Judiciary and staff of the DC met to determine what information is actually needed in the PSI and how to effect an increase in the number of cases in which the PSI can practically be ordered. Group consensus on the following issues resulted:

- The length of time necessary for completion of the PSI as mandated and the length of the final document discourages the court from ordering the PSI;

- Certain types of information contained in the PSI as mandated are not necessary or useful for sentencing or for supervising the offender after sentencing; and

- The type of information which is considered necessary for sentencing and supervision includes:

  a. Offense and Conviction Circumstances,

  b. Personal History,

  c. Prior Offense Record,

  d. Sentencing Evaluation, and

  e. Recommendation of Sentence to the Court.

A more concise format was considered more desirable than the format presently being used.

Therefore, it was felt that, by eliminating information not considered necessary for user agencies and by changing the format, a reduction in the time necessary for completion would result. This would make it practical for judges to order PSIs in more cases without overloading the system. Possible recommendations for changes in the present PSI requirements which would accomodate these concerns are to be considered by the Conference of Circuit Court Judges, the Office of the State Courts Administrator, and the Department of Corrections, according to representatives of these organizations who were in attendance at this training session.

Recommendations

1. It is recommended that Presentence Investigations prior to a finding of guilt be used sparingly and with caution, even with the defendant's consent. The defendant should be informed as to the process by which this investigation is conducted.

2. It is recommended that a state-level commission of representatives of the affected agencies propose:

   a. the proper components of a PSI, in light of Sentencing Guidelines, and

   b. the allocation of responsibility for gathering information relative to disposition.

3. It is recommended that all information contained in the PSI be fully disclosed to all parties a reasonable time before sentencing.

SENTENCING AND RELEASE DECISION

Discussion

One of the most important reform considerations identified in Task Force deliberations was the separation of sentencing and release decisions from the correctional function. The Task Force felt that sentencing should reflect concern for the victim in particular and society in general, balanced with a fair, timely, and sure response.

In considering the criminal sentencing practices within the state, the Task Force recognized that disparity often exists in sentencing, that offenders are often paroled from prison having served only a portion of the sentence given by the court, and that release from prison does not necessarily represent the end of an offender's sentence. In response to these concerns, the Task Force decided to endorse a current effort to reduce disparity in the sentences given by judges; to diminish the executive authority, now exercised by the Parole Commission, to provide early releases from incarceration; and to equate release from incarceration with the completion of one's sentence.

The Task Force recognized that incarceration is not the only form of sanction that can be used effectively. Many offenders could safely remain in the community if appropriate sanctions were available. Some community alternatives are used frequently in some jurisdictions. While the Florida statutes authorize a wide range of alternatives, there has been no systematized introduction of these alternatives. The Task Force has encouraged the development of statewide alternative sentencing options, and has suggested two specific possibilities described in Appendices E and F.

Probation is the most commonly used dispositional alternative. The Task Force has recommended that an offender not be repeatedly placed on probation. The Task Force has also spoken to the need for specific and observable conditions of probation, rather than general, unenforceable conditions.

The Task Force heard a significant amount of testimony regarding ways in which the victim is overlooked by the criminal justice system. One remedy suggested by the Task Force to this problem is a greater emphasis on restitution.

Recommendations

1. Having reviewed the materials produced by the Sentencing Guidelines Project and having heard testimony by members of the staff of that project, the Task Force fully endorses the implementation statewide of sentencing guidelines and sentence review to reduce unreasonable sentencing disparity.

2. It is recommended that, except for release based on gain time, there shall be no executive intervention providing for the early release of an offender from a term of incarceration except in extraordinary situations as determined by the clemency board.

3. It is recommended that the sentence imposed by the judge shall determine the length of time served, shortened only by an equitable gain time formula, based on good behavior.

4. It is recommended that correctional responsibilities end with release from custody. No post-release supervision which holds the prospect of returning the released offender to prison will be imposed.

5. The Task Force recommends an emphasis on the use of structured alternative sentencing on a statewide basis.

6. The Task Force recommends, among other alternatives, that specific consideration be given to the statewide development of the following alternative sentence options:

   A. Alternative Community Service (see Appendix E) and,

   B. Fines based on the seriousness of the offense and the offender's ability to pay (see Appendix F).

7. The Task Force recommends that:

   A. An offender be given a term of probation only one time;

   B. Conditions of probation reflect realistic and observable goals, such as

      i. completion of obligations related to the sentence, including fines, restitution, alternative community service and participation in special programs, or

      ii. observance of court ordered restrictions related to the individual offender or offense;

   C. Emphasis on other, more general conditions of probation should be reduced, and probationary services be directed at assuring that court ordered conditions as described above are met.

8. It is recommended that, in each case where there is a financial loss resulting from the defendant's criminal offense, the court consider restitution to the aggrieved party in conjunction with any sentence or term of probation.

CORRECTIONAL REFORM

Discussion

These correctional recommendations represent a synthesis of ideas generated from lengthy discussions during several Task Force work sessions, and are based upon information and suggestions offered by the Department of Corrections, professionals from other agencies associated with the correctional effort, inmate testimony, and information gathered at public hearings. The major emphasis of the recommendations is directed at simplifying and defining the purpose of corrections.

At present as stated by statute, the goal and purpose of corrections in Florida is the rehabilitation of the offender. While the Task Force recognizes the noble goals and positive aspects to be gained if the rehabilitation of individual offenders is achieved, it feels that rehabilitation as a focus for corrections has failed to produce the desired results. Questions regarding the ability of the State to rehabilitate most offenders, injustices resulting from a treatment model of correctional response, and mixed signals concerning the goals of rehabilitation and punishment to corrections personnel are among the problems with the rehabilitative philosophy.

The Task Force decided that the system should reflect a philosophy of appropriate punishment and shift away from the focus on rehabilitation and the underlying treatment model of correctional management. In its considerations, the Task Force did not accept the notion that all offenders are in need of treatment or will benefit from rehabilitation. Instead, they opted for a system where it is understood that;

1. the offender has been remanded to the Department of Corrections as punishment;

2. the system will provide as safe an environment as possible in which the inmate can serve the sentence handed down by the court; and

3. the opportunities for rehabilitation and treatment will be available to those who want or need the assistance.

Treatment and rehabilitation would not be abolished under the Task Force proposal. Rather, the concept of treatment would return to its classical definition and treatment interventions would be provided to only those offenders diagnosed as needing

such intervention through standard clinical evaluations. Rehabilitation counselling, differentiated from clinical treatment, would be provided to those inmates who through their behavior indicate a willingness and ability to work actively toward some successful individual goal. Participation in any rehabilitative program would not be tied to any release decision or option, and rehabilitative programs would not be forced on any offender.

Applying this philosophy to the classification of inmates by the Department of Corrections, the Task Force decided to draft a proposal for a "model driven" correctional response. For a system to be model driven simply means that both the inmate and the administration know "why" an individual is in a particular track or program and that his or her placement in that program is directed to some correctional goal within the design of appropriate punishment. Within the proposed model, an offender sentenced to the Department of Corrections would be classified and assigned to one of three basic tracks: re-integration, retribution, or incapacitation. A fourth track, violence control, would then exist for diverting inmates who present a threat to the safety of the staff or other inmates.

The re-integration track would emphasize vocational, educational, and other special programs including community correctional alternatives. Those assigned to the retribution track would be working under safe conditions to support the system by producing goods and services much as some do at the present. The inmate in this track is "doing time", that is, simply paying for the offense under the concept of retribution. Those offenders serving lengthy sentences for repetitive or very serious offenses would be placed in the incapacitation track. The main program emphasis for this track would be directed at long-term confinement as a special consideration.

The fourth track, violence control, would be used for those inmates who victimize other inmates within the system. For correctional institutions to be just and effective to any degree, they must be made safe places for inmates to serve their sentences. The violence control track is designed to aid in the segregation and control of dangerous offenders and shift the process from locking up people for their own protection to locking up the violence-prone inmates and allowing the potential victimized population to serve their sentences peacefully. Inmates testifying before the Task Force made numerous references to their willingness to serve their sentence if they could just do so in a safe and just manner. Providing safety to those incarcerated should not be considered as coddling, but as a basic requirement for safe and humane incarceration.

An offender could be transferred from one track to another when appropriate. For example, an offender nearing the end of his or her sentence and indicating a desire to receive some

special training might be shifted from the retribution to the re-integration track. Conversely, an offender who is not participating satisfactorily in the re-integration track could be shifted to the retribution track. A shift from one track to another would not affect the length of one's sentence, and the opportunities to earn gain time would be equal in each track.

Line functions and management responsibilities should be clearly devised and separated for each of these major tracks. Each track would have specific requirements for success based upon the nature of the inmate involved. Rehabilitative efforts would be utilized as a component rather than as a single driving force with the inmate acting as the motivator.

Recommendations

1. It is recommended that policy and supporting law be revised to emphasize that the underlying philosophy be appropriate punishment and safety to the community as the primary goals of the correctional system.

2. It is further recommended that the priorities for the administration of a system based upon the idea of appropriate punishment be set to insure that each inmate is treated and housed in a humane manner so that:

   A. offenders are protected from harming themselves or others;

   B. offenders are afforded an environment and living condition where discipline is balanced with fairness;

   C. offenders diagnosed by standard clinical evaluation as needing treatment be provided the needed treatment;

   D. offenders indicating a willingness to work toward some successful individual goal should be provided an opportunity for rehabilitation counselling or other reasonable opportunities to change.

3. Given that different offenders have different needs and characteristics which the system should recognize, it is recommended that the policies and procedures be reviewed with consideration given to adopting various diverse paths and tracks in which an offender can be placed upon evaluation by the Department of Corrections. These different paths should embody the following concepts in some form.

   A. Re-integration - a correctional path for offenders who are deemed to be receptive or would benefit from a program with maximum emphasis on rehabilitation and providing the social skills necessary to reenter society and the community as a contributing member.

   B. Retribution - a correctional path for those offenders evaluated and found to be unreceptive or not in need of rehabilitative emphasis and whose primary purpose during their sentence is to support the system through a labor intensive program. Rehabilitation options in this type of program would only be made available to those who through their behavior exhibit a positive commitment to change, and then only in addition to their normal work requirements.

   C. Incapacitation - this program is designed for those individuals serving lengthy sentences and who through repeated criminal activity or through a single extremely serious act indicate they need to be kept from society for the benefit of both themselves and the public at large. While these individuals may not be particularly violent, they represent a group with specific needs both in programs and facilities which are distinct from a normal incarcerated population.

   D. Violence Control - a program designed to segregate in a separate institution those individuals within the population who through their actions indicate that they are dangerous to others. The emphasis is to separate these violence-prone individuals from the remainder of the inmate population and thus provide a safer environment.

ASSISTANCE FOR LOCAL JAILS

Discussion

The county jail has been the focus of concern on both the state and local levels in recent years. Increasing jail populations and substantial litigation concerning unsatisfactory jail conditions have produced problems for jail administrators, sheriffs (as the constitutional officers responsible for the jails), county commissioners responsible for funding decisions, and judges, who have been required to determine whether jails conformed to constitutional standards of confinement. The state has also become involved in the jail problem through its role of establishing and enforcing jail standards and in responding to requests from local governments for financial assistance.

Resolution of the jail overcrowding dilemma has begun with the establishment of pretrial release programs and the use of alternative sentencing for misdemeanants in many counties. But even with the reductions in population achieved through such programs, many jail facilities are still inadequate. Construction to expand the capacities of jail facilities is desperately needed in some counties.

Regulations governing the maintenance of local jails and reflecting constitutional standards of confinement have been established by the State Department of Corrections. These regulations have found many counties in need of renovation of the jail facility and increases in the size of the jail staff, as well as additional bed space. Conformity to the established regulations thus requires substantial expenditures by the counties.

The financial demands upon local governments include capital outlay for construction or renovation, one-time expenditures, and continuation funding. One-time expenditures include staff training and uniform and equipment purchases which are necessary to increase the size of the staff or to add programs or services. These expenses are in addition to the ongoing expense of continuing and maintaining the increase in staff and services.

Some have proposed that the state act to alleviate the counties of much, if not all, of the burden. Proposals have included state assumption of all local jail and detention responsibilities, the establishment of regional jails, and the relaxation of standards for jail operation. The Task Force found none of these solutions satisfactory, as each would result in either the enlargement of the state bureaucracy, the undercutting of local responsibility for the jails, or the violation of the Constitution.

The Task Force found, however, that the counties can establish cooperative agreements to share facilities and services in a manner similar to that presently used in law enforcement mutual aid agreements. Such agreements could be established without violating or confusing local responsibility for pretrial detention and misdemeanant corrections. State assistance could then be limited to short-term financial aid rather than the wholesale assumption of fiscal responsibility.

The Task Force also found that the state often has difficulty finding sites to locate facilities for use by the Department of Corrections. With the increased use of community correctional centers, it is necessary to designate more sites in varied locations. Effective identification of prospective sites is dependent upon cooperation from local government.

Recommendations

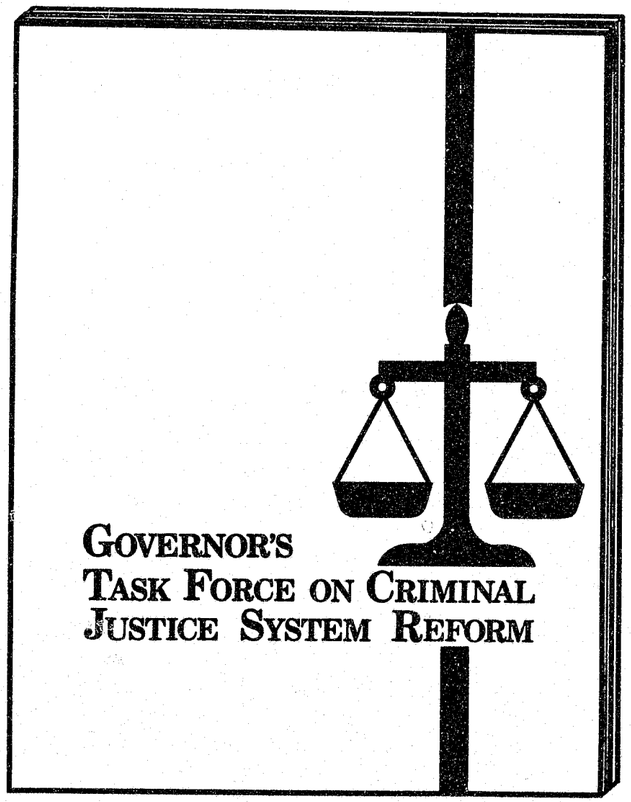
1. It is recommended that the responsibility for financing and managing pre-trial detention and misdemeanant corrections should remain with local governments.

2. Whenever problems related to jail management can be alleviated through cooperative efforts of adjacent counties it is recommended that these counties establish mutual aid agreements outlining the obligations for each participating county. It is recommended that further study be undertaken to determine whether legislation is needed to facilitate such agreements.

3. It is recommended that the state provide low interest bond monies for jail construction and renovation, if and only if, the county has established a pre-trial release program ensuring the release on recognizance of persons unable to post bond and not considered dangerous or likely to flee, a program of alternatives to incarceration, and the local government cooperates in the designation of sites in its master plan for the location of state correctional facilities.

4. If the state is to become involved in providing direct fiscal assistance to local corrections, it is recommended that the state pay only those one-time costs associated with the increasing number of personnel or expanding the services available.

ASSURING AN ADEQUATE RESPONSE FOR JUVENILE OFFENDERS



GOVERNOR'S
TASK FORCE ON CRIMINAL
JUSTICE SYSTEM REFORM

INTRODUCTION

To what extent should children be treated differently from adults in the criminal justice system? This was a major question the Task Force faced in its deliberations on juvenile justice issues. Three major observations resulted.

First, juveniles should not be deprived of liberties without the same due process protections available to adults.

Secondly, the Task Force found a mood among Florida citizens to hold juveniles more responsible for their offenses. The juvenile court was not perceived as a place for vigorous prosecution of crimes, and juvenile sentencing was found to be only minimally related to the offense committed. The Task Force sought to establish a system in which the prosecution of juvenile crime was pursued on the same basis as adult crime, and in which the sentencing of juveniles had a direct relationship to the seriousness of the offense.

Thirdly, the Task Force found that while juvenile crime warrants a virorous response from the state, certain concepts arising from the juvenile court tradition should be maintained. The treatment goals of the traditional juvenile court philosophy were intended to respond to particular social and emotional needs of the juvenile. These needs are genuine, and should continue to be considered within parameters which emphasize the fairness of the system and the accountability of the juvenile.

It must be emphasized at this point that the following proposals must be taken as part of a system. If the Task Force proposals about pre-trial release are not adopted, then specialized intake and detention procedures for juveniles must be preserved. If the Task Force recommendations about handling juvenile offenders are adopted, then present intake and detention provisions must be revised to comply with the principles and recommendations on pre-trial release.

JUVENILE JUSTICE

Discussion

Although the juvenile arrest rate in Florida decreased in 1981, juvenile crime continues to be a major concern of Florida's citizens. According to the Uniform Crime Reports, juveniles account for 32.8 percent of all arrests in 1981 for Part I crimes. This represents a participation in crime disproportionate to the percentage of juveniles in the population.

Since the turn of the century, juvenile crime and adult crime have been handled by distinct court systems with different rules of procedures and different terminology. The American juvenile court system emerged with the backing of the "child saving" reformers of the 1890's. It was, in many ways, a reaction against the use of the adult criminal justice system to process cases involving children. These reformers held that early intervention in the lives of children could effectively divert them from a criminal career and that children could be "saved" by effective social services keyed to the specific needs of the child. These beliefs became institutionalized in a juvenile justice system which emphasized informality, social diagnosis, and an avoidance of the due process guarantees characterizing the adult criminal justice system.

The typical juvenile court evolved over the next sixty years into an activist social service agency with the legal power to enforce treatment and diagnosis. Its jurisdiction included dependent youths as well as those committing criminal or status offenses. The juvenile court was marked by a minimum of due process safeguards, by extensive reliance on diagnosis of the "underlying social problems", and by a philosophy justifying practically any type of intervention thought to be "in the child's best interest".

The past several years have been marked by a reaction against this "treatment" philosophy of the traditional juvenile court. The court has been attacked from two directions. Many have argued that the court, in seeking to "protect" the children, has ignored basic procedural safeguards and meted out punishment in excess of that permitted under the adult criminal justice statutes, in effect failing to help or to protect juvenile offenders. Others have criticized the court and its treatment philosophy for teaching young offenders to rationalize their behavior, for creating a revolving door under the guise of treatment, and for making society's rules appear confusing and inconsistent. As a result, juvenile courts across the

country have been pushed in the direction of an adversarial system modeled after adult criminal courts with reduced judicial discretion, greater emphasis on procedural safeguards and enhanced concern with disparity in sentencing.

In Florida, most procedural safeguards have been provided to juveniles through changes in the Juvenile Rules of Procedure, the Florida Statutes, and the Florida Constitution. The juvenile and criminal courts exist together within the circuit court structure, operating under separate Rules of Procedure. The juvenile court affords all of the due process rights now available to adults except the right to trial by jury and the right to bail. A juvenile can receive these rights, however, by demanding trial in the adult court.

Under present Florida law, a juvenile is tried as an adult in criminal court in the following situations: 1) upon demand by the juvenile and his or her parent or guardian; 2) when indicted for any capital of life felony; 3) when the juvenile court waives jurisdiction, upon request by the State Attorney, for 14 and 15 year olds who have been previously adjudicated for certain violent crimes and are charged with a second or subsequent such offense; and 4) when the State Attorney direct files an information against a 16 or 17 year old for any offense. When a juvenile is found guilty in criminal court, the judge may choose to impose either adult sanctions (such as commitment to the Department of Corrections) or juvenile sanctions (such as commitment to the Department of Health and Rehabilitative Services).

Once a juvenile has been adjudicated delinquent, juvenile courts have had little discretion in determining the type of placement or the duration of a juvenile's commitment. Commitments to institutions or other residential facilities were for indeterminate periods and, too often, factors which the juvenile court considered important had little influence on the juvenile corrections personnel who determined the actual length of commitment.

Data from the Department of Health and Rehabilitative Services shows that the average length of commitment for different degrees of crime (life felony through second degree misdemeanor) is relatively short. As an example, juveniles committed for first degree felonies average just over four months, while those committed for first degree misdemeanors average just under four months. (This computes to an eighteen day differential in average length of stay.) These figures indicate that the offense committed is not a major factor in determining the length of the custodial sanction.

The 1981 session of the Florida Legislature addressed this issue by allowing the juvenile courts to maintain jurisdiction

over the child during his period of commitment. However, it appears that this change in the law may well lead to a potential problem in that certain judges are using this authority while others are not. This may lead to much longer periods of commitment for juveniles committed by certain judges and shorter periods of commitment for juveniles committed by other judges, resulting in a lack of uniformity in lengths of juvenile commitments.

A problem regarding the age limit for juvenile jurisdiction was identified by the Task Force. Under present law, the juvenile court's jurisdiction over a delinquent is retained until the individual reaches the age of 19. Thus a juvenile who has been committed to an institution or program by the juvenile court must be released on his 19th birthday. The court is thus prevented from prescribing longer commitments for serious offenders.

Recommendations

1. It is recommended that the juvenile and adult courts be unified, allowing for differential detention facilities and sentencing procedures.

2. It is recommended that State Attorneys be given discretion to direct file against any juvenile for any crime.

3. It is recommended that the following specific dispositional alternatives be available for juveniles. Alternatives are listed from the least to the most restrictive.

   A. Nominal: reprimand and release

      The court may reprimand the juvenile for the unlawful conduct, warn against future offenses, and unconditionally release the juvenile.

   B. Conditional

      The court may sentence the juvenile to comply with one or more conditions (specified below), none of which involve removing the juvenile from his home. Such conditions should not interfere with the juvenile's schooling, regular employment, or other activities necessary for normal growth and development.

      i. Suspended Sentence

         The court may suspend imposition or execution of a more severe, statutorily permissible sentence with

the provision that the juvenile meet certain conditions agreed to by him or her and specified in the sentencing order. Such conditions should not exceed, in severity or duration, the maximum sanction permissible for the offense.

ii. Financial

   a. Restitution

      (1) Restitution should be directly related to the juvenile's offense, the actual harm caused, and the juvenile's ability to pay.

      (2) The means to carry out a restitution order should be available.

      (3) Either full or partial restitution may be ordered.

      (4) Repayment may be required in a lump sum or in installments.

      (5) Consultation (apologies, etc.) with victims should be encouraged. Payments may be made directly to victims, or indirectly, through another process stated by the court.

      (6) The juvenile's duty of repayment should be limited in duration.

   b. Fine

      (1) Imposition of a fine is most appropriate in cases where the juvenile has derived monetary gain from the offense.

      (2) The amount of the fine should be directly related to the seriousness of the juvenile's offense and the juvenile's ability to pay.

      (3) Payment of a fine may be required in a lump sum or installments.

      (4) The juvenile's duty of payment should be limited in duration; in no event should the time necessary for the payment exceed the maximum term permissible for the offense.

c. Community Service

(1) In sentencing a juvenile to perform community service, the judge should specify the nature of the work and the number of hours required.

(2) The amount of work required should be related to the seriousness of the juvenile's offense.

(3) The juvenile's duty to perform community service should be limited in duration; in no event should the duty to work exceed the maximum term permissible for the offense.

iii. Supervisory Community Supervision

The court may sentence the juvenile to a program of community supervision, requiring him or her to report at specified intervals to a community control counselor or other designated individual and to comply with any other reasonable conditions that are designated to facilitate supervision and are specified in the sentencing order.

iv. Remedial

The court may sentence the juvenile to a community program of academic or vocational education or counseling, requiring him or her to attend sessions designed to afford access to opportunities for normal growth and development. The duration of such programs should not exceed the maximum term permissible for the offense.

C. Custodial

A custodial disposition is one in which a juvenile is removed coercively from his or her home. This sanction should be reserved for the most serious or repetitive offenses.

A custodial disposition is an exclusive sanction and should not be used simultaneously with other sanctions. However, this does not prevent the imposition of a custodial disposition for a specified period of time to be followed by a conditional disposition for a specified period of time, providing that the total duration of the disposition does not exceed the maximum term of a custodial disposition permissible for the offense.

Custodial confinement may be imposed on a continuous or an intermittent basis, not to exceed the maximum term permissible for the offense. Intermittent confinement

PROPOSED JUVENILE SENTENCE MATRIX

CLASS OF OFFENSE	*CONDITIONAL FREEDOM	**NON-SECURE FACILITY	***SECURE FACILITY
Life felony	not authorized	24+	24
1st degree felony	30+	18	18
2nd degree felony	24	12	12
3rd degree felony	18	6	6
1st degree misdemeanor	12	4	4°
2nd degree misdemeanor	6	2°	not authorized

Time listed is in months

LEGEND:

\+ Sanction listed authorized only if no prior record[1]

° Sanction listed authorized only if prior record[1] exists

* Conditional freedom is any sanction not requiring a change in the juvenile's residence

** Non-secure facility includes facilities such as halfway houses, foster homes, etc.

*** Secure facility includes institutions and highly structured community based facilities

[1]A juvenile has a "prior record" only when there has been a judicial finding that a criminal offense has occurred.

generally includes night and weekend custody. Levels of custody should include non-secure residences and secure facilities. Although these sanctions are primarily residential programs, for the purposes of these recommendations certain non-residential programs such as Marine Institutes and intensive counselling should be included in the non-secure custodial category.

i. Non-secure facilities or residences

No juvenile should be placed in a non-secure facility or residence unless the juvenile is at least ten years old and unless any less severe disposition would be grossly inadequate to the needs of the juvenile.

ii. Secure facilities

A juvenile may be placed in a secure facility for a period of confinement; such a placement, however, should be a last resort, reserved only for the most serious or repetitive offenses. No juvenile should be placed in a secure facility unless the juvenile is at least twelve years old and unless such confinement is necessary to prevent the juvenile from causing injury to the person or substantial property interests of another.

4. It is recommended that the maximum limits contained in the following matrix be set on the type and duration of juvenile sanctions. The court may elect to use any dispositional alternative up to and including the maximum.

In addition to the guidance provided through the sentencing matrix, certain other limitations are recommended, including:

A. With the exception of those placement limitations listed on the matrix, the Department of Health and Rehabilitative Services shall have the discretion to place juveniles in either secure or non-secure facilities. The placement decision should be guided by consideration of the degree of danger the child poses to the community, the treatment needs of the child, and the availability of facility space.

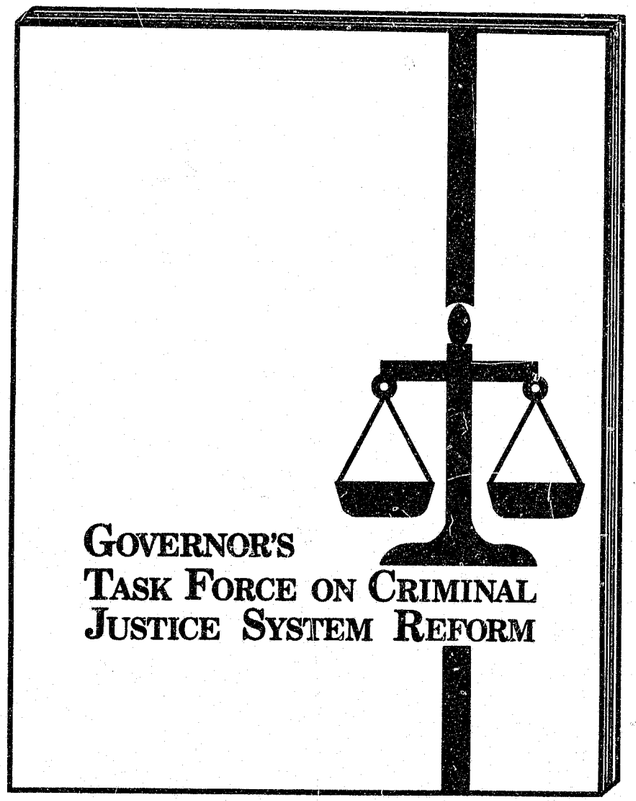
B. The Department of Health and Rehabilitative Services should have the discretion to shorten the sentence imposed by a juvenile court by no more than twenty-five percent (25%). Any reduction of the sentence shall be based on the individual merits of the case and not as a control mechanism for over-population problems.

C. The Department should have the authority to petition the court for a review of the sentence at any point that the child demonstrates a material and sufficient change in behavior and attitude. This action should be taken only in exceptional cases where there is clear evidence indicating a change in prognosis since the child was sentenced. The court should have the option to consider the petition in camera.

Following the adjudication of a child as delinquent, the court shall impose a sanction commensurate with the sentencing matrix (guidelines) and shall state the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing.

5. It is recommended that the Florida Statutes be amended to provide for juvenile jurisdiction for an offense to continue until age 21 when jurisdiction for that offense is attached prior to age eighteen.

ESTABLISHING A MORE SYSTEMIC CRIMINAL JUSTICE RESPONSE



GOVERNOR'S
TASK FORCE ON CRIMINAL
JUSTICE SYSTEM REFORM

INTRODUCTION

It is not enough to have the structural elements of a criminal justice system. Unless the operations and planning of each element are coordinated into a functioning interrelated whole, the various components soon become overburdened and the system becomes problematic. This is not new information for Florida. Many attempts to better coordinate and integrate the various criminal justice activities have met with varying degrees of success.

Present attempts to increase coordination are either aimed at specific objectives such as managing federal funds or are short term efforts with no sense of continuity or responsibility.

The Task Force felt that the on-going program development and coordination function for the state needed to be located within the executive branch. This step, if accomplished, will provide an on-going proactive response to Florida's crime problem. It will also provide a link to the various efforts being conducted by citizens and other interest groups. At present there is no central focus for pulling the diverse activities of Florida's statewide anti-crime effort together.

POLICY DEVELOPMENT AND COORDINATION

Discussion

One of the major problems with the criminal justice process in Florida is its lack of central coordination. As a result, criminal justice agencies must compete for resources, power, and authority within the system. All levels of decision making are affected, including budget, policy and operations. This problem is not new and by no means is it isolated to the State of Florida. The American justice system sprang from a combination of local, regional and state concerns. As it progressed historically the duties and responsibilities were divided and the jurisdictions defined. As the problem of criminal violence has grown and as criminal activity has reached new levels of sophistication it now becomes necessary to better coordinate traditionally separate entities of response. Every major fact finding effort both nationally and within the State has referred to the need to better integrate the various levels into a more coordinated system serving the single purpose of preserving order and increasing the level of safety for Florida's citizenry and visitors.

A good deal of coordination is provided within the definition of responsibilities outlined in other recommendations within this report. In the Task Force report on funding the criminal justice system, various coordination and cooperation problems were identified and bear further analysis. However, the Task Force felt that the following recommendations would revitalize the efforts to coordinate the system, provide better information and force an integration of local, regional, and state concerns past what entities now in existence have been able to accomplish.

To this end, the Task Force received testimony and formulated three areas of recommendation related to increasing the level of coordination for the criminal justice system. In an effort to provide not only an advisory capability for all three branches of government but also to facilitate policy development by the executive branch, the Task Force recommends the following procedural steps.

Recommendations

1. That each branch of government be encouraged to review the continued viability of all advisory groups and councils associated with the criminal justice system under the authority of that branch.

2. The creation of an eleven member Florida Criminal Justice Commission appointed by the Governor. This Commission would be charged with the responsibility for coordinating all executive information functions in criminal justice and providing information to the Legislature. The Office of Criminal Justice Research will provide staff support for this commission.

3. The Office of Criminal Justice Research to be located administratively within the executive office of the Governor. It should be headed by an executive director appointed by the Governor in conjunction with the Attorney General, the Chief Justice, the President of the Senate, and the Speaker of the House of Representatives. It will be internally structured into three divisions. The first of these will be the Research and Evaluation component for coordination of all criminal justice programs and the operational and impact assessment of suggested changes.

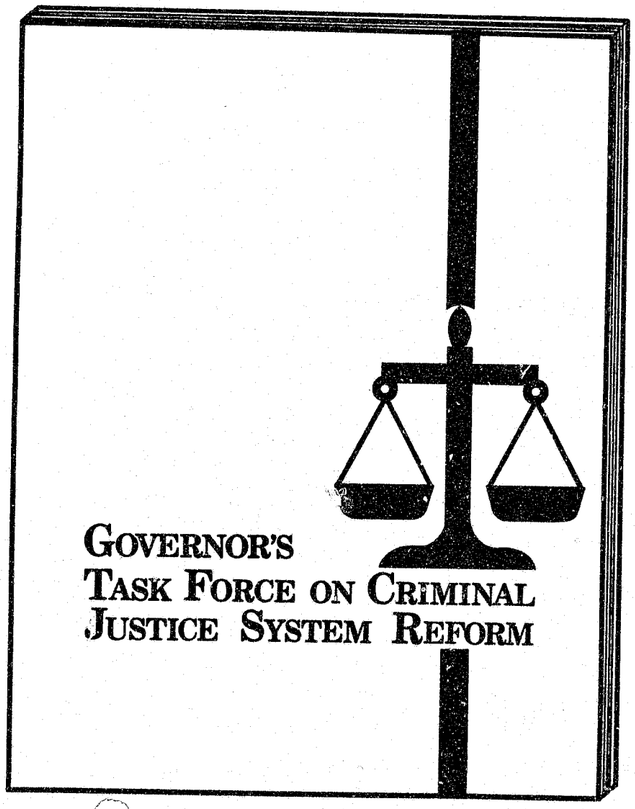
   The second component, Information Services, will define system-wide data elements and collect and analyze the data. This unit will conduct economic impact analyses of proposed changes.

   The third division will conduct research in response to request from the executive, legislative, and judicial branches on a system-wide basis and keep decision makers aware of current national trends.

   The staff of this office should be held to a minimum of full time positions. Research and analysis can be augmented using contractual services and the state university system. Internships and visiting sabbatical should be encouraged.

4. It is recommended that the Legislature systematically review, on a continuing basis, all laws pertaining to the criminal justice system.

APPENDICES



APPENDIX A

TASK FORCE

HISTORY

HISTORY

The Governor's Task Force on Criminal Justice System Reform was created by Executive Order on September 2, 1980. Chief Justice Alan Sundberg and Attorney General Jim Smith were appointed as Co-Chairmen to direct the efforts of sixteen appointed citizen members and four members of the Legislature.

The first meeting was held on September 16, 1980 in Tallahassee. At this meeting, members in attendance voiced their concerns about the criminal justice process and those areas that they felt the Task Force should address. Included within these topics were such things as the alienation of the public with the criminal justice system, the lack of coordination and common purpose among criminal justice components, problems in recruitment and retention of criminal justice professionals, and the lack of deterrence in the adult and juvenile systems. Other topics identified by members were the lack of a clearly-stated purpose and philosophy to guide the policy for sentencing and corrections, the adult and juvenile pre-trial phase of the criminal justice process, and the process and decision associated with intake into the criminal justice system.

Task Force members met again on October 28, 1980 in Tampa, Florida. During this meeting testimony was received from the State Court Administrator's Office, the Department of Health and Rehabilitative Services, Division of Youth Services, as it was named at that time, and the Department of Corrections. Some of the issues identified at this meeting were the lack of uniformity between state attorneys' offices concerning the procedure for making the adult intake decision, the lack of consistency involving juvenile intake decisions, the problems associated with support services for correctional institutions, the resource allocation problems on trying to control a large population of potentially violent individuals, and the problems associated with the massive number of misdemeanant offenses that occur in this state and the difficulty involved in processing those types of cases through the court system with any substantive sanction.

The Task Force returned to Tampa on November 24 and 25, 1980, and received further testimony from the Department of Corrections regarding community corrections and the philosophy of corrections. Likewise, they received testimony from the Florida Parole and Probation Commission on resource needs and on the utilization of the objective parole criteria. After this presentation, the Task Force adopted a policy in support of parity for correctional officers and developed several long and short range issues for the correctional system which were referred to the Advisory Committee on Corrections.

In January 1981, the Task Force met in Starke, Florida. Prior to the meeting, testimony had been received from over 75 inmates on a solicited-letter basis. Five inmates were chosen for interview at Florida State Prison, Union Correctional Institute, and the Florida Correctional Institute for women at Lowell. In addition, Task Force members toured these facilities and the facility at Lawtey, and talked to the staff and administration at Lake Butler. On January 22, 1981, the Task Force received official testimony from the Concerned Citizens for Correctional Officers, Inc. on their plan for increasing the professionalization of correctional officers. Among the concerns generated by the tours were grievance procedures, vocational and educational industry programs, and the care of infants in the institutions.

On February 25 and 26, 1981, the Task Force held a public hearing in Jacksonville, Florida. Testimony was received from the Florida Clearinghouse on Criminal Justice, which identified concern for classification procedures, the use of confinement, and methods for attempting to normalize life in prison. Testimony was also offered by Sheriff Dale Carson regarding jail overcrowding, pretrial detainee problems, the need to develop a new process to handle those individuals adjudicated incompetent, misdemeanant processing, and the expansion of alternatives for alcohol and substance abuse offenders. The Task Force also heard further testimony from the Concerned Citizens for Correctional Officers. Ms. Carol Sheridan, President of the Florida Network of Victim/Witness Assistance, outlined several issues essential for reform regarding victims and witnesses. Mr. Ed Austin, State Attorney, outlined his perspectives on reform from a prosecutor's viewpoint. Citizen testimony also pointed out needs for basic programs in juvenile and adult corrections, for increased community involvement in criminal justice, and for a definite sentencing structure. Volunteer service and victim/witness assistance and the needs of the Florida Correctional Standards Council were also discussed in citizen testimony.

On the second day of the February meeting, reports were given by Representative Ron Silver on the progress of the Select Committee on Juvenile Justice and by the Attorney General on the topics being covered by the Advisory Committee on Corrections. Attorney William Shepard also spoke about the need to develop alternatives to pretrial detention.

On March 18 and 19, 1981, the Task Force held a public hearing in Miami, Florida. The first day of hearings was conducted at the Caleb Center adjacent to the James E. Scott Community Center. On the second day, the hearings were held at the north campus of Miami-Dade Junior College. Testimony was received from various public and private sectors, as well as from numerous citizens. Topics covered included the need for involving the Spanish-speaking community in the reform effort, the need for

broad community involvement in public safety, and the need for new approaches for victim/witness aid. Additional topics included breakthroughs by the educational administrators in Dade County, a trust fund established for local law enforcement assistance, and issues related to public defense.

On the second day, the Task Force heard testimony from the State Attorney's office and the Dade Chamber of Commerce; presentations on innovative programs to help highway patrol troopers and to prevent drug abuse; and concerns from North Miami Police Chief Buford Whitaker and Jupiter Police Chief Glen Mayo on local law enforcement needs. Mr. Neal Alper of the Citizen's Action Council and former Attorney General Robert Shevin spoke on various topics related to reform. Dr. Ayabar DeSoto spoke in relation to Hispanic concerns. Judge Larry Korda discussed the juvenile justice system. Testimony was also received from Janet Gimmel of Citizen's Crime Watch, Katherine Lynch of the Dade County Advocates for Victims, and Hugh Peebles, President of the Dade County Police Benevolent Association.

The Task Force convened in Tallahassee on April 29 and 30, 1981. Mr. John Stoeckel of the National Association of Volunteers in Criminal Justice spoke on volunteerism. Ms. Barbara O'Brien, of the Bureau of Criminal Justice Assistance, and members of the Duval County Sheriff's Office described the Integrated Criminal Apprehension Program. In addition, the Task Force staff presented a statistical overview of the criminal justice system for Florida and a systemic analysis of the Florida criminal justice process, integrating information received at the public hearings and meetings conducted to that date. During this work sessions, six major areas for criminal justice reform were synthesized by the Task Force. They were as follows:

1) Increasing the Risk of Apprehension

Topics in this area were the utilization of the Integrated Criminal Apprehension Program; the determination of an adequate level of law enforcement strength needed to serve Florida's cities; investigation of the alternative methods for providing local law enforcement support through alternative funding sources; and the structure, placement, and function of a statewide effort to involve the community for better law enforcement.

2) Increasing the Assurance of Prosecution

Topics in this area were determining the potential structure, function, and placement of a statewide prosecutorial function; developing a comprehensive and reasonable process for handling the state's overwhelming number of misdemeanant offenders; and developing an adequate and proactive victim/witness program.

3) Assuring Equity Within the System

Topics for consideration were the continuation of the efforts of the Sentencing Guidelines Project to establish equity in sentencing; the investigation of the entire pretrial area, including release, commercial bail bonding, and preventive detention; the development of a definition of danger to the community to be used in a pretrial release decision; and the investigation of methods to improve the support and process for better legal defense services.

4) Assuring Adequate and Just Punishment

Within this area, needs were identified to develop alternative sentencing programs for misdemeanant offenders; to develop a correctional response which would give the Department of Corrections a clear incentive, adequate resources, and a model to guide the treatment of Florida's offenders; to investigate a new model for probation which would require a more in-depth responsibility on the part of the defendant; and to investigate alternative methods for making a release decision. The last area encompassed the entire area of investigation related to Florida's Parole and Probation Commission, and was seen as an integral part of the entire correctional model by the Task Force.

5) Assuring Just Response for Juvenile Offenders

Items identified for inquiry in this area were the need to investigate the potential harm done to juveniles in the name of treatment and rehabilitation programs; the need to develop a program for serious juvenile offenders who are now being tracked in the adult system; and the need to integrate the due process aspects of the justice system more deeply into the Florida juvenile justice response.

6) Making the Criminal Justice Response More Systemic

Included in this area were the need to investigate the possibility of establishing a high level coordinating group answerable to the executive, judicial and legislative branches of government, which can provide guidance in system-wide decision making; and the need to increase the information effort within the state to provide adequate and up-to-date defendant-based information, utilizing standard definitions, in support of criminal justice decision making.

The next meeting of the Governor's Task Force was convened in Longboat Key, Florida, on June 10 and 11, 1981. Mr. David Strawn presented a three-tiered model for corrections during the work session segment of the meeting. Mr. Guy Revell

briefed the Task Force on a new probationary model which would emphasize restitution and community service in a punishment mode. In addition, Senator Gerald Rehm discussed the success of the new prison industries bill.

The Task Force delineated additional subjects to be covered for the six major areas. In area one, Increasing the Risk of Apprehension, three additional topical areas were added. These included review of existing criminal procedures in order to suggest changes to increase the risk of apprehension; evaluation of existing rules and regulations concerning the assignment of jurisdiction; and the evaluation of hiring, training, and promotional processes in law enforcement.

In Increasing the Assurance of Prosecution, investigation of reform measures needed to regulate the plea bargaining process and investigation of the intake decision process were added.

In Assuring Equity Within the System, it was suggested that changes in the areas of jury representation and instructions be considered.

In Assuring Adequate and Just Punishment, it was suggested that alternatives to traditional incarceration be fully explored.

No additional issues were suggested in the Juvenile Justice area. Under Making the Criminal Justice Response More Systemic, Task Force members decided to look at a more systematic resource allocation process and to determine how accountability could be tracked to a greater degree.

The Chief Justice then assigned Task Force members to work as subcommittees on each of the six major areas. The work of the subcommittees was conducted during the months of July and August.

On August 26 and 27, 1981, the Task Force met in Tampa, Florida and received preliminary reports from the subcommittees involved with Assuring Equity Within the System, Making the Criminal Justice Response More Systemic, and Improving the Juvenile Justice Response. In addition, status reports were filed by the other three subcommittees.

In September 1981, the Task Force began consolidating the issues raised by each of the subcommittees into recommendations for further investigation. Special progress was made in the areas of Increasing Equity Within the System and Increasing the Assurance of Prosecution. Specific recommendations were

provided by Representative Larry Smith on the handling of misdemeanant offenders, and initial presentations on cross-jurisdictional prosecutions and plea bargaining were made. Final recommendations were made regarding the pretrial release and danger to the community issue. In the Juvenile Justice area, Judge William Gladstone presented statistics which indicated that juvenile crime as a whole is on a downward trend. Judge Gladstone also presented a series of resolutions passed by the Executive Committee of the Juvenile Section of the Conference of Circuit Judges. In addition, Judge Gladstone voiced his disagreement with the concept of a unified juvenile and adult court process.

On October 20 and 21, 1981, the Task Force again met in Tampa, Florida for a work session. Subcommittee reports were presented on Assuring Adequate Punishment, Increasing the Risk of Apprehension, Making the Criminal Justice Response More Systemic, and Assuring a Just Response for Juvenile Offenders. Members of the Task Force presented their own work in relation to the recommendations which had been discussed in the above areas. The correctional issues were referred back to the subcommittee for further work. Dr. Barbara Greadington expressed her concern over the elimination of the parole function apparent in the subcommittee work.

Chief Kenneth Harms presented a report in the area of Increasing the Risk of Apprehension and Judge Gunther provided the Task Force with a paper on plea bargaining. Senator Joe Carlucci reported on the work conducted by he and Dean Eugene Czajkoski concerning Making the Criminal Justice Response More Systemic. Representative Silver again voiced his concern over the juvenile justice recommendations. In particular, he noted unifying the court process and granting state attorneys the discretion to direct file on individuals regardless of age or offense. Mr. Revell presented a paper on juvenile sentencing alternatives, which was passed in concept by the Task Force.

The meeting held in Tampa on November 18 and 19, 1981, was the last for the year. The Task Force, pursuant to discussion with the Governor, decided to provide recommendations on pre-trial reform prior to the 1982 Legislative session. It was decided that the remaining recommendations would be further developed and presented in a final package in June of 1982. It was also decided that the subcommittees had served their purpose and would be disbanded. Rules were promulgated for the passage of final recommendation language. Mr. Harshman and Mr. Brierton made presentations concerning specific areas of the correctional package. Their comments were directed to staff for further development. The meeting was completed by finalization of the meeting schedule for the 1982 term.

In December, under instruction from the Task Force, the staff prepared and released a major report entitled "Balancing Equity, Safety, and Justice through Pre-Trial Reform", presenting the Task Force recommendations concerning pre-trial release, safety to the community, and public bail.

On January 20 and 21, 1982 the Task Force held its first work session for 1982 in Tampa, Florida. The focus of the meeting was corrections and sentencing. Presentations were made by Mr. Ken Plante, Director of the Sentencing Guidelines Project at the State Court Administrator's Office, Mr. David Brierton, Mr. Ron Harshman, and Mr. David Strawn on sentencing and correction issues. In addition, Dr. Eugene Czajkoski made a presentation delineating those issues which the Task Force was not addressing.

On February 18 and 19, the Task Force again convened in Tampa, Florida. A package of sentencing and corrections recommendations was passed. In addition the Task Force heard presentations from Mr. Ken Palmer of the State Court Administrator's Office on state assumption of court costs, Ms. Sylvia Alberdi of the Senate Judiciary-Civil Committee on the same subject and Mr. Richard Hixson of the House Judiciary Committee on pending bills which would affect the state assumption of all costs for the court system.

On March 18 and 19, 1982 the work session held in Tampa was directed at the areas of presentence investigations, funding the criminal justice system, localization of the criminal justice decision making process, and victim/witness management. The Task Force set a completion calendar and planned the remaining meetings.

The Task Force meeting in April was held in Tampa on the 21st and 22nd. Mr. Barry Richard presented his findings on methods for improving law enforcement professionalism. Recommendations for all issues covered to date were referred to staff for final draft preparation.

On May 20, 1982 the Task Force completed all recommendations which will be included in the final report. The staff was instructed to finish support language and prepare a draft of the final report for consideration at the June meeting.

On June 16th, 17th, and 18th, 1982 the Task Force held its final meeting. The total report was reviewed and corrections and editing were accomplished. The Task Force was dismissed from its term and the report was forwarded to the Governor on June 29, 1982.

CONTINUED

1 OF 2

APPENDIX B

INTEGRATED CRIMINAL

APPREHENSION PROGRAM

INTEGRATED CRIMINAL APPREHENSION PROGRAM

The Integrated Criminal Apprehension Program (ICAP) is a national effort to increase the effectiveness and efficiency of law enforcement by utilizing current and existing resources. ICAP is an approach which reshapes the delivery of police services to a community.

ICAP was developed from a series of programs to improve police services funded by the Law Enforcement Assistance Administration. Several successful and innovative programs have been merged into a single comprehensive police management model. Preventative patrol, beat profiling, and the use of crime analysis information to identify specific crime problems were among the techniques developed through these programs. Other new techniques include the use of solvability factors in case screening and the identification of career criminals.

Implementation of the ICAP model in a particular agency is a multi-phase process. Once training has been provided, effort usually focuses on adjusting recording practices. For example, police report forms are revised to provide the information needed to analyze crime patterns in the agency's jurisdiction. A model being used in Florida focuses on records management, crime analysis and communications planning before shifting focus to operations analysis and directed patrol.

The Jacksonville Sheriff's Office was one of the pioneer agencies for the ICAP model of policing, beginning its involvement in 1977. In 1980, fourteen additional Florida law enforcement agencies were selected to receive ICAP training. These agencies include:

Alachua County Sheriff's Department
Boca Raton Police Department
Collier County Sheriff's Department
Escambia County Sheriff's Department
Ft. Pierce Police Department
Gainesville Police Department
Hillsborough County Sheriff's Department
Largo Police Department
Miami Police Department
Orlando Police Department
Pompano Beach Police Department
St. Petersburg Police Department
Tallahassee Police Department
Volusia County Sheriff's Department

The Bureau of Criminal Justice Assistance was chosen to coordinate these training activities.

Building on this base of agencies with ICAP training, the Bureau of Criminal Justice Assistance and the Jacksonville Sheriff's Office, which as a pilot program had been prepared to provide technical assistance to other ICAP sites in the state, decided to develop a structured Florida Criminal Apprehension Program (FCAP). A workplan for further statewide training and implementation of the ICAP approach was projected and presented to the Legislature before the 1982 Session. In the session, the Legislature appropriated $100,000 for fiscal year 1982-83 for the coordination of FCAP, and placed the program within the Florida Department of Law Enforcement.

The focus of the state FCAP effort under this one year funding will be the completion of the preliminary phase of the ICAP approach in the fourteen sites where training has begun and the evaluation of the impact of the programs in these sites. The plan does not provide for the addition of other agencies to FCAP until this has been completed.

Two agencies in Florida have reported some preliminary results derived from participation in ICAP. The following descriptions regarding the ICAP experiences in Jacksonville and Miami are taken from the FCAP Legislative Packet produced by the Bureau of Criminal Justice Assistance:

"The Jacksonville Sheriff's Office has been involved in program development since 1977. They have provided the leadership and training that is so critical in technology transfer, and have proven to be one of the top ICAP sites nationally. Impact data includes:

- Increased on-site apprehensions by 68%.
- Increased the monthly arrest rate per patrol officer by 21%.
- Reduced overtime pay.
- Increased the number of cases cleared by arrests.
- Increased patrol strength by 9% without any increase in personnel.

"The Miami Police Department has been involved in program development for approximately six months. During this time, they have created a formal crime analysis unit and developed guidelines for managing their calls for service.

- It is estimated that from their efforts in managing calls for service (Teleserv), they have saved 2,250 unit hours per month, which

is the equivalent of 3,500 man hours. This represents a dollar savings of approximately $26,000.00 per month.

- The Crime Analysis Unit has identified several crime patterns that have resulted in arrests and elimination of the particular crime pattern itself (e.g. Coconut Grove Burglary Crime Pattern).
- A 'sister' program has been developed to allow greater community involvement in identifying crime patterns called "Crime Watch". The program involves the aid of community leaders in circulating information on crime patterns that <u>are occurring</u>, rather than those that <u>have</u> occurred."*

Use of the ICAP policing model is thus expected to result in an increase in the number and quality of criminal apprehensions, an increase in patrol strength without an increase in personnel, and a savings in overtime pay, gasoline costs, and other miscellaneous expenses.

* From the Florida Criminal Apprehension Program Legislative Packet, Bureau of Criminal Justice Assistance, Division of Public Safety, Planning and Assistance, Department of Veteran and Community Affairs.

APPENDIX C

FLORIDA'S WITNESS

MANAGEMENT PROGRAMS

Program Description	1981 Budget	1981 Savings
Palm Beach County Victim/Witness Assistance Agency		
Provides court notification for prosecution witnesses in felony cases.	$33,000 County $12,000 State	$82,000 County
Provides court with information regarding restitution and assists in collection.	$45,000 County	$500,000 Victims
Assists with crimes compensation.	$7,000 County	$186,000 Victims
Orange County Witness Management		
Provides court notification for prosecution witnesses in felony, misdemeanor and juvenile cases.	$40,000 County	$332,648 County
Provides assistance with fee payment.		
Located in Court Administrator's Office.		
Broward County Witness Liaison Office		
Provides court notification for prosecution witnesses in felony cases.	$182,658 County	$112,637 County
Provides restitution services.	$17,724 Contributions	$313,686 Victims
Located in Court Clerk's Office.		
Hillsborough County Witness Management		
Provides court notification for prosecution and defense witnesses in felony and juvenile cases.	$31,911*County	$40,355**County
Located in Court Administrator's Office.		

* Includes start up costs
** Based on 9 months of operation not full year

Program Description	1981 Budget	1981 Savings
Sarasota County Witness Management Provides court notification for prosecution and defense witnesses in felony and misdemeanor cases. Provides assistance with fee payment. Located in Court Administrator's Office	$8,000 County	$38,280 County
Brevard County Provides court notification for prosecution witnesses in felony cases Located in the State Attorney's Office.	State funded no estimate available	No estimate available
Collier County Witness Management Office Provides court notification for prosecution witnesses in felony and misdemeanor cases. Provides assistance with fee payment. Located in the Court Clerk's Office	$3,750 County	$20,714*
Monroe County Witness Management Office Provides court notification for prosecution witnesses in felony cases. Located in the State Attorney's Office.	State funded no estimate available	No estimate available

* Based on 9 months of operation not full year.

Program Description	1981 Budget	1981 Savings
Lee County Witness Management Provides court notification for prosecution witnesses in misdemeanor cases. Located in the Court Administrator's Office.	$6,599*County	$9,000*County
Polk County Witness Assistance Provides court appearance notification for witnesses in felony cases. Provides assistance with crimes compensation applications. Located in State Attorney's Office.	No estimate available	No estimate available
Total Reported	$387,642	$635,634 Counties $813,686 Restitution to Victims $186,000 Compensation to Victims $1,635,320

* Based on 6 months of operation not full year.

APPENDIX D

FLORIDA'S CITIZEN DISPUTE SETTLEMENT PROGRAMS

Florida Citizen Dispute Settlement Programs

Program Location	Area Served	Funding Source	1981 Budget	Case Type	1981 Caseload	Resolution Rate
Tampa	Hillsborough County	County	$134,000	Civil Criminal	1500	80%
Bartow	10th Circuit	State	5 positions in State Attorney's Office	Criminal Juvenile	2400	85%
Gainesville	Alachua County	State	Part time State Attorney Staff	Civil Criminal	50	95%
Ft. Myers	Lee County	County	$27,000	Civil Criminal Juvenile	350	
Naples	Collier County	County	Court Admin. Staff	Civil Criminal	70	95%
Titusville	18th Circuit	State	State Attorney Staff	Civil Criminal	300	
Miami	11th Circuit	County	$140,000	Civil Criminal	1666	50%
Ft. Lauderdale	17th Circuit	County	$100,000	Civil Criminal Juvenile	1440	85%
Orlando	Orange County	Bar Assn. County	$48,000	Civil Criminal Juvenile	730	81%
West Palm Beach	15th Circuit	State	State Attorney Staff	Civil Criminal Juvenile	50	97%

Program Location	Area Served	Funding Source	1981 Budget	Case Type	1981 Caseload	Resolution Rate
Jacksonville	4th Circuit	State	$36,000*	Civil Criminal	1750	88%
St. Petersburg	Pinellas County	County	$169,000	Civil Criminal Juvenile	4400	72%
Quincy	Gadsden County	County	County Personnel	Civil Criminal Juvenile	60	
Sarasota	Sarasota County	County		Civil Criminal		

* Budget includes operation of two diversion programs.

NOTE: Information present here was collected from program staff and the Citizen Dispute Settlement Guideline Manual prepared by the Florida Dispute Resolution Alternatives Project.

APPENDIX E

COMMUNITY SERVICE GUIDELINES

COMMUNITY SERVICE GUIDELINES

1. A defendant who pleads guilty or nolo contendre to, or is convicted of, an offense that did not involve bodily injury to any person is eligible for alternative community service.

2. The court, when it shall appear that the ends of justice and the best interests of the public as well as the defendant will be served, shall have authority to place the defendant on alternative community service.

3. If the court places a defendant on alternative community service, the court shall require the defendant to work a specified number of hours at a specified community service project for an organization or agency named in the court's order.

4. The amount of community service work ordered by the court:

   A. may not exceed 1,000 hours and may not be less than 320 hours for an offense classified as a first degree felony;

   B. may not exceed 800 hours and may not be less than 240 hours for an offense classified as a second degree felony;

   C. may not exceed 600 hours and may not be less than 160 hours for an offense classified as a third degree felony;

   D. may not exceed 120 hours and may not be less than 32 hours for an offense classified as a first degree misdemeanor;

   E. may not exceed 48 hours and may not be less than 8 hours for an offense classified as a second degree misdemeanor.

5. Community service work authorized pursuant to this section must be for any non-profit organization or governmental agency that has agreed to accept offenders for community service work, supervising and reporting on their work. The services or the organization or agency shall be provided to the general public and designed to enhance the social welfare, physical or mental stability, environmental quality, or general well-being of the community.

6. The court shall select community service tasks that may be performed during hours the offender is not working or attending school and that are within the offender's capabilities. An offender may not receive compensation for community service work.

7. A sentence to alternative community service shall include a requirement that the offender will work faithfully at the community service task assigned by the court. Failure to appear for work as assigned or unsatisfactory work performance shall represent a violation of the conditions of probation and shall provide due cause for imposition of a sentence of incarceration. Proportional credit toward the sentence shall be given for hours of community service already worked.

8. Upon satisfactory completion by an offender of the required amount of community service and full payment of restitution as ordered by the court, the term of probation may be terminated.

9. At least one new position should be established in each circuit to draw up community service agreements with non-profit and governmental agencies and to monitor compliance with community service orders.

APPENDIX F

A DAYFINE SYSTEM

A DAYFINE SYSTEM

A DAYFINE SYSTEM

1. Definition: A dayfine is a fine based on an offender's ability to pay. A dayfine is the equivalent of one day's pay for the offender. The offender's annual salary is divided by 261, which is the number of working days in a year.

2. Determining annual salary: The offender's annual salary is determined by the report of the defendant, to be verified by the presentence investigator. All earned and unearned income should be included. Deductions equal to the amount allowed by the Internal Revenue Service shall be subtracted for each dependent. The income of a spouse would not be included in determining annual salary. Any joint income would be divided equally to determine the offender's share.

3. The use of dayfines: Dayfines are designed to serve as an alternative to incarceration. First offenders, non-violent felons, or misdemeanants may be dayfined. An offender who is dayfined will also be placed on probation until the fine is paid.

4. The number of dayfines: The total amount of a fine shall be determined by multiplying the number of days times the dayfine. The seriousness of the offense shall determine the number of days of the fine sentence:

   1st degree felony - not more than 125 days, nor less than 40 days;

   2nd degree felony - not more than 100 days, nor less than 30 days;

   3rd degree felony - not more than 75 days, nor less than 20 days;

   1st degree misdemeanor - not more than 15 days, nor less than 4 days;

   2nd degree misdemeanor - not more than 4 days, nor less than 1 day.

5. Relationship to restitution: Any dayfine assessed in addition to restitution shall be paid simultaneously with restitution unless otherwise ordered by the court.

6. Payment of dayfines: Fines may be paid on an installment basis, with no less than two days being paid each month. Should an offender's financial situation change to the extent that the required payments present an excessive burden, the offender should approach the court for a reduction in required payments or an assignment to community service in lieu of completing payments.

7. Failure to pay: Failure to make required payments represents a violation of the conditions of probation, and procedures to revoke probation should be begun. A sentence of incarceration can only be imposed when the court finds that the offender was able to make the payments, but did not. Any sentence of incarceration should be reduced in proportion to the amount of the fine that has been paid.

END