

# **Exhibit 46**

## **Part I**



**COMMONWEALTH OF VIRGINIA**  
**BOARD OF CORRECTIONS**

**REPORT  
OF THE  
MECKLENBURG CORRECTIONAL CENTER  
STUDY COMMITTEE**

**November 7, 1984**





Gift of  
Prof. Norval Morris

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## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>E-1</b>
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### **PART I--INTRODUCTION**

<u>Chapter 1--Purpose and Scope .....</u>	<u>1</u>
A. The Mecklenburg Correctional Center Study Committee .....	1
1. Background .....	1
2. Appointment of the Study Committee .....	7
3. Study Committee Membership and Staff .....	7
B. Study Committee Charge .....	8
C. Study Methodology .....	9
<u>Chapter 2--The Mecklenburg Correctional Center (MCC) ...</u>	<u>15</u>
A. History of the Facility .....	15
B. Incidents at the Facility .....	20
1. Background .....	20
2. Chronology of Recent Events .....	20

### **PART II--CONCEPT AND DESIGN OF THE MECKLENBURG CORRECTIONAL CENTER**

<u>Chapter 3--Programmatic Issues .....</u>	<u>25</u>
A. Introduction .....	25
B. The Commonwealth's Most Violent and Disruptive Inmates .....	27
1. Background .....	27
a. MCC--An Institution Specifically Designed for Violent and Disruptive Inmates .....	27
b. The "Phase Program" .....	28
(1) Evolution of the Program .....	28
(2) Criteria for Assignment to MCC .....	38



(3) Profile of "Phase Program"	
Inmates .....	40
2. Findings and Recommendations .....	41
a. The Concept of Utilizing a Single Institution to Confine Violent and Disruptive Inmates .....	41
b. The "Phase Program" .....	46
(1) Criteria for Assignment and Available Bedspace .....	46
(2) Treatment of Disruptive Inmates .....	48
(3) Phase Program Design .....	50
C. Other Inmate Populations at MCC .....	58
1. Background .....	58
a. Special Purpose Assignments .....	58
(1) Administrative Transfer .....	58
(2) Investigative Hold .....	58
(3) Death Sentence .....	58
(4) Protective Custody .....	59
b. Segregation .....	60
c. Isolation .....	61
d. Maximum Security Unit .....	61
e. Mental Health Unit .....	62
2. Findings and Recommendations .....	63
a. General .....	63
b. Administrative Transfer, Investigative Hold, Segregation, and Isolation .....	64
c. Death Row .....	65
d. Protective Custody .....	68
e. Maximum Security Unit .....	70



f.    Mental Health Unit .....	76
<u>Chapter 4--Management and Operations Issues .....</u>	<u>79</u>
A.    Introduction .....	79
B.    Security .....	79
1.    Background .....	79
2.    Findings and Recommendations .....	81
a.    Consultant Recommendation and Other Efforts to Improve Security at MCC .....	81
(1)    Consultant Recommendations on Equipment and Physical Security .....	81
(2)    Consultant Recommendations on Operations, Policies and Procedures .....	85
(3)    Other Efforts to Improve Security at MCC .....	88
b.    Basic Flaws in Design .....	90
c.    Security Procedures .....	91
C.    General Management and Supervision .....	93
1.    Background .....	93
2.    Findings and Recommendations .....	94
a.    Board of Corrections/DOC Central Office Relationship .....	94
b.    DOC Central Office .....	96
c.    Regional Office .....	98
d.    Institutional Management .....	100
e.    Line Supervisors .....	103
D.    Staffing Issues .....	109
1.    Background .....	109
2.    Findings and Recommendations .....	110

a.	Overall Staffing Levels .....	110
b.	Security Staffing Levels .....	113
(1)	Institution .....	113
(2)	Regional Office .....	114
(3)	Central Office/Adult Services Division .....	114
c.	Turnover and Recruitment of Security Personnel .....	122
d.	Staff Quality .....	126
e.	Duties and Assignments for Security Personnel .....	127
f.	Recommendations .....	130
E.	Staff Disciplinary and Grievance Procedures ..	132
1.	Background .....	132
2.	Findings and Recommendations .....	134
a.	Reversals of DOC Management Decisions by Grievance Hearing Panels .....	134
b.	Alleged Misuse of the State Grievance Procedure .....	141
c.	Exceptions to the State Grievance Procedure .....	142
F.	Staff Morale .....	144
1.	Background .....	144
2.	Findings and Recommendations .....	145
	<u>Chapter 5--Impact of Legal Proceedings</u> .....	149
A.	Introduction .....	149
B.	Recent Legal Proceedings Involving MCC .....	150
1.	Background .....	150
a.	April 1983 ACLU Settlement Agreement Case .....	150



b. October 1984 ACLU Attorney Access Case .....	154
---	-----

2. Findings and Recommendations .....	154
---------------------------------------	-----

<u>Chapter 6--Inmate-Staff Interaction</u> .....	163
--	-----

A. Inmate-Staff Relations .....	163
---------------------------------	-----

1. Background .....	163
---------------------	-----

2. Findings and Recommendations.....	164
--------------------------------------	-----

B. Inmate Grievance Procedures .....	168
--------------------------------------	-----

1. Background .....	168
---------------------	-----

2. Findings and Recommendations .....	169
---------------------------------------	-----

### **PART III--COMPENSATION ISSUES**

<u>Chapter 7--Compensation for Correctional Officers and Other Staff</u> .....	173
--	-----

A. Introduction .....	173
-----------------------	-----

B. Salary and Fringe Benefits for Correctional Officers .....	173
---	-----

1. Background .....	173
---------------------	-----

2. Findings and Recommendations .....	174
---------------------------------------	-----

a. General .....	174
------------------	-----

b. Correctional Officer Duties .....	175
--------------------------------------	-----

c. Correctional Officer Qualifications .....	178
--	-----

d. Recruitment and Turnover .....	179
-----------------------------------	-----

e. Salary Incentives .....	181
----------------------------	-----

f. Hazardous Duty Pay .....	182
-----------------------------	-----

g. Cost and Other Implications of a Salary Increase .....	183
---	-----

h. Summary .....	184
------------------	-----

C. Compensation for Other Correctional Staff ....	187
---	-----

1. Background .....	187
---------------------	-----

2.	Findings and Recommendation. ....	187
D.	Housing for the MCC Warden and Assistant Wardens .....	188
1.	Background .....	188
2.	Findings and Recommendation .....	188
E.	Other Compensation .....	189
1.	Background .....	189
2.	Findings and Recommendation .....	189

#### PART IV--TRAINING ISSUES

<u>Chapter 8--Training for Correctional Officers and Other Staff .....</u>		191
A.	Introduction .....	191
B.	The Academy for Staff Development .....	193
1.	Background .....	193
2.	Findings .....	194
a.	Correctional Officer Training .....	194
b.	Supervisory Training .....	198
c.	Specialized Training for Supervisors .....	203
d.	Oversight Role of Academy .....	204
e.	Summary .....	205
C.	Institutional Training .....	206
1.	Background .....	206
2.	Findings .....	207
a.	General .....	207
b.	Recent Progress .....	209
D.	Training for Other Correctional Staff .....	211
1.	Background .....	211



2. Findings .....	211
E. Recommendations for Training .....	212

## **PART V--ISSUES INVOLVING THE SURROUNDING LOCAL COMMUNITIES**

<u>Chapter 9--The Mecklenburg Correctional Center and the Surrounding Local Communities</u> .....	217
A. Communication .....	217
1. Background .....	217
2. Findings and Recommendations .....	217
B. Transportation of Inmates to the Local Courthouse .....	220
1. Background .....	220
2. Findings and Recommendation .....	221

## **FOOTNOTES**

## **APPENDICES**

Appendix A -- Study Committee Charge and Work Plan ....	A-1
Appendix B -- DOC Departmental Guideline 825 .....	B-1
Appendix C -- Sharp Staffing Formula .....	C-1
Appendix D -- Example of Post Audit and Application of Sharp Formula .....	D-1

**EXECUTIVE SUMMARY**



EXECUTIVE SUMMARY

The Mecklenburg Correctional Center Study Committee was appointed by the Chairman of the Board of Corrections on August 14, 1984 to examine incidents which occurred at the Center this past spring and summer, with special attention to be given to the concept and design of this maximum security facility, and the adequacy of compensation and training of the personnel who operate the facility. The Committee's work has been conducted in approximately ten weeks and included both an announced and an unannounced visit to the facility. During the study, the Committee had the opportunity to discuss the issues with well over 100 individuals, both inside and outside the Department of Corrections.

It is the Committee's view that the historical development of managerial and operational problems over an extended period, beginning with the opening of the facility in 1977, led to the recent series of serious incidents at the Center. Although considerable progress has been made in recent months to address these problems, much work remains to be done. The Committee has concluded that no single individual was solely responsible for the problems. If, however, responsibility is to be assigned for these incidents, the Committee believes it must be shared by many individuals-- including the members of this Committee and the Board of Corrections.

The Committee believes that the Mecklenburg Correctional Center has the potential to be a model of effective and efficient

correctional practice, rivaling any correctional institution in the nation. Regrettably, this potential has not been fully realized.

The problems the Committee identified and observed developed over a long period. Thus, it is unlikely that their resolution can be accomplished in the short span of weeks or months. Perhaps the Committee's strongest advice to those responsible, and to all who may consider this report, is not to be again lulled into a sense of complacency or assume that there may be quick resolutions to the difficulties the Center has experienced. History clearly demonstrates that responding to correctional crises in the Commonwealth or elsewhere solely in terms of additional security equipment and construction features may be of little more than cosmetic value, while the underlying problems remain to resurface once more.

The Committee's observations and recommendations are intended to ensure that in the attempt to resolve the problems at Mecklenburg, there is not too much reliance on short-term solutions, specific only to Mecklenburg.

The Board has been given the responsibility to "monitor" the Department of Corrections. It is the intent of this Committee, as members of the Board, to continue to take that "monitoring" responsibility seriously in order to ensure that the systematic degeneration of the correctional operations which occurred at the Mecklenburg Correctional Center does not occur again at any institution in the Virginia Department of Corrections. The Committee acknowledges this goal as members of the Board



and commends to those who may succeed us the essential need for continuing critical scrutiny of the Virginia corrections system.

Our conclusions and recommendations are summarized below. (For the purposes of simplicity, the Board of Corrections is referred to as the "Board," the Department of Corrections as "DOC" and the Mecklenburg Correctional Center as "MCC.")

### PROGRAMS

MCC was specifically designed to confine the Commonwealth's most disruptive inmates in a single maximum security setting, with an important secondary purpose of utilizing a special program--the "Phase Program"--to modify and improve behavior to a point where these inmates could be returned to the general population of other correctional facilities in the Commonwealth. During its research, the Committee found that in planning for the facility no projection was made as to the actual number of bedspaces needed to confine the most disruptive inmates, with the result that many more cells were constructed than current estimates indicate will be needed in the foreseeable future. Thus, over the past seven years differing inmate assignments and programs have proliferated at MCC in an attempt to utilize available bedspace. These numerous programs, with their different goals and requirements, have caused confusion and frustration for both correctional personnel and inmates. The specific program designed to treat the disruptive inmates has been compromised due to these and other factors. Despite these

problems, the program has met with some success in reducing violent acts by inmates. The Committee believes that the original intended purpose of MCC is fundamentally sound. That purpose, however, has not been given sufficient priority and has not been fully achieved.

**Recommendation 1:** MCC should continue to be used for the confinement of particularly disruptive inmates from other correctional facilities in the Commonwealth. At least one reason for this recommendation is the improved conditions at other correctional facilities which appear to have resulted from the transfer of particularly disruptive inmates to MCC.

**Recommendation 2:** DOC should continue to place disruptive inmates who have been transferred to MCC in a special program designed to treat these inmates to the point where they change their behavior and can safely be returned to the general inmate population of other institutions in the Commonwealth. DOC should assemble a team to reassess and redesign the MCC Phase Program consistent with appropriate clinical practice. The program team should include DOC personnel responsible for both correctional security and treatment, as well as other individuals with special expertise who are not employees of DOC. A proposed program team and work plan should be submitted to the Board of Corrections by January 1, 1985, for approval. The work of this program team should be completed and a report provided to the Board by no later than July 1, 1985.

**Recommendation 3:** In redesigning the program, particular attention should be given to:

- (a) structuring a more voluntary inmate commitment to participation in the program;
- (b) program management by on-line security and treatment personnel who will be responsible for implementing the program;
- (c) the need for immediate positive reinforcement of inmates who demonstrate appropriate, desired behavior;

(d) to the extent possible, the provision of meaningful work opportunities for inmates in the program;

(e) specific, objective criteria to guide classification decisions; and

(f) the need for a process to evaluate and reassess the program to be implemented.

Recommendation 4: Although there have been significant improvements in the process for assigning inmates to MCC, the Committee remains concerned that assignment criteria are not, at this time, sufficiently precise. The Committee recommends a further review of the MCC assignment criteria in conjunction with Recommendations 2 and 3 to ensure that only the truly disruptive inmate is transferred to MCC.

Recommendation 5: DOC should consider seeking technical assistance and funding from the National Institute of Corrections (NIC) in implementing Recommendations 2-4. NIC currently is soliciting grant proposals for the development of a national model to "guide the management and confinement of disruptive maximum security inmates."

Recommendation 6: The special purpose of MCC should not be jeopardized by the assignment of inmates to the facility primarily for the purpose of utilizing available bedspace.

Recommendation 7: The number of "assignment categories" at MCC should be reduced to ensure that the facility will be able to fulfill its original function of being a special purpose facility for the confinement of the Commonwealth's most disruptive inmates.

Recommendation 8: "Administrative transfer," "isolation," and "segregation" assignments should be continued at MCC. The "investigative hold" assignment should be discontinued except for the assignment of inmates already confined at MCC before an "investigative hold" assignment was appropriate. If there is to be any difference in the meaning of various assignments at the facility--for example, between "isolation" and "segregation"--then there must be perceivable differences between the assignments. No meaningful distinctions probably can or should be made on the basis of "privileges," such as television, etc. Thus, efforts should be made at least to confine inmates assigned to "isolation"



separately from other inmates, and to confine inmates assigned to "segregation" separately from those in the Phase Program. Because of their temporary nature, it does not appear that special steps are needed to confine "administrative transfers" and "investigative holds" separately from other inmates.

**Recommendation 9:** DOC should confine all death row inmates in one facility; that facility should be separate from the one at which inmates are executed. MCC is an appropriate such facility. In general, the Board of Corrections should support DOC's former policy of permitting death row to be operated as a general prison population area separate from the other inmate populations at MCC, rather than requiring death row inmates to remain in "lockdown" (i.e., confined to their cells except for periodic showers and individual exercise times in the pod area). However, in order better to control movement of death row inmates, assure appropriate access to attorneys, and thereby reduce risks to security, DOC and MCC staff should jointly develop special procedures for handling death row inmates. These procedures should be developed and reported to the Board by January 1, 1985.

**Recommendation 10:** Because it is easier to segregate protective custody inmates and provide them with the necessary protection at MCC than it is at most of the Commonwealth's other correctional facilities, and because sufficient bedspace is available at MCC, a protective custody unit should be maintained at MCC. DOC and MCC should develop special procedures for handling protective custody inmates, keeping in mind that they are in general not as disruptive as the Phase Program, segregation and isolation inmates, and should explore the potential for programs in addition to the tailor shop for protective custody inmates.

**Recommendation 11.** The maximum security unit should be moved from MCC unless sufficient personnel and capital outlay funds are made available to enable MCC to provide the same level of counseling services, jobs skills training, and recreation programs as are provided to maximum security inmates at other institutions in the Commonwealth. These inmates could be replaced, for example, by (1) inmates who would be appropriate for the Phase Program, (2) additional protective custody inmates currently confined in other institutions, or, possibly (3) if Recommendation 12 below is implemented, additional

mental health inmates from other institutions. The Committee believes this "exchange" can be implemented smoothly if the transfer criteria in DOC Departmental Guideline 825 are properly applied.

**Recommendation 12:** A small mental health unit should be retained at MCC for the temporary confinement of MCC inmates who the MCC medical and counseling staffs determine may have mental health problems. However, unless the additional psychological and psychiatric staff necessary for appropriate and adequate mental health care is made available, MCC should not be used for the long-term mental health care of inmates from MCC or other State correctional institutions. If such additional staffing can be provided, a larger mental health unit at MCC for long-term care of inmates with mental health problems might be appropriate, but such a unit should be a lower priority assignment category for use of space at MCC than the Phase Program and protective custody. Finally, MCC should not be used as a facility for the long-term care of the "criminally insane."

**Recommendation 13:** As long as space in the MCC mental health unit is available, it is not inappropriate for that unit to be used for the temporary confinement of inmates from Central State Hospital or other State correctional facility for the mentally ill to determine if those inmates can readjust to a prison environment before they are sent to another correctional facility.

### SECURITY

In June and July 1984 technical assistance reports examining MCC's security procedures, equipment and physical plant were prepared by consultants from the National Institute of Corrections. Over 50 specific recommendations for improvements were included in these reports. During its study the Committee reviewed these reports and noted the attention being directed to implementation of the recommendations. Breakdowns in

established security procedures were in large part the cause of the May 31 escape and August 4 hostage situation at MCC. The committee concluded that DOC is taking appropriate, prioritized steps to implement the consultant recommendations, as well as addressing additional areas intended to enhance security. Although physical security and staff adherence to security procedures have improved in recent months, consistency in adherence to established procedures remains a problem and must remain a high priority at MCC.

**Recommendation 14:** Completing the implementation of the security improvements at MCC recommended by the national consultants and DOC staff must remain a high DOC priority. The Board of Corrections should support all necessary and reasonable DOC funding requests for these improvements.

**Recommendation 15:** DOC should be required to report its progress in implementing recommended security improvements to the Board of Corrections on a monthly basis. DOC should also be required to report to the Board any decision not to implement or not to seek funding for a particular recommendation, and the reasons for that decision.

**Recommendation 16:** DOC and MCC should be directed to continue as a high priority the development and consistent implementation of, and strict staff adherence to, adequate security procedures for MCC.

**Recommendation 17:** The Correctional Officer stationed at the reception desk at the front entrance to the MCC administration building should not be armed with a firearm.



## MANAGEMENT AND SUPERVISION

The Committee recognizes that responsibility for problems at Mecklenburg must be shared by all management levels within DOC, including the Board.

The Board is a nine-member, part-time citizens board appointed to a four-year term by the Governor. Prior to 1982, the Board was solely an advisory board; the General Assembly amended the Code of Virginia, effective July 1, 1982, to provide that henceforth the Board was to be a policy-making board with the broad responsibility to oversee DOC, set program and fiscal standards for DOC, and, in general, "to monitor the activities and effectiveness" of DOC. However, the Board was not given additional resources to perform these important and demanding new functions. It still has the same staff today it did when it was merely an advisory board--one full-time secretary--even though it has indicated a need for additional staff since prior to July 1982.

The Study Committee believes this study has provided the Board with considerable insight into the correctional system in Virginia, while also highlighting the tremendous difficulties in fulfilling its responsibilities on a part-time basis without adequate staff. The Board does not have the time available to review most correctional programs in the depth MCC was reviewed by this Committee. The key to successful Board oversight in the future is access to reliable information, the availability of necessary staff, and an adequate independent budget. The Committee therefore believes strongly that the newly-created

Inspector General position for DOC should be included in the Board's budget and should report directly to the Board.

Serious security and morale problems developed at MCC over an extended period of time and at least partially contributed to the incidents at the facility this past spring and summer. Yet, information on the seriousness of morale and security problems at MCC was not presented to the Board prior to the May 31 escape from Death row. The Committee's interviews with DOC management officials indicated that they also lacked knowledge of the severity of the problems. The Board and Director of DOC did not have the management controls in place that would have provided information on the problems at MCC. It is clear that more effective management controls throughout the DOC organizational hierarchy are needed. The special attention now being directed towards MCC by DOC was warranted long before the recent incidents. Steps must now be taken to clarify responsibilities and practices of the Board and at the DOC central office, regional and institutional management levels.

One of the most critical problems at MCC is the skills and practices of institutional supervisors--those who have on-line authority for managing the institution. Visibility, communication, exercise of authority and decision-making by line supervisors at MCC were sorely lacking this past spring and summer, although the Committee noted improvements during its visits to the facility this fall. More appropriate and effective management controls throughout DOC may have prevented the recent incidents at MCC.

**Recommendation 18:** MCC should continue to be a top priority of DOC management. A Board of Corrections subcommittee and DOC management should meet with employees at MCC to discuss the findings and recommendations of this report. The Board should also request regular status reports from DOC on the implementation of the various recommendations in this report.

**Recommendation 19:** The reporting relationship of the new Inspector General to the Board of Corrections, the Director of DOC, and the Secretary of Transportation and Public Safety should be clearly defined and established by December 1, 1984. The Committee believes it is imperative that the Inspector General report directly to the Board and be included in the Board's budget. The Board is ultimately responsible for monitoring the activities of the Department and must have the information to do so. In turn, the Inspector General must have the independence and authority to: review security practices; investigate serious incidents; audit financial and management practices; and assist in developing management standards and controls. As is the practice in other State agencies and private institutions, the Committee believes direction and oversight of the audit function by an agency's Board is the most effective way to ensure this independence and authority. Hiring and evaluation of the Inspector General should be a joint responsibility of the Board and Director, while report distribution should be simultaneous to the Board, Director, and Secretary.

**Recommendation 20:** The DOC regional offices should increase their oversight of field activities. In particular, the Region II Administrator and his staff should have clearly defined responsibilities for implementing this Committee's recommendations specific to MCC. In order to ensure consistency among the regions in management oversight, the Committee also recommends that DOC report to the Board in the near future on the purposes and responsibilities of all regional offices.

**Recommendation 21:** The vacant Warden's position at MCC should be filled by an applicant experienced in both security and programs. The reestablishment of strong security measures initiated by the Acting Warden should remain the focal point of the new Warden during the next few months. Programs, however, are a necessary component of the facility and should be reviewed and refined. The Committee recommends that the new Warden take the following actions, among others, to continue improvements initiated in recent months:



- (a) establish better communication mechanisms;
- (b) develop a management reporting system (e.g. "management by objectives") to ensure that top MCC staff have clearly defined objectives and that, in turn, the Warden can monitor the progress of his staff;
- (c) make certain that the provisions of the 1983 ACLU settlement agreement continue to be incorporated into institutional operations;
- (d) revise institutional operating procedures; and
- (e) review the operation of the Phase Program.

The new Warden should be instructed to meet with the Board as soon as practicable to discuss his goals and objectives for MCC and the findings and recommendations of this report. MCC is a special institution which requires continuing Board involvement.

**Recommendation 22:** DOC should take the following actions in order to improve supervision at MCC:

- (a) Revise performance evaluation practices at MCC. Supervisors need to be retrained to use the employee performance evaluation system effectively. More emphasis should be placed on identifying tangible goals and objectives for a supervisor to meet, and identifying skill deficiencies requiring improvement. The central DOC personnel office should participate in this process.
- (b) Involve line supervisors (i.e. Captains, Lieutenants and Sergeants) in the revision of institutional operating procedures. This action would increase knowledge of procedures by these supervisors.
- (c) Increase individual supervisory training. Group training does not always account for individual weaknesses and constitutes only a short-term solution. (See Chapter 8 for more details).
- (d) Develop written definitions of job requirements specific to MCC for Corporals, Sergeants, Lieutenants and Captains. These should include descriptions of each supervisor's responsibility in specific situations as well as such general managerial duties as the performance evaluation of employees. Most importantly, a Sergeant's responsibility as a "building supervisor" should be well-defined.

- (e) Rotate MCC supervisors to other institutions to increase their knowledge of the correctional system and of more effective management practices.
- (f) Increase the number of Sergeant positions to ensure adequate supervisory coverage on evening shifts. This could be done without staff increases by reclassifying and training several Corporals or by eliminating Corporal position(s).

### STAFFING

MCC was intended and designed to have a high staff-to-inmate ratio. Authorized security staffing levels at the facility have remained relatively stable over the past four years. A high level of security staff turnover--position vacancies--has become a problem during the past year. A depleted qualified applicant pool in the local communities surrounding MCC has also developed into an increasingly serious problem. Creative solutions are needed to improve the quantity and quality of staffing at MCC.

The facility may need to increase its authorized staffing level. However, the Committee could not conclude whether this was necessary based upon its review of the process used by MCC and DOC to assess staffing needs. The Committee found inconsistencies in the MCC "post audit" process (the process by which an institution determines what posts are necessary at a facility) both (1) as conducted at MCC itself by various Wardens and their assistants over the years and (2) as compared to post audits conducted at other maximum security institutions. These inconsistencies made it impossible for the Committee to determine MCC's actual staffing needs, and may indicate a critical flaw in

the DOC resource allocation process.

**Recommendation 23:** DOC should be directed to conduct a new Post Audit of security staffing needs at MCC. It should be conducted by a team composed of DOC central office, regional and institutional personnel and at least one team member with special expertise not employed by DOC, by February 1, 1985. The current inconsistent post audit process and incorrect use of the "Sharp formula" to determine actual manpower needs at MCC are of great concern to the Committee since accurate staffing levels at this special purpose maximum security facility are of critical importance to the security of the facility.

**Recommendation 24:** The Board of Corrections should direct DOC to use the new Post Audit of MCC as an opportunity to identify possible systemwide deficiencies in the Post Audit process and in the application of the Sharp formula. This action also may help remove the apparent confusion within both other State agencies and the General Assembly as to what DOC security staffing levels are necessary and appropriate.

**Recommendation 25:** The new post audit to determine MCC's current staffing needs should consider a number of issues which arise from general observations on staffing made by the Committee during its two on-site visits to the facility. These include:

- (a) whether surveillance equipment (e.g., television cameras mounted on the wall in the hallways outside the pod areas) will lead to a reduction in the need for security positions;
- (b) whether use of a tactical team is the most appropriate method to respond to special security needs, what the appropriate size of the team should be, and what the impact is on overall staffing.
- (c) whether the officer and supervisory staffing level on the 12:00 midnight to 8:00 a.m. shift is too low;
- (d) whether seven transportation officers and two mail room officers are required;
- (e) whether the number of posts to which female officers are assigned should be expanded;



- (f) how soon the use of security officers to do janitorial tasks and administrative support duties can be eliminated.

**Recommendation 26:** DOC should implement a rotation system in which correctional staff from other institutions are rotated periodically to MCC on a temporary basis. Similarly, MCC correctional staff should be rotated periodically to other institutions to enhance their job experiences and broaden their perspectives. A "tour of duty" at an institution other than the officer's "home" institution, and a tour of duty at MCC for every officer in the adult corrections system, should be a factor considered in career progression and promotion.

#### EMPLOYEE GRIEVANCE PROCEDURE

DOC and the Department of Mental Health and Mental Retardation usually report the highest number of employee grievances among all state agencies each year. The high numbers more accurately reflect the high numbers of employees of the Departments, rather than inherent problems in their management of the grievance system. Employee grievances filed at MCC were reviewed and found to be consistent with those filed at comparable DOC facilities.

The Committee was told, however, of widespread concern in DOC that the high percentage of management decisions which had been modified or reversed by a grievance hearing panel over the past several years (35% modified or reversed during 1983-84) was undermining the effectiveness of DOC management. The Committee was not able to determine the extent to which DOC management had in fact been affected by these decisions; but it did note with concern that in four of nine cases over the past two years which

involved employee termination and in which management was not upheld, the employee had been terminated following a criminal conviction. In addition, statistics on the number of employee grievances which reached the hearing panel stage increased in fiscal year 1983-84 over what they had been in fiscal year 1982-83. For these reasons the employee grievance system needs to be reviewed in greater depth by the Board and DOC.

**Recommendation 27:** DOC should further emphasize training on management and supervisory responsibilities under the State grievance procedure, especially at the first two "management steps" of the procedure, which involve attempts to resolve management-employee disputes at the immediate supervisor and next highest supervisory levels.

**Recommendation 28:** The Board of Corrections and DOC should explore the possibility of amending DOC Departmental Guidelines to provide that mandatory disciplinary action be taken at least against employees who are convicted by a court or jury of a criminal offense, perhaps with the particular action taken being dependent upon the seriousness of the offense.

**Recommendation 29:** The Board of Corrections and DOC should request the Office of Employee Relations Counselors to review the Commonwealth's current grievance procedure--and in particular the hearing panel step of that procedure--to determine whether, in its judgment, reversals of DOC management decisions in cases where the employee was terminated because of a criminal conviction were justified. If not, the Board and DOC should request that the grievance procedure be amended to provide for either (1) the transfer of the final grievance procedure decision-making authority in such cases from the current hearing panel to some other entity or (2) mandatory disciplinary steps against employees so convicted, as described in Recommendation 28.

**Recommendation 30:** DOC management and supervisory staff should continue to take only those disciplinary actions against an employee which are deemed appropriate in the circumstances of the particular case. In order to protect DOC management, the Board of Corrections, through the

newly-appointed Inspector General, should investigate any allegation that disciplinary action was taken against a DOC "managerial employee," warden or assistant warden for reasons other than that the employee's conduct warranted the action.

**Recommendation 31:** The State Department of Personnel and Training and the Office of Employee Relations Counselors should be asked to review the exceptions to the State grievance procedure to determine if the "agency head" and "managerial employees" exceptions should be expanded, with a view to providing that DOC Superintendents, and other correctional personnel with a rank higher than Major, would not be permitted to file a grievance under the State grievance procedure for disciplinary action taken against them, including termination.

### MORALE

Staff morale at MCC had become a serious problem prior to the incidents at the facility this past spring and summer, and contributed to those incidents. The former Warden had identified the problem and had initiated steps to improve the situation. The intense scrutiny of the facility by the media and other groups has compounded the problem. Staff perceptions of low pay, understaffing, inappropriate duties and "having lost to the ACLU" have undermined MCC staff cohesiveness and DOC's ability to manage the institution. Many positive steps have been taken by DOC to address this problem, but substantial improvements will likely take a significant period of time.

**Recommendation 32:** Implementation of the recommendations in this report should significantly improve staff morale at MCC. Additional actions should be taken to improve morale and ensure employees do not feel "isolated" or unsupported by the DOC administration. These actions should include:



- (a) Periodic visits to Mecklenburg by DOC officials and members of the Board of Corrections -- These visits should be both announced and unannounced and should occasionally include closed meetings with employees.
- (b) Formation of employee teams -- The establishment of a Tactical Team to respond to situations in which inmates are disruptive and to supervise outdoor recreation is the first step in fostering a teamwork approach to solving problems and operating the facility. Rotating staff assignments to the Team would be an appropriate second step.
- (c) Involve officers and other security personnel in program planning and management -- Officers have valuable insights into inmate behavior which could be helpful in program planning. Another potential area for staff involvement is in the revision of Institutional Operating Procedures (IOPs). Use of supervisors and staff in this process should result in improved quality of these procedures and greater staff knowledge of them.

#### IMPACT OF LEGAL PROCEEDINGS

Within the past 18 months there have been two legal proceedings affecting MCC which have had a major impact on the facility. The first was a settlement agreement signed by the Commonwealth in April 1983 in a suit which alleged inhumane prison conditions and guard brutality at MCC and which was filed by inmates at MCC represented by the American Civil Liberties Union (ACLU) National Prison Project. The agreement provided that DOC would make a number of changes in the conditions and programs at the facility. Two were of particular concern to DOC. The first was a change in the Phase Program under which inmates

will be transferred to another facility after two years at MCC, even if they do not complete the program. The second was a major increase in the number of required hours of outdoor recreation for inmates which DOC and MCC were concerned could not be met with current staffing levels. Otherwise, however, DOC officials indicated to the Committee that they "really hadn't lost anything" in the agreement and that, with regard to one change in the Phase Program under which inmates would begin in Phase II rather than Phase I, DOC had been considering adopting that change anyway.

The second legal proceeding affecting MCC was a court order issued in October 1984 providing for greater attorney access to inmate-clients.

Both proceedings have had an inordinate and disproportionate impact on staff morale and program operations at the facility. Most staff seem to believe the ACLU or the inmates "are running this place." The Committee believes that the problem is not one of the terms of the agreement or order but the manner in which they have been communicated to MCC management and staff-- and in particular the 1983 ACLU settlement agreement. Especially in view of the fact that DOC did not object to most of the contents of the 1983 agreement, the Committee believes that DOC and representatives from the Office of the Attorney General, which represented DOC in the suit, should have taken greater steps to ensure that more accurate and detailed information about the agreement was transmitted more promptly to MCC management and staff. Apparently most staff have not seen or read the agreement. What they know about it they learn from rumors, many of which are

incorrect. The DOC central office and the Region II office also should have monitored MCC acceptance and implementation of the decree more closely.

**Recommendation 33:** DOC personnel--from officials in the DOC central office to correctional officers in individual institutions--should receive additional and more detailed training in the developing area of "prisoner's rights" law so they are better informed as to their rights and obligations under the law as corectional personnel and can therefore better perform their responsibilities. The Office of the Attorney General should be asked by the Board of Corrections and DOC to assist in this training.

**Recommendation 34:** The Board of Corrections should direct DOC that, whenever a court order is entered against, or a settlement agreement is signed by, the Commonwealth directing that conditions or programs at a DOC institution be changed, management officials at the DOC central office, regional office, and at the affected institution, as well as all correctional staff at the affected institution, should be fully and immediately informed by DOC of the requirements of that order or decree. The Office of the Attorney General should be asked by the Board of Corrections and DOC to assist in this process.

**Recommendation 35:** Each DOC management level--from the DOC Director to the Warden of each affected institution--must make it clear to all affected DOC employees that DOC expects to comply fully with any court order entered against, or settlement agreement signed by, the Commonwealth which may affect DOC or its individual institutions.

**Recommendation 36:** DOC should be directed to review its procedures for ensuring full compliance with any court order entered against, or settlement agreement signed by, the Commonwealth affecting DOC or its individual institutions.

**Recommendation 37:** The Study Committee made no findings on DOC or MCC compliance with the August 1983 ACLU settlement agreement or the October 1984 ACLU attorney access order. DOC management should be directed to (a) make certain that DOC and MCC are in compliance with both the 1983 agreement and 1984 order, and to (b) file monthly reports with the Board on that compliance.



INMATE/STAFF INTERACTION

Over the past five years the number of inmate assaults on correctional personnel has been higher at MCC than at any other correctional facility in the State system. In some instances, inmates resort to throwing urine or feces on officers. Verbal abuse of staff by inmates is a constant occurrence.

The Committee is confident, on the other hand, that while verbal and physical abuse of inmates by staff at MCC clearly has occurred, it is neither a frequent nor substantial problem. The Committee is concerned, however, that staff at the facility may be too disposed to use force in marginal circumstances, and that some officers may inappropriately swear at or bait otherwise excitable inmates.

The filing of inmate grievances at MCC increased dramatically during the past few months and has only recently begun to decrease. The Committee believes, in some respects, this is a good sign, since it indicates that the inmates can, and are willing to, deal with their complaints in an appropriate manner. Nonetheless, there is a high level of tension at the facility both between and among staff and inmates. Caution must be used in returning the facility to more normal operations, with due recognition of the need for security and reasonable regard for the concerns of both inmates and staff.

**Recommendation 38:** DOC and MCC management and supervisory staff must continue to make it clear to MCC staff that assaults of, or otherwise

abusive behavior directed towards, inmates by correctional staff is not condoned and will not be tolerated.

**Recommendation 39:** DOC and MCC management must continue to make it clear to inmates that assaults on MCC staff will not be tolerated and that inmates who assault staff will be prosecuted or otherwise disciplined to the extent permissible by law, DOC Departmental Guidelines, and MCC Institutional Operating Procedures.

**Recommendation 40:** DOC should be directed to review its Departmental Guidelines governing institutional disciplinary steps which may be taken against inmates who assault correctional staff, with a view towards making certain that (a) (e.g, assault with a weapon, threats to the physical safety of staff, throwing of human waste or food, and verbal abuse) is proportionate to the seriousness of the conduct and that (b) the penalty is imposed as swiftly as fairness and legal requirements will permit.

**Recommendation 41:** DOC and MCC management should continue to proceed cautiously in easing the current lockdown and restrictions on MCC inmates. Attention should be directed throughout this process to fundamental fairness for inmates and their need for productive programs.

**Recommendation 42:** DOC and MCC management should be directed to hire a full-time chaplain for MCC; and DOC should be directed to request, and the General Assembly should be asked to provide, the necessary funds for the position.

**Recommendation 43:** DOC and MCC management should be directed to monitor regularly Inmate Grievance Procedure as it has been implemented at MCC to make certain that it continues to be appropriately communicated to inmates, that there is free and easy access by inmates to the various aspects of the procedures, that there are no reprisals against inmates for use of the procedures, that inmates receive written responses to their grievances indicating the reasons for management decisions concerning the grievances, and that grievances are processed in an appropriate and timely manner.

**Recommendation 44:** DOC, Regional Office, and institutional management should be directed to analyze regularly and systematically the number, scope, and content of inmate grievances filed at

the Commonwealth's various correctional facilities, for the purpose of assuring that institutional managers at MCC and other facilities receive the necessary information and take appropriate action when such an analysis reveals the potential for serious incidents at a correctional facility.

### COMPENSATION

The job requirements for a correctional officer, possible salary inequities between officers and corporals, increasing turnover among correctional officers and possible salary disparities in public safety employment classifications combine to make a valid case for increasing the compensation of correctional officers. However, the Committee's review of the compensation issue revealed system-wide problems which a salary increase alone will not resolve. The frequently cited "low quality of security personnel" is arguably exaggerated and unfair; it is clearly more the result of deficiencies in employee selection, evaluation, promotion, and training practices than a lack of effort on the part of employees. The Committee believes that deficiencies noted in the personnel system must be addressed, and in so doing ample basis will be shown for increased appropriations. The Committee's recommendation is intended to promote long-term improvements in the quality of correctional officers.

**Recommendation 45:** The Committee recommends that the Governor and General Assembly consider granting a salary increase to correctional officers only. However, the Committee would not support a salary increase unless it is tied to a major reassessment



of DOC personnel practices for security positions. The Committee recommends that this reassessment include the following actions:

- (a) Review the job duties of security personnel and compare them to other public safety classes.
- (b) Review the qualifications of security personnel in relation to other public safety classes in Virginia and corrections personnel in other states.
- (c) Develop a performance-based system of training at the Academy for Staff Development for supervisors and officers. Training performance should become a consistent part of an employee's performance evaluation.
- (d) Develop methods to link job retention, promotions, and salaries to the completion of education and training. In particular, completion of training should be a requirement for promotion.
- (e) Develop a consistent statewide procedure for selecting corrections officers, including effective use of interview panels for officers and thorough background investigations.
- (f) Revise the exit interview process to obtain better information on the reason for voluntary terminations by correctional officers, particularly information specifically related to salary issues.

**Recommendation 46:** The Board of Corrections and DOC should request the State Department of Personnel and Training to conduct a study of compensation for non-security staff at the Commonwealth's various correctional facilities to determine if such staff is adequately compensated.

**Recommendation 47:** The Governor and General Assembly should be asked to authorize funding for housing for the Warden and Assistant Wardens at MCC. Should funds be difficult to authorize in light of other State priorities, the Committee recommends that funds be authorized only for a Warden's home.

**Recommendation 48:** DOC and MCC officials should continue to purchase reasonable amenities for staff members. A decision to build or lease a bachelor officers quarters (BOQ) should be delayed until completion of both a staffing plan for MCC and a cost analysis of alternative methods for providing such housing. These efforts should include plans

for continued use of the available bedspace in the current BOQ.

### TRAINING

The Committee found the training programs at the DOC Academy for Staff Development and at MCC to be fundamentally sound and effective. Training, however, is not effectively integrated into either the institutional management structure or the employment and promotional system. Increased training of line security supervisors is particularly necessary, as is greater emphasis on specialized training in maximum security institutions. The development of performance-based training and testing must be implemented to ensure the effectiveness and justify the expense of training of correctional personnel. DOC currently places little emphasis on critically reviewing an officer's abilities during training, or in linking successful performance in training to promotion.

**Recommendation 49.** The Board of Corrections should direct DOC to conduct an assessment of training requirements for personnel at maximum security institutions. MCC should be a pilot institution for such an assessment, which would include:

- (a) an individual "skills inventory" of all supervisors at MCC, in conjunction with a more general survey of all MCC employees;
- (b) a specific training program tailored for each supervisor; and
- (c) the Institutional Training Officer as a full participant in the assessment.

**Recommendation 50.** The Criminal Justice Services Board should conduct an in-depth review of correctional

officer and supervisor minimum training standards. This review should focus particular attention on:

- (a) increasing requirements for minimum in-service training of correctional officers and Corporals, with emphasis on use of Academy rather than institutional instructors;
- (b) determining whether Lieutenants and higher grade personnel require increased minimum training;
- (c) increasing minimum in-service training standards required for Sergeants;
- (d) making it clear to personnel that credit is given towards the in-service training requirement for completion of additional specialty courses, and making it easier for personnel to obtain certification of that training once it has been completed;
- (e) requiring specialized training for officers at maximum security prisons; and
- (f) requiring that credit for training be based upon a system for measuring the performance of correctional personnel, rather than, or in addition to, attendance at more training sessions for a prescribed number of hours.

**Recommendation 51.** If the previous training recommendations are adopted and minimum training standards are revised, DOC's staffing formula for correctional institutions should be amended to reflect the increased time required for training.

**Recommendation 52.** The Board of Corrections should direct DOC to take the following steps:

- (a) initiate a system to link performance in training to recruitment, job retention, promotion, and the performance evaluation system. The Academy should institute a performance-based system for supervisors and for correctional officers in basic training and consider adding physical agility tests to its training requirements;
- (b) require that the criteria for promotion within security personnel classifications include successful completion of mandatory training courses;
- (c) expand opportunities for correctional officers and Corporals to participate in advanced and supervisory course offerings;
- (d) evaluate the performance of institutional manage-



ment at least in part on their ability to train employees in a timely and effective manner;

- (e) assess the capabilities and training needs of Institutional Training Officers;
- (f) examine and redefine the role of Institutional Training Officers in terms specific to their institution, to the end that Institutional Training Officers become part of the managerial team at each institution;
- (g) require Institutional Training Officers to submit annual reports to their Warden and Regional Administrator and to the Academy assessing the training needs of their institutions and describing their plans for meeting those needs;
- (h) consider having Institutional Training Officers be responsible for specialty courses and assigning responsibility for general institutional orientation and training to Captains. Supervisors should be a part of the training team at each institution.

**Recommendation 53:** DOC and a subcommittee of the Board of Corrections should study all non-security positions at MCC to determine:

- (a) whether non-security staff at the institution possess the basic job qualifications and training necessary to perform their duties adequately; and
- (b) whether non-security staff at the institution need specialized training in how to deal with maximum security inmates, especially disruptive inmates.

#### MCC AND THE SURROUNDING COMMUNITIES

The existence and operation of MCC is of tremendous economic value to the surrounding communities. Incidents during the summer have focused unnecessary, sensationalized attention on the area. The initial fear invoked in residents by the escape seems largely to have dissipated. More important to the populace is the development of a means for more formal contact and

communication with the facility in the future. An historical problem continues to be more vexing than the incidents of this past spring and summer: steps must be taken to reduce the profane and obscene verbal abuse directed at the citizens of the area by inmates during transportation to and from MCC.

**Recommendation 54:** Officials at MCC should meet periodically with elected officials and other individuals from the surrounding local communities in an effort to improve communications and enhance an understanding by local citizens of the purpose of, and problems faced by, the facility.

**Recommendation 55:** MCC should work with elected officials in the surrounding local communities to establish a telephone network for alerting local officials of emergencies at the facility which might have an impact on those communities.

**Recommendation 56.** DOC and MCC should explore various alternatives to prevent verbal abuse of local citizens and other disruptive conduct by MCC inmates being transported to the Mecklenburg County Courthouse for the trial of criminal offenses committed at the institution. Possible alternatives include:

- (a) conduct the trials in the courtroom at MCC;
- (b) use a vehicle without windows to transport the inmates to the Mecklenburg County Courthouse;
- (c) construct, with State funds, an inmate waiting area adjacent to the Mecklenburg County Courthouse;
- (d) restrain disruptive inmates by handcuffing them to their belt after fair and appropriate warning; and
- (e) gag verbally abusive inmates after fair and appropriate warning.

**DEATH SENTENCES**

During the course of this study, a number of questions were raised concerning the death sentence process, including the length of time inmates are spending on death row and the number of appeals and stays. The time constraints of the study did not permit the Committee to study all aspects of that process; its review, therefore, was limited to the propriety of housing death row inmates at MCC. However, the Committee recommends that the Board undertake a more detailed review of the death sentence process.



**PART I**

**INTRODUCTION**

## CHAPTER 1

### PURPOSE AND SCOPE

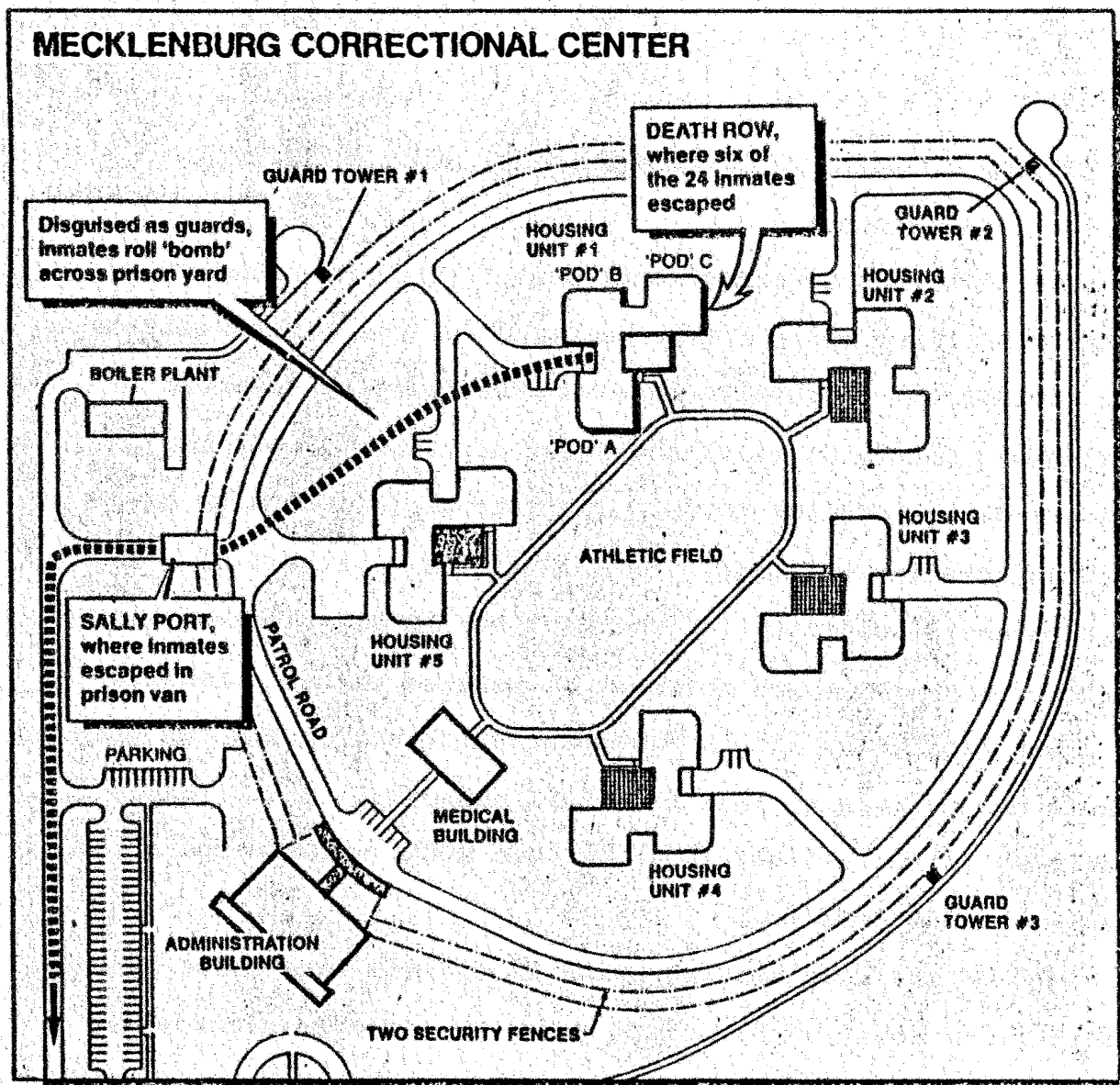
#### A. THE MECKLENBURG CORRECTIONAL CENTER STUDY COMMITTEE:

##### 1. Background:

The Mecklenburg Correctional Center (MCC) is a maximum security facility specifically designed for the Commonwealth's most violent and disruptive inmates. The facility, located in Mecklenburg County 85 miles southwest of Richmond near the Virginia-North Carolina border, consists of five housing units, an administration building, and an infirmary (Figure 1). The total potential capacity for the facility is 360 inmates. However, in order to permit movement of inmates within a facility and among facilities, it is common practice nationwide for prisons to be operated at less than full capacity. The Virginia Department of Corrections (DOC) has set MCC's maximum operating capacity at 335 inmates.

Each of the five housing units is divided into three 24-cell "pods," for a total of 72 inmate beds per building (Figure 2). Some of the pods are divided by a wall into two separate 12-cell sub-units. Access to the pod "day rooms" (the open area outside the cells) and to each cell in the pod is controlled by the correctional officer assigned to the pod "control room," which can be entered only through the hallway outside the pod area. There is a staff bathroom across from each control room which is

Figure 1

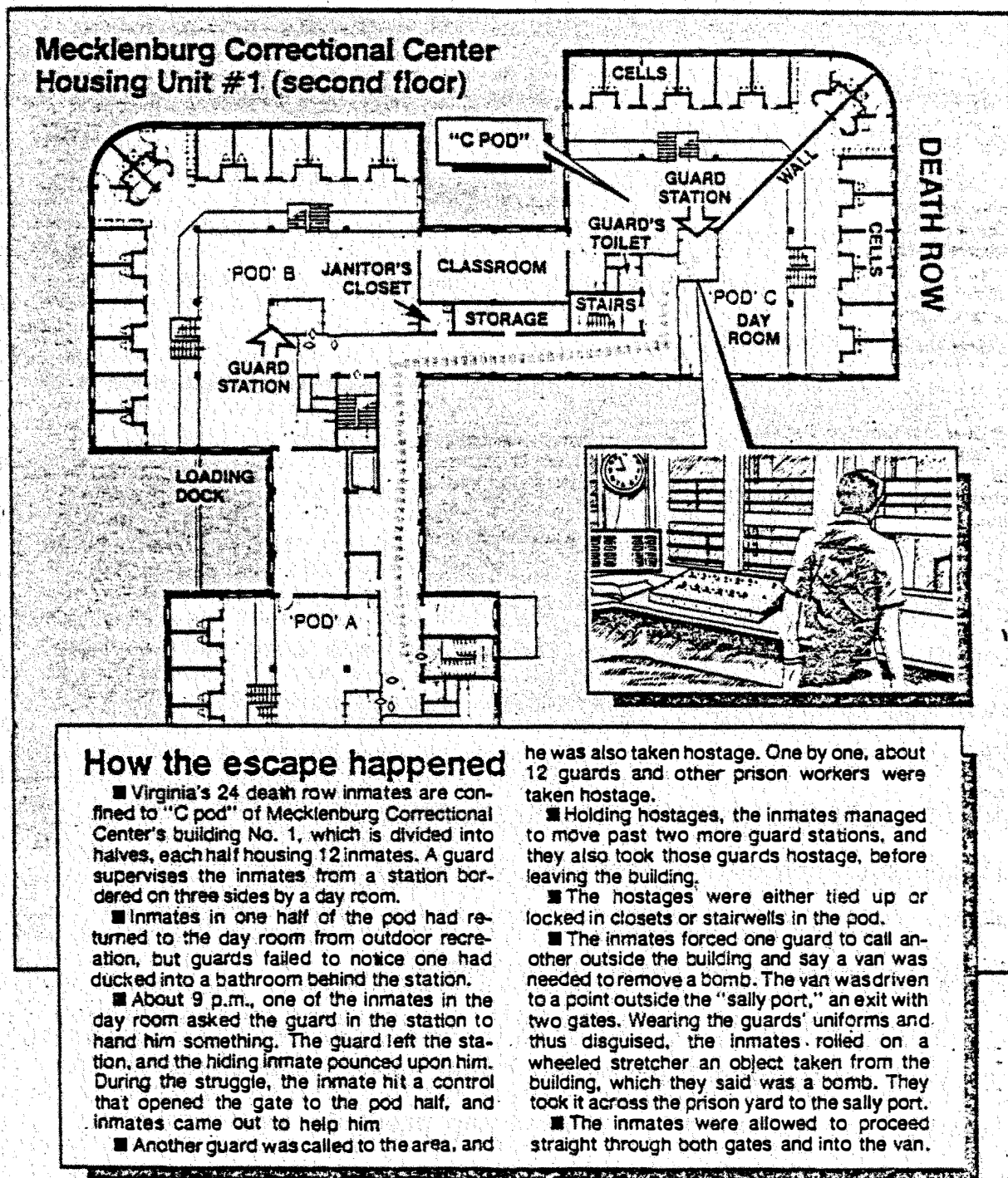
The Mecklenburg Correctional Center\*

\*The Richmond News Leader, June 2, 1984, p. 5, col. 4-6.



Figure 2

## A "Pod" at the Mecklenburg Correctional Center\*



\*The Richmond News Leader, June 2, 1984, p.1, col. 4-6.

accessible only from the hallway.

During the spring and summer of 1984, several major incidents occurred at MCC, the two most notable of which were an escape of six inmates from death row on May 31, 1984, and a hostage situation on August 4, 1984.

Immediately following the escape, the Governor and the Secretary of Transportation and Public Safety initiated the following steps to determine both the immediate and more long-term causes of the incident:

First, the State Police Bureau of Criminal Investigation was immediately ordered to assist in the apprehension of the six escapees and to determine how the escape occurred and whether there was any evidence indicating complicity or other involvement in the escape on the part of Department of Corrections (DOC) personnel. Over 30 agents from the Bureau were involved in the manhunt and investigation from June 1 through mid-July. The Bureau also conducted an investigation of the August 4 hostage situation. The Director of the Bureau reported to the Study Committee that the Bureau received complete cooperation from DOC personnel during both investigations; there was no attempt to withhold information or cover up matters.

Although a number of individuals interviewed by the Bureau stated that correctional personnel "must have" been involved in the escape, the Bureau did not find any credible evidence of staff complicity or involvement. Instead, the Bureau concluded that the escape had occurred because of a disregard by MCC staff of a number of basic standard operating procedures. For exam-

ple, (1) the correctional officers supervising the death row pod failed to count the number of death row inmates who were returning to their cells from outside recreation (one inmate did not return to his cell but instead hid in the staff bathroom across the hallway from the pod control room); (2) correctional officers guarding the death row pod then failed to investigate the fact that the door to the staff bathroom (where, unbeknownst to the staff, the inmate was hiding) was locked for over an hour after the inmates returned to their cells from recreation; and (3) the correctional officer on duty in the death row control room failed to follow established procedures in that, at the request of an inmate in the pod day room, he left the control room--leaving it unlocked--and went to a portion of the entrance hallway to hand an item to an inmate through the bar grill separating the entrance hallway from the pod day room, at which point the correctional officer's back was to the bathroom door and the inmate who was hiding there ran into the control room, opened all the cells, and then subdued the correctional officer.

Based on the Bureau's investigation, the Commonwealth's Attorney for Mecklenburg County found no reason to prosecute any of the MCC staff for either the May 31 escape or the August 4 hostage situation. Furthermore, because no one had been injured in the escape and the inmates already had been sentenced to death for other crimes, he decided not to prosecute any of the inmates involved in the escape. However, a number of inmates have been indicted and are being prosecuted for involvement in the August 4 hostage situation.

Second, the DOC Internal Investigation Unit conducted its



own in-house investigation of both incidents. Its findings paralleled those of the State Police investigation.

Third, in early June, through a request to the U.S. Department of Justice's National Institute of Corrections, the Secretary of Transportation and Public Safety, who has supervisory responsibility for DOC, obtained the services of three outside consultants to conduct an in-depth review of the events leading up to the escape, security practices at MCC, and DOC and MCC hiring and promotion practices and procedures, and training programs. Four reports<sup>1</sup> were prepared by these three consultants and were submitted to the Secretary in late June and July. The findings of all four reports were essentially the same as those of the separate State Police and DOC investigations; they also offered numerous recommendations to improve security practices and procedures at the facility and training for DOC personnel. The Study Committee had access to and reviewed in detail all four reports.

Fourth, in early June DOC initiated a study of the design and concept of MCC to review whether confining the Commonwealth's most disruptive inmates in one facility still was a valid approach, and if it was, whether changes should be made in the programs at MCC designed to deal both with the disruptive inmate population and with the other inmates confined there. As of the writing of this report, the DOC concept and design study had not yet been completed.

Fifth, in early June the State Department of Personnel and Training was asked by the Governor's Office to undertake a

comprehensive review of compensation for correctional officers. That report was released to the public on September 26, 1984, and is considered in Chapter 7 ("Compensation for Correctional Officers and Other Staff") of this report.

## 2. Appointment of the Study Committee:

The Board of Corrections consists of nine residents of the Commonwealth appointed by the Governor to four-year terms and subject to confirmation by the General Assembly. The Board is not part of the Department of Corrections; it oversees the Department and sets program and fiscal standards and goals for the Department. Under Section 53.1-5 of the Code of Virginia, the General Assembly has charged the Board with the duty to "monitor the activities and effectiveness" of the Department of Corrections.<sup>2</sup>

Shortly following the August 4 hostage situation, the Governor asked the Chairman of the Board of Corrections to appoint a special committee from the Board to study the incidents which had occurred at MCC over the prior several months and to recommend steps which should be taken to avoid such incidents in the future. On August 14, 1984, the Chairman announced the appointment of the Study Committee.

## 3. Study Committee Membership and Staff:

The five members of the Board serving on the Study Committee are:

**Carroll E. Lillard** (Chairman--Study Committee), Madison, Va.--retired Sheriff of Madison County.

**Harry L. Greene, Alexandria, Va.**--former businessman; currently President of a national organization which provides chaplains to local correctional facilities.

**Claudette B. McDaniel, Richmond, Va.**--Vice-Mayor of Richmond.

**Stephen D. Rosenthal, Radford, Va.**--Attorney.

**John W. Williams, Charlottesville, Va.**--businessman and Chairman, Board of Corrections.

The Committee has been assisted by a four-person staff:

**H. Lane Kneedler (Staff Director), Charlottesville, Va.**--Associate Dean and Professor of Law, University of Virginia Law School.

**James M. Mills, Richmond, Va.**--Senior Management Analyst, Management Consulting Division, State Department of Information Technology.

**James T. Roberts, Richmond, Va.**--Corrections Section Supervisor, State Department of Criminal Justice Services.

**Vivian T. Toler, Richmond, Va.**--Secretary, Board of Corrections.

#### **B. STUDY COMMITTEE CHARGE:**

The Study Committee was asked to identify the major problem areas at MCC, and, based upon its research, to provide policy guidance to DOC and other agencies responsible for resolving the problems identified.

In particular, the Study Committee was charged to examine three specific issues. Those three issues, as set forth in the Work Plan adopted by the Study Committee on August 28 and amended on September 13 (see Appendix A) are:

- (1) The Concept and Design of MCC--Is the concept of confining the Commonwealth's most violent and disruptive inmates in one facility valid? What are the criteria for assigning inmates to MCC, and are they being appropriately administered? Is the



treatment and population management program sound and is it being implemented appropriately and effectively? Is the facility adequately staffed?

- (2) Compensation for Correctional Personnel--How does the compensation offered to correctional personnel in Virginia compare to that offered in neighboring states and nationally, and to that offered to other law enforcement and public safety personnel in Virginia and nationally? Is there a need for a pay differential (e.g., "hazardous duty pay") for maximum security personnel at MCC? What are the cost implications of a decision to increase compensation for correctional officers?
- (3) Training for Correctional Personnel--Are the DOC and MCC training standards and curricula for correctional personnel appropriate and sound? Is the quality of training adequate? Are correctional personnel completing the training? Are correctional personnel utilizing the skills developed through training? Are training budgets adequate?

#### C. STUDY METHODOLOGY:

The Study Committee was appointed on August 14, 1984. The staff was appointed and a work plan was drafted by August 24. The Committee's first meeting was held on August 28. During the next 10 weeks, the Committee made one announced and one unannounced visit to MCC, held a public meeting for local officials in the Mecklenburg area and a closed meeting for MCC staff, visited the DOC Academy for Staff Development in Waynesboro, held a public hearing in Richmond, interviewed or spoke with over 100 individuals about MCC, and prepared and discussed a draft of this report. In addition to the five days devoted to visits to MCC and the training Academy, the Study Committee and its staff met on nine other occasions, mostly for full day sessions, to interview various individuals and discuss recommendations.

The Study Committee was concerned at the outset that sufficient time might not be available to conduct the in-depth study necessary to fulfill its charge. However, it was clear that some of the Committee's potential recommendations could have substantial budget implications and that if those recommendations were to be considered by the Governor, the Secretary of Transportation and Public Safety, and the Department of Corrections in their 1985-86 budget recommendations to the 1985 General Assembly, which convenes in January, the Study Committee's recommendations had to be available by early November. Furthermore, the Committee felt that its investigation of programs, policies and procedures at MCC should be completed as soon as possible in order to decrease the possibility that incidents similar to the May 31 escape and August 4 hostage situation might occur again. Thus, the Committee decided that it was important to conduct as thorough a study as was possible within the maximum of 10 weeks available and to have its report completed and delivered to the full Board of Corrections by early November.

During its 10-week study, the Committee:

1. Conducted two on-site visits to MCC, one 2 1/2-day announced visit (September 16-18), and one 1 1/2-day unannounced visit (October 9-10). During the first visit, the Committee held a public meeting on the evening of September 16 for local officials in the Mecklenburg County area (attended by approximately 30 individuals) and a closed meeting on the evening of September 17 for MCC staff only (attended by approximately 50 individuals). The Committee also toured the facility and interviewed the Acting Warden, two Assistant Wardens (one of whom is an Acting Assistant

Warden), correctional officers, other MCC staff, and inmates. On the second visit Committee members and staff toured and inspected the facility again and spoke with additional MCC staff and inmates.

2. Interviewed DOC personnel, including the Director, the Deputy Director of the Division of Adult Services, the Assistant Director for Capital Outlay and Maintenance, the Assistant Director and staff from the Division of Program Development and Evaluation, and the Regional Administrators for the Central Region (Region II, which includes MCC) and the Southeast Region (Region V).

3. Interviewed former MCC staff, including the first Warden of the facility, and the former Warden and Assistant Warden for Operations who were in charge of the facility at the time of the May 31 escape and who were relieved of their duties at MCC and transferred to other DOC positions in June and July 1984.

4. Interviewed the Director and Assistant Director of the State Police Bureau of Criminal Investigation, who were responsible for investigating the May 31 escape and the August 4 hostage situation.

5. Interviewed the Director of the State Department of Personnel and Training and other DPT personnel who were responsible for preparing the report entitled Review of Compensation of Corrections Officers in the Commonwealth of Virginia (August 1984), which was released to the public on September 26, 1984.

6. Interviewed DOC personnel who are preparing the DOC "concept and design" study of MCC, which has not yet been



completed.

7. Interviewed several individuals with a particular interest in prison reform in general and MCC in particular, including the Director of the American Civil Liberties Union National Prison Project, the Director of the Virginia Chapter of the ACLU, the Director of the Virginia Chapter of the Southern Coalition on Jails and Prisons, and a Charlottesville attorney who represents several inmates on death row at MCC.

8. Conducted a one-day on-site visit to the DOC Academy for Staff Development in Waynesboro, which included a tour of the facility and in-depth interviews with the Superintendent and other supervisory personnel and instructors.

9. Consulted several professionals with expertise in prison programs, including several psychologists (one of whom has had extensive experience in, and was an assistant warden at, a maximum security institution similar to MCC in another state, and one of the persons who designed the original MCC program for disruptive inmates).

10. Reviewed videotapes of incidents at MCC in which correctional officers had been accused of brutality. Apparently it is not uncommon nationwide for prison officials to videotape incidents in which correctional officers are forced to remove an inmate from his cell (e.g., because of acts of self-mutilation, because of fires set to mattresses and other materials, such as newspapers), to break up a fight between inmates, etc. The DOC began videotaping such incidents in the late 1970s. The tapes reviewed by the Study Committee were part of a series of tapes which the ACLU had intended to introduce in a suit filed in August

1981 by inmates at MCC against DOC charging inhumane prison conditions and guard brutality. The suit eventually was settled in April 1983 (see Chapter 5).

11. Reviewed the four consultant reports prepared at the request of the Governor and the Secretary of Transportation and Public Safety following the May 31 escape.<sup>3</sup>

12. Conducted a national literature search through the U.S. Department of Justice's National Criminal Justice Reference Service for materials on maximum security prisons and programs for dealing with disruptive inmates.

13. Conducted a telephone survey of 18 other states to determine how they dealt with disruptive inmates.

14. Held a public hearing on MCC on the evening of October 18, 1984, in Richmond, Virginia. The hearing was attended by approximately 30 persons, including representatives of the media, several members of the General Assembly, a representative from the ACLU, several representatives from DOC and other state agencies, and a few members of the general public.

Unfortunately, only two persons made presentations to the Committee: a correctional officer from the State Penitentiary who stated that he was proud to be working for DOC but that correctional officers were underpaid, and an electrician who had applied for a position at MCC and who did not feel he had been fairly treated in the application process.

CHAPTER 2THE MECKLENBURG CORRECTIONAL CENTERA. HISTORY OF THE FACILITY:

Planning for the Mecklenburg Correctional Center (MCC) began in earnest during 1972-73. The development of the facility was the result of many factors, the most important of which were overcrowding throughout the Commonwealth's prison system and the desire to replace the aging State Penitentiary in Richmond with a modern maximum security facility. MCC was modeled at least in part on the Federal Bureau of Prisons' maximum security penitentiary in Marion, Illinois. Funds appropriated by the 1974 General Assembly provided the resources needed to begin construction of the facility. Originally scheduled to open in November 1976, the facility actually began operations in March 1977, with two of the five planned 72-bed buildings completed. The delay was caused by construction problems related to water and sewage operations.

The original purpose of MCC, as described in a document written during a 1973-74 pilot program conducted at several of the Commonwealth's other facilities, was:

"1) to receive inmates who are particularly troublesome to themselves, to other inmates, and, thus to the smooth administration of correctional programs within the state system and, 2) to modify the actions of such inmates so that they may be returned to the beneficial influence of correctional programs in the general population of another institution. . . ."<sup>4</sup>

At that time DOC planned to construct a maximum security facility



where a program utilizing the principles of behavior modification could be developed to decrease the disruptive behavior of inmates transferred to the facility from throughout the corrections system. Despite the "pilot" nature of this project, the program apparently was abandoned in October 1974 due to substantial administrative changes involved in separating the newly-created Department of Corrections from the former Department of Welfare and Institutions, and other reasons which remain unclear.

As construction of the facility continued, attention again focused on planning for a special program at MCC for disruptive inmates from throughout the corrections system. An internal DOC Task Force was created in 1976. The program as originally implemented at MCC was described in a DOC document entitled Maximum Adult Security and Intensified Treatment Program (MASIT) dated November 16, 1976. Although distinct in a number of respects from the 1973-74 proposal, the overall objectives for the facility remained consistent. A DOC report completed in June 1977 reiterated that MCC was constructed "to provide maximum security segregation and treatment for the most difficult inmate."<sup>5</sup>

With certain administrative and procedural revisions, the program proposed for the facility in 1976 is substantially the same as the "Phase Program" operating today. Essentially, the Phase Program is structured through a series of levels (varying from three to five levels during the past eight years) utilized to reward inmate progress with a corresponding series of increasing "privileges." Theoretically, the increasing privileges associated with each level serve as a reward for an inmate's compliance with institutional rules. The first document to identify specific

behavioral criteria for assignment to the Phase Program at MCC was prepared in June 1979. This document also set forth once again the special purpose of the facility: "it is [the] commitment to change the behavior of the dangerous and disruptive inmate and return him to a conventional center that sets Mecklenburg apart from the other maximum security facilities."<sup>6</sup>

During the period 1977-1979, the Phase Program continued to be the major program in operation at MCC, but there were other programs there as well. Inmates were assigned to the facility in two categories: "General Population" assignments (for placement in the Phase Program) and "Special Purpose" assignments, which included "Death Row," "Protective Custody" and "Investigative Hold." By June 1980, these Special Purpose categories had expanded to include a "Special Management Unit," a restrictive form of segregation for particularly disruptive inmates.

In 1981, MCC staff and the DOC central office undertook what appears to be the first major re-examination of the facility's program for disruptive inmates. This resulted in a comprehensive proposed program intended to build upon both the original objectives of MCC and the experience of operating the facility during its first four years. The introduction to that document states that "the method of a structured physical environment has been somewhat effective in changing disruptive behavior, [however] due to past emphasis on security and control, a program of individualized treatment has not been fully utilized as a means for effective behavior change."<sup>7</sup> This 186-page report provides an extremely detailed description of the purposes and procedures for

dealing with disruptive inmates assigned to the MCC Phase Program.

Until 1981 the majority of assignments to MCC were General Population (Phase Program) inmates transferred to MCC for assignment to the Phase Program. Although some inmates refused to participate in the program and therefore were placed in segregation at MCC, most of these transferred inmates appear actually to have been placed in the Phase Program. However, in an apparent effort to respond to space pressures elsewhere in the prison system, a second category of "temporary" General Population assignments was initiated in July 1981 to utilize existing bedspace at MCC. These temporary assignments were made on the basis of initial classification at the DOC Reception Center and were for reasons not related to disruptive or assaultive behavior in other correctional facilities--e.g., simply a desire to use available bedspace at MCC. These temporary assignments were required to be of six months duration or less.

By December 1982, the categories of inmate assignment to MCC had again been expanded to include: (1) "Special Purpose" (Death Row, Protective Custody, Investigative Hold and a new "Administrative/Emergency Transfer" category); (2) "Phase Program"; and (3) a "Maximum Security" unit. A number of the Commonwealth's correctional facilities house maximum security inmates. The creation of the maximum security assignment status at MCC and the dedication of one building (72 beds) to maximum security inmates who were serving sentences of 50 or more years was a direct response by DOC to pressures from within the department itself and from the General Assembly to utilize available bedspace at MCC. Inmates assigned to the Maximum Security program were not inmates who had



demonstrated behavioral problems at other institutions but were those who were merely viewed as generally requiring the level of security existing at MCC. The practice of "temporary" initial General Population assignment to MCC apparently was terminated with the creation of the new Maximum Security unit there.

The last major changes in the program configuration at MCC occurred as a result of the settlement agreement reached in April 1983 in Brown v. Procunier,<sup>8</sup> which had been filed against DOC and MCC in August 1981 by six named inmates on their own behalf and on the behalf of the other inmates at MCC to rectify what they viewed as inhumane prison conditions and guard brutality at the facility. The inmates were represented by the ACLU National Prison Project in Washington, D.C., which had been in contact with DOC and MCC officials for over three years about allegedly poor conditions at MCC, and by two Virginia attorneys; the DOC and MCC were represented by two successive Attorneys General and their staffs. This settlement agreement dealt with a wide variety of conditions at the facility and required a number of changes, including: the abolition of the Special Management Unit (a special segregation unit for particularly disruptive inmates); the establishment of a regular General Population Maximum Security Program in one building (previously maximum security inmates were treated very differently at MCC than they would have been at any other DOC maximum security institution; the main difference was the availability of many fewer "privileges" at MCC); a variety of procedural and administrative changes affecting the operation of the Phase Program (e.g., increased recreation time); and a number of

other matters related to general living conditions and inmate privileges. The requirements of the settlement agreement, and the adjustments made at the institution as a result of the agreement, remain in force today.

When MCC Institutional Operating Procedures were revised in May 1983 to accommodate the provisions of the settlement agreement, a new Special Purpose inmate assignment category unrelated to the requirements of the settlement agreement--the "Mental Health Unit"--was created.

**B. INCIDENTS AT THE FACILITY:**

**1. Background:**

This Study Committee was appointed to examine various issues related to a series of incidents at MCC during the summer of 1984. As is discussed in detail in succeeding chapters, it is clear that the causes underlying this past summer's incidents did not arise overnight. They can be traced to various policies and practices which evolved at the facility over the past 11 years, beginning with the planning for the facility in 1973.

**2. Chronology of Recent Events:**

The incidents which occurred at MCC during the summer of 1984 attracted intense and continuing media attention and public scrutiny, and are summarized in the text which follows. Among the most serious of these events was the escape of six death row inmates on May 31, a riot and hostage situation on August 4, as well as a number of significant personnel changes at the facility resulting from injury, resignation, dismissal and disciplinary actions.

**May 31, 1984** - Six inmates with capital convictions escaped from MCC utilizing hostages and a series of complicated deceptions. The escapees all had been confined in a single living unit at the facility--Building 1, C Pod--prior to this escape. Thirteen staff of the facility were taken hostage during the escape. This was the first successful escape from MCC in the more than seven years since it began operations.

**June 1, 1984** - Two of the six escapees were recaptured 20 miles south of MCC in North Carolina.

**June 4, 1984** - Sixteen MCC employees involved in the May 31 escape were placed on administrative leave pending investigation of the incident.

**June 8, 1984** - Two of the four remaining escapees were recaptured in Vermont.

**June 9, 1984** - A cache of homemade weapons was found in the Death Row pod.

**June 19, 1984** - The remaining two escapees were captured in Philadelphia, Pennsylvania.

**June 22, 1984** - The MCC Warden, Assistant Warden for Operations and Chief of Security were relieved of their duties at the facility. Personnel assigned to act in their capacities were dispatched to MCC from other DOC institutions.

**July 5, 1984** - Three of four reports, prepared at the request of the Secretary of Transportation and Public Safety, with resources provided by the U.S. Department of Justice's National Institute of Corrections, were completed. The reports assess a variety of operational, managerial, and training issues, identify certain deficiencies, and offer numerous recommendations for the



improvement of physical and procedural security at MCC. On the same date five Mecklenburg employees involved in the incidents leading up to the escape were dismissed, and two prison administrators relieved earlier were placed on temporary disciplinary suspension.

**July 12, 1984** - Significant disturbances erupted at MCC in separate recreation yards containing inmates confined in two of the facility's five buildings. Security staff in riot gear were required to quiet the disturbance. Two of the staff received minor injuries.

**July 13, 1984** - A series of "shakedowns" (in-depth searches) in Building 3 at MCC resulted in the seizure of a variety of "contraband," including pipe, rope, and metal fashioned into weapons. Subsequent shakedowns over the next week uncovered additional contraband--including marijuana and weapons--and detected attempts to saw through certain supporting structures in security windows in some inmate cells.

**July 17, 1984** - The fourth consultant report was received by the Secretary of Transportation and Public Safety.

**July 26, 1984** - A major institution-wide shakedown was conducted at MCC utilizing approximately 50 correctional staff from other institutions. Additional contraband was discovered.

**July 27, 1984** - An internal DOC investigation was initiated as a result of numerous complaints by MCC inmates alleging physical abuse by DOC personnel during the preceding day's shakedown.

**August 4, 1984** - Inmates in Building 5 at MCC seized nine hostages and issued a list of demands ranging from improved education and

medical care to replacement of the Acting Warden. Thirty-two inmates were involved in the 19-hour siege which ended early on the morning of August 5. At least three correctional personnel were seriously injured during the episode. Fifteen inmates have subsequently been indicted for offenses stemming from the incident.

**August 10, 1984** - Two of the correctional personnel from other institutions who were involved in the July 26 shakedown at MCC were dismissed, and a third received temporary disciplinary suspension.

**PART II**

**CONCEPT AND DESIGN OF THE**  
**MECKLENBURG CORRECTIONAL CENTER**



CHAPTER 3PROGRAMMATIC ISSUESA. INTRODUCTION:

MCC originally was designed to house only the Commonwealth's most disruptive inmates. However, almost from the time the facility first opened in 1977, inmates other than the most disruptive also have been confined there--at least in part because of crowded conditions at other state prisons and the availability of bedspace at MCC.

According to DOC Departmental Guideline 825, which was last revised in December 1982, there are three "categories of assignment" at Mecklenburg: "phase program" assignments for particularly disruptive inmates from other State prisons, "special purpose" assignments (administrative transfer, investigative hold, inmates sentenced to death, and protective custody), and "maximum security unit" assignments.<sup>9</sup> Currently, there are three additional assignment categories at MCC: "segregation," "isolation," and "mental health." During the Committee's second on-site visit to MCC on October 9, approximately the following number of inmates were confined at the facility:

- 50--Administrative Transfer, Investigative Hold,  
Segregation, and Isolation
- 22--Death Row
- 65--Protective Custody
- 70--Phase Program
- 65--Maximum Security
- 8--Mental Health

280

The capacity of MCC is 360 inmates; thus there were approximately

80 vacant cells on the day of the Committee's October 9 visit. These numbers--both the total number of inmates and the mix--are somewhat misleading, of course, since a large number of inmates were transferred to other institutions from MCC immediately following the August 4 hostage situation.

Three general points should be made at the outset. First, despite the original purpose of MCC, less than 50% of the inmates at the facility are disruptive inmates transferred from other institutions. Second, MCC (or, indeed any prison) should be operated below full capacity to allow for flexibility and transfers both within the institution and between institutions. This is particularly true in an institution such as MCC in which a number of very different prison populations are confined. Third, as will be explained in greater detail below, considerably different methods are required to deal with some of the inmate populations at MCC, and these methods produce quite different demands on the allocation of the institution's resources. It is no exaggeration to say that at least five different prisons are being operated in one facility at MCC, thereby exacerbating some of the staffing, management and supervision problems described in Chapter 4.

The remainder of this chapter discusses the various "assignments," or programs, at MCC. Since the facility was originally designed for disruptive inmates from other institutions, the program for dealing with those inmates--the "Phase Program"--will be described first.

B. THE COMMONWEALTH'S MOST VIOLENT AND DISRUPTIVE INMATES

1. Background:

a. MCC--An Institution Specifically Designed for Violent and Disruptive Inmates:

Although the historical purpose of MCC has been to provide separate confinement for the most disruptive inmates in the Virginia correctional system, the meaning of the term "disruptive" has in fact evolved over time. Various reports during the past decade describe these individuals as "particularly troublesome," the "most difficult" and "problem" inmates. From the opening of the facility in 1977 until 1979 there appear to have been no clear criteria for describing "disruptive" inmates other than the general terms referenced above. In July 1979, the first concise description to guide placement decisions was promulgated by DOC in the form of Departmental Guideline 825 (DGL 825). This guideline specified that inmates could be considered for assignment to the "General Population" of MCC if they had been found guilty by a court or institutional disciplinary committee (Adjustment Committee) of a serious institutional infraction at any of the correctional centers in the Commonwealth. These infractions included: assault with a weapon; sexual or attempted sexual assault through force; rioting; seizing of hostages; escape through use of force; arson; or extortion.<sup>10</sup> Clearly these particular infractions involve violent or disruptive behavior in an institutional setting. However, DGL 825 also permitted assignment to the facility based on infractions of a comparatively less serious nature.

Based upon the present criteria for assignment, DOC



officials recently indicated that the number of disruptive "Mecklenburg-type" inmates within the Virginia correctional system today is approximately 190, or less than two percent of the total combined inmate population. According to DOC, based upon projected growth in the prison population, the number of beds needed for inmates categorized as the disruptive "Mecklenburg-type" will equal approximately 240 by the end of the decade (1990). A total of 360 beds are available in the five MCC housing units.

The use of special housing arrangements for particularly violent and disruptive inmate populations within the Virginia corrections system is not a unique or recent practice. The Committee noted that Virginia has utilized such special housing arrangements both prior and subsequent to the opening of MCC. "C" Building at the Virginia State Penitentiary and "M" Building at the Powhatan Correctional Center are examples of such facilities. They continue in operation today. The essential differences between MCC, C Building and M Building lie not in the type of inmate confined there, but in the programming available to an inmate in the three different settings. This latter point is the subject of more detailed discussion later in Section C-2-e of this Chapter.

b. The "Phase Program":

(1) Evolution of the Program:

In addition to operating a maximum security facility for the confinement of disruptive inmates, the secondary purpose of MCC historically has been to "treat" these inmates in a manner that would assist in returning them to more routine general inmate

population assignments at other correctional institutions in the Commonwealth. The approaches for achieving this goal, however, have varied considerably over the past decade.

The earliest recorded planning for the special program at MCC appears in a 1973 document describing a project entitled the "Contingency Management Program" (CMP).<sup>11</sup> This was a 1973-1974 pilot program funded by federal grants to the Commonwealth from the former Law Enforcement Assistance Administration. Simply stated, this project proposed a program structure utilizing the principles of "behavior modification." In designing this program, it was anticipated that inmates assigned to CMP would be those who demonstrated one of three distinct types of behavior. The first group would be those inmates who required administrative segregation as a result of the disruptive influence they exerted in a group living situation at another institution. For example, these individuals might consistently operate, or be indebted to, a gambling operation within an institution, thus creating a disruptive influence in the day-to-day operations of the facility. The second group, more easily identified, would be those individuals who were seriously or repetitively involved in aggressive, assaultive behavior within other institutions or those inmates who had proven themselves to be serious escape threats. The third group would be inmates involved in certain homosexual behaviors leading to aggression or seriously disruptive relationships within other institutions.

CMP was, by design, a program limited in scope. Its purpose was to change habitual "unmanageable" inmate behavior. To this

end, the program was structured in a series of four stages. Since construction had not yet begun on the MCC facility itself, the CMP pilot project was operated in C Building at the State Penitentiary, M Building at the State Farm (now Powhatan Correctional Center), and B and C Buildings at St. Brides Correctional Center. Each facility corresponded to a different stage of the program. In this pilot planning for MCC, it apparently was thought that the various buildings at MCC eventually could be used for these different stages, or, alternatively, that MCC could be used in a networking fashion for at least the first several stages of the program.

A 1977 article written by the four individuals who designed the CMP program, two of whom are psychologists at Virginia Polytechnic Institute and State University, provides an account of both the components of and the controversy which surrounded the CMP pilot project in 1973-74.<sup>12</sup> Before examining further the development of the MCC program, it is important to consider the essential features of the original CMP approach, each of which is described in greater depth in the referenced article:

- (1) Cooperative involvement of both security and treatment personnel in CMP decisions.
- (2) Emphasis on positive reinforcement to increase constructive behavior. (Inmates would earn privileges by exhibiting appropriate behaviors, rather than merely avoiding loss of privileges by omitting unacceptable behaviors).
- (3) Systematic observation of behavior for the purpose of providing objective evidence of consistent behavior change.
- (4) Specialized training for security and treatment personnel in CMP procedures and communication methods. (The authors felt



that only minimal training in the specifics of this program would be necessary, and that the program could be effectively managed by correctional officers with only a high school education.)

- (5) Consistent levels of attention directed to each inmate, through the cooperative involvement of security and treatment personnel.
- (6) Emphasis on normalized interaction between staff and inmates.
- (7) Provision of a structure in which the inmate has a real opportunity to improve his situation.

The CMP pilot project ultimately was abandoned in the fall of 1974 for reasons that are only partially clear; among them were the reorganization of the former Department of Welfare and Institutions and the creation of a new "Department of Corrections," pressure from and continuing critical examination of the program by such organizations as the ACLU National Prison Project, and poor management of the program itself.

Planning for the MCC program was renewed in 1976 through the creation of an internal DOC Task Force. The program proposed as a result of that effort is contained in a November 1976 paper entitled Mecklenburg Correctional Center Program Statement--Maximum Adult Security and Intensified Treatment (MASIT). This is substantially the program which was implemented at the facility beginning in 1977. The proposed criteria for assignment to the MASIT program specified that the inmate must meet one or more of the following conditions:

- "A. Demonstrates an inability to function without serious acts of violence in institutions of lower security.
- "B. Shows an aggressive, violent or assaultive

behavior pattern while in prison.

- "C. Is an escape risk with violent behavior involved or has a history of persistent escape attempts while in the Department's more secure institutions.
- "D. The inmate is serving time for his third felony conviction of violent crimes or his fourth felony conviction of non-violent crimes."<sup>13</sup>

The MASIT program (which later became known as the "Phase Program") was a four-step, or level, program in which increasing privileges would be afforded the inmate in each progressive step based upon the inmate "not violating conditions of Division Guidelines, any laws, or unit rules and regulations," as well as demonstrating "a willingness . . . to work toward resolution of his problems."<sup>14</sup> Though no fixed time periods were specified for completion of each step, it was anticipated that successful completion of the MASIT program would require approximately eighteen months.

Despite provisions for increasing inmate privileges at each step, the MASIT program outline in fact provided for considerable restriction of the inmate throughout his tenure at the facility. Level 1, for example, required almost around-the-clock "lockdown" of the inmate--i.e., confinement to his cell except for a shower once each week, medical necessities, "recreation" (exercise time) one hour per day, and a maximum of two "non-contact" visits (i.e., visits in which the inmate and visitor sit on opposite sides of a partition and therefore have no direct contact) per month. Counseling, meals, reading and educational activities all were to occur in the inmate's cell while he was assigned to Level 1. The succeeding levels each provided for greater periods of

time out of the cell, additional contact with other inmates, as well as more active involvement in constructive activities such as education and counseling programs. Although structured to provide a very restrictive environment at the lower levels, the MASIT program also was intended to have a high degree of individual treatment for the inmate. It was anticipated that inmates would be seen by treatment staff virtually on a daily basis in either individual or group counseling sessions. Many of the components of the MASIT program were similar to those of the earlier CMP pilot program. These included: the voluntary nature of the inmate's participation in the program; the need for continuous specialized training in program operations for the staff; and the participation of both security and treatment staff in the management of the program to provide a balanced perspective.

When MCC opened in March 1977, two of the five planned buildings were completed, providing a total of 144 inmate beds. The first inmates assigned to MCC, however, were not assigned on the basis of their disruptive behavior in other correctional facilities in the Commonwealth. Instead, the first 23 inmates assigned to the facility were placed in MCC directly from local jails after classification by DOC. The main purpose of these assignments apparently was to have a less dangerous group confined in the facility initially as the MCC staff established and tested new Institutional Operating Procedures.

By October 1977, MCC had adopted its own series of Institutional Operating Procedures (IOPs), and the classification



and assignment of inmates to MCC was being based on their "disruptive" behavior in other correctional institutions. IOP 892 provided that inmates were assigned to the facility for two purposes: "to provide a higher degree of security than that found at other institutions; and, to develop and provide program services on an individual basis."<sup>15</sup> IOP 892 also specified a series of basic rights and privileges which were to be afforded all inmates at the facility. These rights and privileges were based on minimum requirements of state and federal law and covered such areas as personal hygiene, personal mail, visitation, clothing, food, etc.

The program was officially identified as the "Phase Program" in October 1977. IOP 831 (October, 1977) specified the privileges associated with each of the four levels of the program. Except for "Orientation," no time periods were specified for completion of each "Phase." Progress to each successive level was to be based on compliance with rules and regulations, and progress in the individual treatment agreement.<sup>16</sup>

The "Program Outline" specified "privileges" for each level. Given the importance of these "privileges" to an assessment of the program, they are set forth here in Table 1 rather than included as an appendix.

In July 1978, the IOP for the Phase Program was substantially revised. IOP 12 superseded the earlier referenced editions. However, guidelines still provided no clear criteria for assignment to MCC. In addition, the administrative reorganization accomplished through IOP 12 also affected the Phase Program. Phase IV of the program was abolished. Although

Table 1  
"Privileges" Associated with the Phase Program (1977)\*

Privileges	Orientation	Phase I	Phase II	Phase III	Phase IV
Showers	3 Per Week	3 Per Week	3 Per Week	4 Per Week	Daily
Commissary	1 Per Week \$20 Limit Per Month	1 Per Week \$20 Limit Per Month	2 Per Week \$40 Limit Per Month	3 Per Week \$40 Limit Per Month	4 Per Week \$60 Limit Per Month
Meals	In Cells	In Cells	In Cells	Out of Cells With Groups of 12	Out of Cells Groups of 12 to 24
Educational Activities	Limited in Cell Voluntary	In Cell Self-Study	In Cell Self-Study	In Cell or In Group Participa- tion of No More Than 6	In Cell or In Group Participation of No More Than 6
Coordinators/ Case Workers	As Appropriate and Necessary	As Appropriate and Necessary	As Appropriate and Necessary	As Appropriate and Necessary	As Appropriate and Necessary - Can Be in Groups of Up to 6 Individuals
Visitation	2 Non-contact After 7 Days Family (Fiance) Only-60 minutes	2 Non-contact Per Month - Immediate Family (Fiance) 60 minutes	3 Non-contact Per Month - Immediate Family (Fiance) 60 minutes	3 Contact Per Month - Immediate Family (Fiance) 60 minutes	4 Contact Visits Per Month - Up to 90 Minutes in Duration
Out of Cell Activities	None	None	Groups of 6-2 Hours Once Each Week - No Per- sonal Items Except Smoking Materials and Playing Cards	Groups of 6 on Alternate Nights 7-10 p.m. - T.V. Viewing May Bring Some Personal Items From Cell	Groups of 12 Each Night 6 to 11 p.m. T.V. View- ing - 11:30 For Special Programs - Personal Items As in Phase III
Work Opportunities	None	None	Available At The Discretion of the Ass't Superintendent Statute Pay Rate	Individual/Small Group At Discre- tion of Ass't Superintendent Statute Pay Rate	Mandatory Individual/ Small Group Discretion of Ass't Superintendent Statute Pay Rate
Miscellaneous	Personal Lockers Not Permitted			3 Complete Changes of Cloth- ing Per Week	3 Complete Changes of Clothing Per Week

\*Mecklenburg Correctional Center Institutional Operating Procedure 831 (Oct. 1977).

each of the remaining levels continued to have substantially the same privileges as before, the "behavioral criteria" for advancement to each level were substantially revised. The new guideline for advancement provided that: "The [sole] criterion for phase promotion shall be nothing more than a demonstrable willingness by an inmate to abide by prescribed rules and regulations. . . ." IOP 12 further provided that an inmate's involvement in counseling and the establishment of a treatment plan or agreement was a discretionary activity on the part of staff. Finally, IOP 12 reduced the period of Orientation to a maximum of 10 days.<sup>17</sup>

IOP 12 was rewritten in June 1980. The Phase Program continued to have Orientation through Phase III. For the first time, however, specific time periods of continuous infraction-free behavior were established for each level. Orientation was again increased to a 30-day period, and Phases I, II, and III required 60, 120, and 90 consecutive days, respectively, of infraction-free behavior. Thus the minimum time for an inmate's completion of the Phase Program after arrival at Mecklenburg became 10 months. These time periods for each step of the Phase Program remain in force today.

In revising IOP 12, the institution again emphasized the treatment aspects of participation in the Phase Program. The new policy emphasized the inmate's involvement with a new program team, led by a counselor assigned to each building. The behavioral criteria for promotion of an inmate to the next level were also made contingent on "satisfactory progress in programs



assigned and interpersonal relations with staff and the program team."<sup>18</sup> A progressive housing arrangement--transfer to a different building for each successive Phase--was also established as part of the 1980 policy revision.

IOP 12 was subsequently revised again in November 1980, June 1981, May 1983 and April 1984. In the 1980 and 1981 revisions, the structure of the Phase Program remained substantially the same, with privileges and criteria for advancement similar to that described above. However, the May 1983 revision, which was adopted in response to the requirements of the settlement agreement signed by the Commonwealth in Brown v. Procunier (see Chapter 5 for a discussion of the decree), changed the program somewhat--some DOC officials felt substantially.

The most notable of the changes provided that following Orientation, Phase I was no longer the initial assignment to the program. Orientation continued to be the initial 30 days of assignment to the institution, but the new policy provided that an inmate "will normally be assigned to Phase II upon satisfactory adjustment to Orientation."<sup>19</sup> It is important to note that DOC officials at the central office indicated to the Study Committee on numerous occasions that they had been considering a similar change in the Phase Program anyway, and that they "therefore didn't really accept anything in the settlement agreement by agreeing to this change." As will be discussed further in Chapter 5, however, the staff at MCC--especially the correctional officers--believed then, and still believe, that this change was "bad" and a "real mistake," that it was "forced upon them" by the ACLU, and that DOC and the Office of the Attorney General "sold us

out" by not litigating the case.

The "privilege" structure for each Phase remained the same, with two exceptions. These were an increase in recreation for all inmates from three hours per week to a minimum of five or six hours per week depending on the season, and the establishment of a new General Reading Library which inmates in Phases II and III were to be permitted to visit. Staff at MCC have been quite concerned about these two changes as well, especially the increased recreation.

The final major requirement of the consent decree which affected the Phase Program was the establishment of a new two-year time limit for successful completion of the program. Even though the inmate does not complete the program in this period, he must nevertheless be reassigned to another correctional institution in the Commonwealth.

## (2) Criteria for Assignment to MCC:

In June 1979, the first document to propose clear criteria for assignment to the facility, The Mecklenburg Correctional Center Assignment Criteria and Program Overview, was prepared. The criteria proposed were included in Departmental Guideline 825 (DGL 825) in July 1979. DGL 825 specified that inmates could be considered for assignment to the MCC "General Population" if they had been found guilty by a court or disciplinary committee of a serious institutional infraction at any of the correctional centers in the Commonwealth. Certain specific infractions were listed: assault with a weapon; sexual or attempted sexual assault through force; rioting; seizing of

hostages; escape through use of force; arson; or extortion.<sup>20</sup> However, DGL 825 also provided additional flexibility by allowing "special consideration on a case-by-case basis" when an inmate was found guilty of a variety of lesser infractions or habitually disruptive major or minor rule violations at other correctional facilities.<sup>21</sup> The criteria for assignment to MCC which were adopted in 1979 in DGL 825 are substantially the same criteria which govern assignment to the Phase Program today.

The procedures for assigning disruptive inmates to MCC are fairly elaborate. In the case of an inmate at any "correctional center" in the Commonwealth (i.e., a major institution or field unit) who is alleged to have committed a serious rule infraction, the inmate may be subject to pre-hearing detention. Normally this involves segregation/isolation of the inmate at the institution where the infraction occurred for a period of ten days or less, pending the initiation of a hearing. The hearing is conducted by the Institutional Classification Committee (ICC) at the facility where the inmate is confined. The ICC at each facility is composed of the Warden/Superintendent and two additional staff members. Depending on the nature of the infraction, the ICC may take a variety of corrective actions. If the committee concludes that the current infraction is one of a particularly serious and/or repetitive nature, a recommendation may be made by the committee to transfer the inmate to the "General Population" at MCC. That recommendation must be based on the criteria set forth in DGL 825. If such a recommendation is made, that recommendation is forwarded to the DOC Central Classification Board (CCB) in Richmond. The CCB is responsible



for initial and subsequent custody level assignment, institutional placement of all newly received inmates in the State system, subsequent transfers of inmates between institutions, and furlough and work release decisions. In the case of transfers to MCC, the ICC's recommendation is reviewed by the CCB. The CCB is composed of three staff members who are assigned to the DOC Classification Unit in Richmond. If the CCB concurs with the ICC recommendation, the inmate is then ordered transferred to Mecklenburg. Data collected in June 1984 indicates that once the CCB order to transfer is issued it takes slightly more than three weeks for the inmate actually to be transported to MCC. Upon arrival, the inmate is initially assigned to the Orientation Phase for a 30-day period. During this initial placement, the ICC at MCC may recommend reassignment of the inmate to another facility if the committee concludes that the inmate is inappropriately assigned; in practice, however, such a recommendation is unlikely, at least initially. After Orientation, most "General Population" inmates are assigned to the Phase Program. If the inmate does not wish to participate in the Phase Program, he is placed in "Segregation," which is, as explained in Section C of this Chapter, essentially the same as Phase I. Upon successful completion of the Phase Program, or the expiration of the two-year time limit, this process is reversed with the ICC at MCC recommending transfer of the inmate to another institution.

### **(3) Profile of "Phase Program" Inmates:**

According to DOC data collected in 1983, the typical inmate

assigned to MCC for the Phase Program is in his mid-20's, serving a sentence in excess of 20 years for an aggressive offense. The inmate has a ninth grade educational level and has no significant history of in-patient mental health treatment. On the average, this inmate has a record of convictions for four or more felonies prior to the offense for which he is now serving a sentence. Prior to assignment to MCC, the inmate had a record averaging 13 convictions for major rule violations in the correctional institutions to which he was previously assigned. The 1983 data also indicated that the majority of these inmates had been at that facility for slightly more than one year. During his placement at MCC, the typical Phase Program inmate had averaged over seven convictions for institutional rule violations.<sup>22</sup>

2. Findings and Recommendations:

a. The Concept of Utilizing a Single Institution to Confine Violent and Disruptive Inmates:

According to DOC documents, from the initial planning stages for the facility until today, the "purpose" of MCC has been to provide separate confinement for the Commonwealth's most disruptive inmates. However, the number of inmates who are classified as such does not now equal, nor is it anticipated in the near future to equal, the total bedspace available at the facility. During its research the Committee noted with curiosity that no specific projection of bedspace need for the "disruptive-type" inmate apparently was included in the planning for the total number of cells to be constructed at the facility.

During October 1984, the Committee conducted a telephone survey of 18 other states to determine if the special purpose

concept of MCC was atypical of the manner in which other states dealt with particularly disruptive inmates. All 18 states reported the existence of a dangerous and disruptive segment of inmates who require specialized maximum security housing similar to that available at MCC. However, these 18 states utilize a wide variety of settings to house this inmate population. Approximately half the states sampled confine all maximum security inmates in a single facility. Their reasons for doing so varied greatly. For example, the Missouri system has only one maximum security institution statewide (whereas Virginia confines maximum security inmates in as many as seven institutions). Other states seemed to feel that centralizing disruptive inmates gave prison officials the potential for more effective control of their behavior. The remaining states in the survey disperse the subject population among two or more institutions in their systems. Among this latter group are our neighboring states of Maryland, North Carolina and Tennessee. Thus, the Committee's survey indicated no significant trend towards or away from a Mecklenburg-type facility for confining seriously disruptive inmates. It is worth noting, however, that one state in our sample, Arkansas, recently completed construction of a single, special-purpose facility for its most disruptive inmate population.

The Committee also examined several state and national reports which discussed the appropriateness of confining disruptive inmates in a single institution. Prominent among them was an August 1978 DOC report, The Mecklenburg Evaluation IV, which examined the impact of the opening of Mecklenburg on the



Virginia correctional system as a whole. That report, written after MCC had been in operation for slightly more than one year, strongly suggested that the existence of the facility had favorably affected other correctional institutions in Virginia. Generally, inmates and staff at the State Penitentiary and the Powhatan and Bland Correctional Centers (primary feeder institutions to MCC) believed there was stricter inmate adherence to institutional rules and a somewhat safer environment in their institutions as a result of the opening of MCC.<sup>23</sup> The Committee found no similar accounts in the national literature which would strongly support or contradict the concept of confining all seriously disruptive inmates in one facility. However, the Committee did note a well-known federal precedent in Alcatraz, which "[i]n addition to [housing] the notorious offenders who gave Alcatraz its reputation, . . . also received inmates whose conduct in other prisons constituted the most serious management problems."<sup>24</sup>

The Committee's review of the literature in Virginia and nationally did confirm, however, that the centralization of large numbers of disruptive inmates in one facility should be expected to be a source of major problems. One article, describing recent attempts in Minnesota to address this issue, indicated that such units should be considered "[a]t best, . . . place[s] of hostile attitudes, tension, and obscenities . . . [and] at worst, . . . place[s] of assault and suicide."<sup>25</sup> Minnesota's experience is illuminating. Despite an initial intent to move away from the centralization of disruptive inmates, Minnesota ultimately decided that

it was necessary to operate a separate unit for such individuals:

"We concluded that it was an error to separate inmates with special behavior problems through extensive physical barriers between them and the staff. Instead of making for a safer, more controlled area, such isolation produces tension and unrest. Yet there are inmates who have the capacity to do dangerous things. It is necessary to have an area in which these people can be safely and securely placed. Such inmates now leave their rooms only on a controlled basis and under the supervision of staff trained to manage difficult inmates."<sup>26</sup> (Emphasis added)

Indeed, data reviewed by the Committee indicated that MCC should be considered among the most dangerous of correctional institutions in Virginia for both staff and inmates. A review of Serious Incident Reports (SIRs) for the most recent five-year period (1979-1984) revealed that assaults, both with and without weapons, by inmates on staff members were significantly higher at MCC than at any other major institution in the Commonwealth. Such assaults occurred approximately once per week during 1979-1984 except for fiscal year 1980-1981, when the rate was somewhat lower. The number of inmate-on-inmate assaults and instances of institutional property damage at MCC provide further evidence of the dangerous character of the facility. During the past five years, inmate-on-inmate assaults at MCC have been significantly higher than in every other institution except the State Penitentiary. Instances of both major and minor property damage at MCC exceeded all other major institutions in the Commonwealth during the same period. Thus, it is clear that disruptive behavior by inmates at MCC is not a new phenomenon. It has occurred at the facility ever since its opening and culminated in the very serious escape and hostage incidents this past summer.

The overwhelming majority of DOC and MCC staff interviewed by the Committee favored the concept of confining the Commonwealth's most disruptive inmates in one facility, although both advantages and disadvantages were noted. In addition to the advantage of reducing disruption at other State institutions, some staff felt that assignment to MCC gave inmates "time out" from their behavior at other institutions. The theory was that some inmates develop a "tough" or "macho" image in order to "cope" at an institution; sometimes, to protect that image, they "act out" in a disruptive manner. An assignment to MCC gives them time out from the necessity to protect their image. Other staff felt that confining the "worst" prisoners in one facility merely caused inmates "to feed upon one another to protect the macho image they developed" at the institution from which they were transferred.

Based on the available research and other information, the Committee could not conclude that the confinement of particularly disruptive inmates in one facility is an inappropriate or unreasonable correctional practice. However, the practice should be expected to be a continuing source of potential problems. In the Committee's view, the key to controlling such an environment is a thoroughly considered plan and program for dealing with the inmates, utilizing personnel specifically trained and prepared for this purpose. The Committee therefore recommends:

**Recommendation 1:** MCC should continue to be used for the confinement of particularly disruptive inmates from other correctional facilities in the Commonwealth. At least one reason for this recommendation is the improved conditions at other correctional facilities which appear to have resulted from the transfer of particularly disruptive inmates to MCC.



The Committee realizes, however, that MCC cannot be used solely for disruptive inmates since the number of such inmates in the Virginia correctional system does not now equal, and according to DOC projections is not in the foreseeable future likely to equal, the number of bedspaces available at MCC. The Committee also recognizes that, in light of space needs elsewhere in Virginia's corrections system, this additional bedspace at MCC cannot remain completely unused. The issue of what to do with this additional bedspace is addressed in later portions of this chapter.

b. The "Phase Program":

(1) Criteria for Assignment and Available Bedspace:

MCC was intended to be a special purpose maximum security facility for the Commonwealth's most disruptive inmates. The Phase Program was designed to treat and resocialize these individuals so they could be returned to the general prison population of other institutions in the Commonwealth. The Committee could find no documentation to indicate that, in planning for the total bedspace to be constructed at Mecklenburg, any projection was made as to what bedspace was in fact needed to accommodate the disruptive inmate population systemwide. A total of 360 beds are available at the facility. A total of 216 (60%) of the facility's beds are dedicated to the Phase Program. The number of inmates assigned to the facility on the basis of classification as disruptive "Mecklenburg-type" inmates has never equaled more than approximately one-half the beds available.

Since no plan or guidelines had been developed prior to 1977 to identify appropriate inmate transfers to MCC, the facility operated for the first two years without established criteria to guide inmate assignments. Criteria developed in 1979 provided both objective guidelines for MCC "General Population" (Phase Program) transfers, as well as discretionary criteria for assignment to that setting. DGL 825 specified that: "In addition to the infractions noted, a transfer of an inmate may warrant special consideration on a case-by-case basis whenever an inmate has been found guilty . . . of one or more of the representative offenses listed below, for which assignment to Mecklenburg would be considered appropriate and beneficial by the Central Classification Board. . . ."27

Personnel interviewed by the Study Committee indicated that inmates assigned to the Phase Program have been transferred to the facility for a variety of reasons. Examples given indicated that repetitively aggressive inmates were in fact being referred to the facility, but so were inmates who were convicted of such lesser infractions as failing on several consecutive occasions to respond to an officer's instruction to "stand for count" (the process by which inmates in a pod are counted). Although the Committee could not clearly document how much inconsistency there is in inmate assignments to MCC, the absence of guidelines for referral in the initial years of operation of the facility as well as the discretionary aspects of the existing guidelines suggest that considerable inconsistency may exist. The Committee also received reports that on a routine basis in past years,

undocumented telephone calls often were made to different Regions and institutions throughout the Commonwealth requesting inmate referrals to MCC. If true, these efforts to fill bedspace at the facility are further evidence of inconsistent placement practices.

## (2) Treatment of Disruptive Inmates:

In October 1984, the Study Committee conducted its own limited telephone survey of 18 other states to determine to what degree they were providing special programming for disruptive inmates. The survey indicated that two-thirds of the states handle these inmates by procedures which are functionally the equivalent of total segregation or lockdown with little programming available and few, if any, privileges. The remaining third of the states surveyed are attempting specialized programming targeted at the subject population. Of those states attempting to "treat" the disruptive inmate, most programs are new or relatively new. The thinking generally expressed was that something had to be done to address the extremely high fiscal and human costs of simply containing and continually recycling this inmate population. Those states which are currently utilizing specialized programming for the highly disruptive inmate are generally applying systems of graduated privileges, or levels, directly associated with positive behavior and successful adjustment. Of the states surveyed, such programming for the dangerous, disruptive population is taking place in Florida, Massachusetts, Missouri, North Carolina, West Virginia, and Wisconsin. South Carolina has developed, but not yet implemented, such a program.



The survey conducted by the Study Committee suggests that a number of states have concluded that an attempt to "treat" the disruptive inmate is an appropriate correctional practice, although not yet a practice which has been adopted by a majority of states. Virginia's attempt to provide treatment programming for the purpose of readjusting inmate behavior to levels acceptable in other correctional facilities appears to be one of a growing national trend.

Interviews with personnel at MCC did not suggest strong support for the Phase Program. Many staff at the Center reported that the program was "not working" and was "ineffective." There appeared to be a variety of reasons for this conclusion. Among them were: repetitive instances of disruptive and assaultive behavior by inmates in the program; the perceptions that the staff was no longer adequately in control of the program as a result of the 1983 ACLU settlement agreement; and a general fear of inmate movement and interaction. Despite the current concerns of personnel at the facility, no staff appeared to question the fundamental goal of "treating" the disruptive inmate. In fact, employees interviewed expressed general support for returning to the original mission of the facility.

Finally, the Committee also reviewed several published and unpublished DOC reports evaluating the behavior of inmates subsequent to their participation in the Phase Program. Although certain methodological limitations arguably exist in the data contained in these reports, the evaluations did indicate a reduction in institutional criminal and disciplinary infractions

by inmates subsequent to their transfer from the MCC Phase Program to another institution when compared to the period immediately preceeding their placement at MCC. The Committee found no comparable research in the national literature.

### (3) Phase Program Design:

The Phase Program at MCC is intended to change the behavior of inmates participating in the program. Much confusion exists surrounding the term "behavior modification." A 1977 article, written by the four individuals who designed the original "Contingency Management Program" for MCC in 1973-74, describes the issue this way:

"For some behavioral scientists all intervention techniques which are derived from experimental psychology belong under the rubric of behavior modification (e.g., Kanfer & Phillips, 1970; Krasner, 1971; Ullman, 1969). Other professionals label only those therapies which are based on a learning model (i.e., respondent or operant conditioning paradigms) as behavior modification (e.g., Bandura, 1969; Milan & McKee, 1974) . . . . In our opinion, therapists should not refer to their specific techniques as behavior modification, except to indicate the goal of altering a client's behavior."<sup>28</sup>

The 1976 DOC MASIT Program Design described the proposal as a self-learning approach.<sup>29</sup> The expressed goal of the Phase Program is to modify inmate behavior to levels acceptable in other institutions.

The fundamental premises of any behavior modification program are: (1) determine what behavior needs to be changed; (2) determine what reinforcers (contingencies) support the behavior; and (3) change the reinforcers to promote desired behavior. In the case of the Phase Program, disruptive/aggressive inmate behavior is clearly the behavior for which change is

desired. The factors which promote the disruptive behavior of these inmates in other institutions are both complex and individualized in nature. Individualized counseling and establishment of a "treatment agreement" with the inmate are means by which these factors may be examined and addressed ("reinforcers determined").

The MCC Phase Program does much in the area of changing or providing different reinforcers, especially when compared to the institutions from which the inmates were transferred. The differences in the physical plant, the amount of contact with other inmates, and the restriction of certain privileges are examples of changed reinforcers.

There are, however, two principal reinforcers which are the essential features of the Phase Program and are designed to direct an inmate's progress through the program. For the program to be effective, these two reinforcers must be viewed as desirable goals which inmates will attempt, through their behavior, to achieve. The first reinforcer is the transfer of the inmate from MCC to another institution upon successful completion of the Phase Program. As currently structured, this goal may be reached in no less than eight months and will, regardless of the inmate's actual progress, be reached at the end of two years. The second reinforcer is the receipt of additional privileges in each successive Phase at the end of specified periods of infraction-free behavior (i.e., the inmate may advance from Phase II to Phase III at the completion of 120 consecutive days of infraction-free behavior).

During its research, the Study Committee had the opportunity



to discuss the Phase Program with psychologists familiar with correctional programming. One of these individuals had in recent years toured MCC and observed the Phase Program in operation. Each of these individuals, in separate interviews, was critical of the behavior modification program as it is being implemented at MCC. They consistently questioned the utility of the two principal reinforcers inherent in the Phase Program design.

In the first instance, they questioned whether the inmate's long-term goal (eight months to two years) of movement to a different correctional facility was sufficient to motivate the inmate to behave appropriately on a day-to-day basis while at the facility. It was suggested that some of the shorter-term, more immediate reinforcers, such as individualized cells or the increased level of staff attention for negative behavior may be of more meaning to some inmates than eventual return to another facility.

The second major element of the Phase Program, compliance with strict institutional rules for periods of 60-90-120 days before increased privileges are granted, was also seriously questioned. The Phase Program was characterized by these individuals as one with an almost entirely negative orientation, rewarding inmates for long-term avoidance of negative, disruptive behaviors--and punishing them severely if they engaged in such behaviors by almost always forcing them to start over at the beginning of the Phase--rather than supporting the development of desirable, adaptive behaviors.

These negative aspects of the Phase Program were described

as inconsistent with the fundamental principles of behavior modification programming. One of the psychologists summarized his conclusions by stating: "One wonders whether it is better not to attempt the [Phase] program at all, than to do it wrong."

Behavior modification programs, particularly in prisons, have been the subject of much controversy for more than a decade, resulting in numerous legal challenges in state and federal courts. The litigation most often has been directed at specific practices of such programs. The START Program at the Federal Bureau of Prisons' Penitentiary in Springfield, Missouri, for example, was the subject of such litigation in 1974. The program was terminated as a result of the court's judgment in the case. Among the major criticisms directed at the START Program were: (1) placement of the inmate in a very restrictive setting, deprived of many privileges, without the individual's voluntary consent; (2) a program emphasis on the absence or suppression of inappropriate behaviors rather than on the promotion of constructive behaviors; and (3) the use of harsh punishment procedures.<sup>30</sup>

These same criticisms have been directed at the Phase Program in litigation involving MCC. The case law, however, is not clear. Indeed, in a 1981 article the Executive Director of the ACLU National Prison Project summarizes the case law this way:

"The courts have been fairly specific on physical conditions, space requirements, and public-health issues. For example, they have ordered specific square-foot requirements for cell sizes, minimum lighting requirements, and so on. However, the court orders regarding programming have usually been vague. They usually indicate that every prisoner shall have the opportunity to participate in educational, prevocational,

vocational programs, and so on without specifying in it particulars, what these programs must be like."<sup>31</sup>

This conclusion is echoed in one of the earliest federal court rulings directed at the Virginia prison system. In Landman v. Royster, 333 F. Supp. 621, 657 (E.D. Va. 1971), the court wrote:

"[T]he time may come in the future when substantial reasons for depriving men of various liberties, to the end that their behavior may be amended, may be presented. 'Prison authorities have a legitimate interest in the rehabilitation of prisoners, and may legitimately restrict freedoms in order to further this interest, where a coherent, consistently-applied program of rehabilitation exists.' Brown v. Peyton, . . . 437 F.2d 1231."

In its telephone survey of other states, the Committee found that a majority of the sample had some experience in implementing behavior modification programs, although most tended to shy away from use of "behavior modification" due to the negative connotations which often are associated with the term. The survey indicated that behavior modification programs currently are being operated in state prison systems in Florida, Massachusetts, Mississippi, North Carolina, Missouri and Wisconsin. The Federal Bureau of Prisons also operates such a program at its penitentiary in Butner, North Carolina. Few of the states surveyed, however, have applied a behavior modification program to their most disruptive inmates. For these reasons the program implemented at MCC may be considered unique, although not inconsistent with practices in other states.

The Committee believes that the goal of treating particularly disruptive inmates for the purpose of returning these inmates to the general prison population of other institutions is a



fundamentally sound policy objective. The Committee also believes, however, that DOC has not fully and effectively implemented a program at MCC which will achieve that purpose.

Numerous factors have compromised the potential for success of the Phase Program. Among them are: the absence of strict inmate referral criteria; clinical design flaws in the program; inadequate numbers of treatment personnel; program limitations implemented as a result of the Brown v. Procunier settlement agreement; and deficiencies in communication among personnel responsible for the program. In addition, previous policy decisions to utilize available bedspace at the facility have resulted in the addition of new and competing programs (e.g., protective custody and the maximum security unit), as well as inappropriate inmate placements in the Phase Program itself (i.e., for reasons other than that the inmate had been "disruptive"). The original intended purpose of MCC has not been given sufficient priority.

DOC must make a fundamental policy decision as to whether disruptive inmates in the Virginia correctional system are to be (1) placed in a special program which seeks to treat these inmates to the point where their behavior changes and they can safely be returned to mainstream correctional facilities, or (2) merely controlled and contained through traditional forms of maximum security segregation. The Study Committee strongly recommends the former, provided that, henceforth, this purpose can be accomplished in an effective manner even in the face of expected and realistic fiscal and technological constraints. The Committee believes that the purposes for which the MCC Phase

# Exhibit 1-B

# **Exhibit 46**

## **Part II**



Program was designed can be achieved for the great majority of inmates who are appropriately assigned to and treated in such a program. It is nevertheless anticipated that a small number of the Commonwealth's most disruptive inmates will remain hopelessly incorrigible, and these few should be dealt with appropriately by placing them in isolation.

It is the Committee's expectation that, if used to its potential, the Mecklenburg Correctional Center could be a model facility in Virginia and nationally.

The Study Committee therefore recommends:

**Recommendation 2:** DOC should continue to place disruptive inmates who have been transferred to MCC in a special program designed to treat these inmates to the point where they change their behavior and can safely be returned to the general inmate population of other institutions in the Commonwealth. DOC should assemble a team to reassess and redesign the MCC Phase Program consistent with appropriate clinical practice. The program team should include DOC personnel responsible for both correctional security and treatment, as well as other individuals with special expertise who are not employees of DOC. A proposed program team and work plan should be submitted to the Board of Corrections by January 1, 1985, for approval. The work of this program team should be completed and a report provided to the Board by no later than July 1, 1985.

**Recommendation 3:** In redesigning the program, particular attention should be given to:

- (a) structuring a more voluntary inmate commitment to participation in the program;
- (b) program management by on-line security and treatment personnel who will be responsible for implementing the program;
- (c) the need for immediate positive reinforcement of inmates who demonstrate appropriate, desired behavior;
- (d) to the extent possible, the provision of

meaningful work opportunities for inmates in the program;

(e) specific, objective criteria to guide classification decisions; and

(f) the need for a process to evaluate and reassess the program to be implemented.

**Recommendation 4:** Although there have been significant improvements in the process for assigning inmates to MCC, the Committee remains concerned that assignment criteria are not, at this time, sufficiently precise. The Committee recommends a further review of the MCC assignment criteria in conjunction with Recommendations 2 and 3 to ensure that only the truly disruptive inmate is transferred to MCC.

**Recommendation 5:** DOC should consider seeking technical assistance and funding from the National Institute of Corrections (NIC) in implementing Recommendations 2-4. NIC currently is soliciting grant proposals for the development of a national model to "guide the management and confinement of disruptive maximum security inmates."

C. OTHER INMATE POPULATIONS AT MCC:

1. Background:

a. Special Purpose Assignments:

DOC Departmental Guideline 825 (DGL 825) (see Appendix B) describes four "Special Purpose Assignments" to MCC: administrative transfers, investigative holds, inmates sentenced to death, and protective custody.

(1) Administrative Transfer:

"Administrative transfers" are inmates transferred to MCC "for [their] own protection or for the protection of others."<sup>32</sup> In practice this assignment is used in emergency situations where there is a need to move an inmate quickly and temporarily from some other institution.

(2) Investigative Hold:

"Investigative hold" covers an inmate "under active investigation by the [DOC] Internal Investigation Unit, Department of State Police, or other law enforcement agencies for any alleged offense [while incarcerated] which poses a threat to the safety to persons or property."<sup>33</sup> DGL 825 does not list example offenses. This assignment can be used to transfer an inmate to MCC or to reassign an inmate already at MCC from some other assignment. Inmates assigned to MCC as "administrative transfers" or "investigative holds" are treated the same as inmates in Phase I of the Phase Program--i.e., they remain in their cells except for individual showers and recreation time.

(3) Death Sentence:

Inmates sentenced to death apparently have been assigned to MCC because of the maximum security nature of the institution and



because the size of the death row population now requires a larger facility than is available at the State Penitentiary if death row inmates are to be confined in one unit. At the time of the Committee's two visits to MCC, only 22 of the State's 28 death row inmates were confined at the facility.

As of October 25, 1984, this figure increased to 27 with the return of five of the death row escapees who had been confined temporarily at the Powhatan Correctional Center and the State Penitentiary for security reasons following the May 31 escape. The 28th death row inmate recently was executed.

There is a television on each side of the death row pod at MCC. Death row inmates are permitted to have certain personal articles (magazines, clothes) in their cell, and they have access to MCC counselors. Ordinarily, for certain periods each day they are permitted out of their cells into the pod day room to talk, play cards, watch television, eat their meals, etc. Since the May 31 escape, however, death row inmates have been on "lockdown"--i.e., they have been confined to their cells except for showers and individual inside recreation time in the pod area. There are no special programs for death row inmates.

#### **(4) Protective Custody:**

Inmates who have "serious personal security needs as determined by the DOC Central Classification Board" in Richmond may be assigned to MCC for "protective custody"--for example, because they were State witnesses, were victims of assaults by other inmates, etc.<sup>34</sup> DGL 825 provides that "[t]hese will be high security inmates who have a documented threatening situation

and not merely weak passive inmates seeking a safe assignment."<sup>35</sup> Normally protective custody inmates remain at MCC for a minimum of six months.

The major "program" for protective custody inmates is the tailor shop on the ground floor of Building #4. About half the protective custody inmates have been found suitable for the program and work in the shop making clothing. Other "privileges" available to protective custody inmates include the television on each side of the pod, permission to keep a limited number of personal articles (magazines, clothes) in their cell, time each day to be in the pod day room, and 5-7 hours of recreation time each week (outdoor recreation if weather and staffing permit; indoor recreation otherwise).

b. Segregation:

"Segregation" is a term MCC officials use for disruptive inmates transferred to MCC from other institutions who do not wish to participate in the Phase Program. According to the MCC Assistant Warden for Programs, some inmates "can't face the fact that they're at the bottom of the barrel," which is what they feel the Phase Program connotes, and they therefore refuse to enter the program. These inmates are confined separately from inmates in the Phase Program, but in terms of "programs" or "privileges," they are treated the same as inmates in Phase I. When the inmate appears to have adjusted to segregation, he often is given an opportunity to "skip" Phase I and proceed directly to Phase II. Thus, the inmate "can deal with his ego" by feeling he was not forced to participate in the Phase Program and believing either that he has beaten the system by "refusing" to

participate and begin at Phase I or that he is being "permitted" to begin at Phase II. The Assistant Warden for Programs reported to the Study Committee that many inmates respond well to this approach and subsequently adjust well to the conditions of Phase II.

The only practical difference between segregation and Phase I is that an inmate is likely to spend a somewhat longer time in segregation than in Phase I before proceeding to Phase II.

c. Isolation:

"Isolation" is an assignment of an inmate to confinement in his cell for a specified period of time by an Institutional Adjustment Committee as punishment for conviction of a violation of institutional rules or procedures. In terms of "programs" or "privileges," an inmate in isolation is treated the same as an inmate in segregation or in Phase I. However, the inmate generally is moved to, and serves his time in, specifically designated segregation and isolation pods (currently two pods in Building #1 and part of one pod in Building #2).

d. Maximum Security Unit:

According to DGL 825, an inmate can be assigned to the Maximum Security Unit at MCC if he meets certain general or specific criteria. The "general criteria" are as follows:

"Inmates selected for assignment to the Maximum Security [Unit] (non-phase) will be those designated inmates who require assignment to a maximum-security setting in [sic] virtue of the danger they represent to the community and/or to persons (staff or other inmates) within the correctional system and who either cannot safely be assigned to another maximum security setting or require the maximum degree of security available within the correctional system."<sup>36</sup>

In addition, an inmate who meets one of the three following



criteria also can be assigned to the unit:

- "1. Sentence in excess of 50 years for a crime(s) of violence.
- "2. Potential escape or attempted escape from a correctional institution.
- "3. Inmates completing the phase-program who cannot be returned to another maximum security setting for any reason."<sup>37</sup>

These criteria "are intended only as representative of the type of factors to be considered and are not to be considered either exhaustive of the criteria to be employed or of such a nature as to automatically result in an assignment to" MCC.<sup>38</sup>

The major "programs" and "privileges" for inmates in the Maximum Security Unit are essentially the same as for inmates in protective custody, with the exception that maximum security inmates are not permitted to work in the tailor shop; instead, those maximum security inmates deemed suitable are permitted to work in the MCC kitchen.

e. Mental Health Unit:

There is a small "mental health" unit (8 inmates at the time of the Study Committee's October 9-10 visit) in a portion of one pod at MCC. Some of the inmates have been transferred to the unit from other portions of the facility by the MCC psychologist because of mental health problems which it is believed can be better dealt with in a separate setting. If the inmate is diagnosed as having a serious psychiatric disorder, he can be transferred to Central State Hospital; most are not so transferred, however. Other inmates assigned to the unit have been transferred from Central State Hospital for "observation" to

determine if they are likely to be able to readjust to a prison setting before being further transferred to another correctional facility. Other than the psychological services provided by the MCC staff and the normal privileges (showers, recreation time, etc.) accorded to Phase I, segregation, and isolation inmates, there are no special programs for "mental health" inmates.

## 2. Findings and Recommendations:

### a. General:

MCC no longer is being used solely for its original purpose--i.e., as a place to confine and control the Commonwealth's most disruptive inmates. There has been a proliferation of "assignments" or "programs" at MCC over the past seven years. Some of those programs seem to have been developed at, or transferred to, MCC in large part merely to meet a need--a legitimate need--for bedspace at other correctional facilities by filling empty cells at MCC. Many of these programs are directed at very different inmate populations and, because of their different goals and requirements, have caused confusion and frustration among both correctional personnel and inmates. The Study Committee is deeply concerned about this proliferation of programs and the resulting confusion and frustration. The Committee is particularly concerned that the special purpose of MCC not be jeopardized merely to meet space needs. Therefore, the Committee makes the following two recommendations:

**Recommendation 6:** The special purpose of MCC should not be jeopardized by the assignment of inmates to the facility primarily for the purpose of utilizing available bedspace.

**Recommendation 7:** The number of "assignment categories" at MCC should be reduced to ensure that the facility will be able to fulfill its original function of being a special purpose facility for the confinement of the Commonwealth's most disruptive inmates.

The subsections which follow discuss specific recommendations with regard to the various MCC "assignment categories" other than the Phase Program.

b. Administrative Transfer, Investigative Hold, Segregation, and Isolation:

Inmates in these four assignment categories have essentially the same "programs" and "privileges" as inmates in Phase I of the Phase Program. Perhaps for this reason, many MCC staff--including both correctional officers and higher ranking staff--were not able to define these four separate assignment categories, to distinguish among them, or to distinguish them from the various phases of the Phase Program. In fact, several correctional officers were not certain of the assignment categories of the inmates in the pod for which they were responsible on the day of the Committee visit. However, correctional personnel were easily able to distinguish between inmates in the Phase Program and inmates on death row, in protective custody, or in the maximum security or mental health units.

The Committee found that, based on the purposes for which they are used, there was good reason to retain the "administrative transfer" and "isolation" assignments at MCC. The Committee also found that the "segregation" assignment was an appropriate and effective alternative for disruptive inmates transferred to MCC who do not wish to participate in the Phase Program. However, the Committee questioned the need to have "investigative hold" inmates



confined at MCC except for those already assigned to MCC before the "investigative hold" assignment was appropriate.

Therefore, the Study Committee recommends:

**Recommendation 8:** "Administrative transfer," "isolation," and "segregation" assignments should be continued at MCC. The "investigative hold" assignment should be discontinued except for the assignment of inmates already confined at MCC before an "investigative hold" assignment was appropriate. If there is to be any difference in the meaning of various assignments at the facility--for example, between "isolation" and "segregation"--then there must be perceivable differences between the assignments. No meaningful distinctions probably can or should be made on the basis of "privileges," such as television, etc. Thus, efforts should be made at least to confine inmates assigned to "isolation" separately from other inmates, and to confine inmates assigned to "segregation" separately from those in the Phase Program. Because of their temporary nature, it does not appear that special steps are needed to confine "administrative transfers" and "investigative holds" separately from other inmates.

c. Death Row:

Although the May 31 escape from death row at MCC might seem to indicate a need to confine inmates sentenced to death in a number of different facilities, the Study Committee does not believe that confinement of death row inmates in other institutions is necessary or advisable.

Death row inmates certainly have an incentive to escape. The Committee is not persuaded, however, that death row inmates are any more inclined to escape than either inmates who already have demonstrated their violent or otherwise disruptive nature at another institution, or maximum security inmates who have been sent to MCC because of a sentence in excess of 50 years for a violent crime. In fact, many MCC correctional staff reported that death row inmates were in general "less disruptive" and "less

likely to get into fights" than many other inmates at MCC. In this regard, it should be noted that 18 of the 24 inmates confined on death row at MCC on the night of the escape decided--for many reasons--not to escape from the facility.

Furthermore, the Study Committee believes that the primary reason for the May 31 escape from death row at MCC was a series of failures on the part of correctional staff at the facility to follow the unit's standard operating procedures. The inmates were aware of laxness on the part of correctional staff in following prescribed procedures and exploited it. Simple adherence to established and well-publicized security procedures would have prevented the escape.

Death row inmates have a right to, and a particular need for, access to law library materials which the Commonwealth is required to provide. Death row inmates also are likely to have more visitors, especially attorneys and paralegals, than other inmates. Thus, because of their unique status, the Commonwealth certainly has a legitimate need to develop special procedures for handling death row inmates. It probably is easier to implement those procedures if death row inmates are confined in the same institution. Furthermore, since it is not uncommon for one attorney to represent more than one death row inmate, a death row inmate's access to counsel is likely to be enhanced if all death row inmates are confined in the same facility--a goal the Commonwealth certainly should support if it can do so without a substantial risk to security.

There always is the risk of unrest among inmates, especially

death row inmates, when another inmate is executed. Thus, the Study Committee believes it would be advisable to confine death row inmates somewhere other than the State Penitentiary, where the electric chair is located. For this reason, because of space constraints at other institutions, and because of the other categories of inmates confined at MCC, the Committee believes it is appropriate to confine all death row inmates at MCC.

There are some disadvantages, however, to confining all death row prisoners in one facility. As a group, death row prisoners probably receive more attention--from the media and others--than other inmates. The greater the attention, the greater the distraction to correctional personnel from other duties. Furthermore, the need for and right to access to legal materials and the larger number of visitors may require more movement of death row inmates than other inmates. The greater the need for movement, the greater the risk to security. Nonetheless, the Study Committee believes these problems can be overcome through the development and proper implementation of special procedures for death row inmates. Therefore, the Study Committee recommends:

**Recommendation 9:** DOC should confine all death row inmates in one facility; that facility should be separate from the one at which inmates are executed. MCC is an appropriate such facility. In general, the Board of Corrections should support DOC's former policy of permitting death row to be operated as a general prison population area separate from the other inmate populations at MCC, rather than requiring death row inmates to remain in "lockdown" (i.e., confined to their cells except for periodic showers and individual exercise times in the pod area). However, in order better to control movement of death row inmates, assure appropriate access to attorneys, and thereby reduce risks to security, DOC and MCC



staff should jointly develop special procedures for handling death row inmates. These procedures should be developed and reported to the Board by January 1, 1985.

d. Protective Custody:

According to DOC guidelines, only those inmates with "serious personal security needs" are to be assigned to the protective custody unit at MCC.<sup>39</sup> Given the fact that the entire facility was designed to provide maximum security and that it is easier to segregate protective custody inmates at MCC and provide them with the necessary protection at MCC than it is at most of the Commonwealth's other correctional facilities, the Committee believes it is appropriate for a protective custody unit to be continued at MCC.

Because of their unique status, protective custody inmates seem to have greater incentive to follow institutional rules and regulations and to refrain from being disruptive. Correctional personnel reported that protective custody inmates were "very little trouble." In fact, many correctional personnel considered assignment to the protective custody unit--currently all three pods in Building #4--as a "time out" or "relief assignment" from dealing with the other inmates at MCC.

Furthermore, unlike the confusion regarding the "administrative transfer," "investigative hold," "segregation" and "isolation" assignments, there seemed to be no confusion among MCC staff or inmates concerning protective custody. This may have been due to the type of inmate in protective custody, but it probably also was due to the building in which they were confined. Building #4 is different from the other buildings at MCC--it is the only one not to have bar grillwork separating the entrance

hallway to each pod from the pod area itself. Heavy Lexan (a clear plastic) doors separate the areas. Lexan is supposed to be unbreakable, but the Committee observed that one of the doors had been cracked and had a small hole in it. MCC staff did not seem to think the use of Lexan doors in this particular building posed a major security hazard. In fact, the doors appeared to serve as a symbol that correctional officers and inmates were indeed in a "different" setting.

There is, however, some risk inherent in this "different" setting. The possibility exists that correctional personnel will become too relaxed and complacent in this "time out" area. The Study Committee found no direct evidence of such complacency but the "time out" attitude expressed by many correctional personnel in describing the protective custody unit caused the Committee concern.

Protective custody inmates viewed relations with correctional officers in general as "good." However, they expressed concern and frustration that following the May 31 escape and the August 4 hostage situation they were placed in lockdown (i.e., confined to their cells) with the remainder of the institution even though they had played no part in either incident. This was particularly frustrating for inmates who had been witnesses for the State--including some in cases against other inmates for assaulting correctional officers--and who therefore felt they deserved "fairer" treatment from the State.

Finally, in addition to the regular "privileges" of recreation time, a limited number of outgoing telephone calls each month, etc., the only "program" available for protective

custody inmates is the tailor shop, where inmates are paid piecework for the clothing they make. The only complaint the Committee received was that inmates would like to be permitted to begin work at 8:00 a.m., the starting time prior to the May 31 escape and August 4 hostage situation, rather than at the current starting time of approximately 9:00 a.m. No complaints were received by the Committee about a lack of "programs" other than the tailor shop. However, the Committee believes that DOC and MCC should explore the potential for other programs for protective custody inmates--e.g., in light of the Committee's recommendation below to eliminate the maximum security unit at MCC, explore the possibility of having protective custody inmates work in the MCC kitchen.

**Recommendation 10:** Because it is easier to segregate protective custody inmates and provide them with the necessary protection at MCC than it is at most of the Commonwealth's other correctional facilities, and because sufficient bedspace is available at MCC, a protective custody unit should be maintained at MCC. DOC and MCC should develop special procedures for handling protective custody inmates, keeping in mind that they are in general not as disruptive as the Phase Program, segregation and isolation inmates, and should explore the potential for programs in addition to the tailor shop for protective custody inmates.

**e. Maximum Security Unit:**

There are several advantages to assigning certain maximum security inmates to MCC. At least in theory, the only maximum security inmates who are assigned to MCC are those who present a potential for danger to other inmates or correctional staff because of (1) their conduct within the correctional system, (2) the nature of the original crime they committed (e.g., a violent



offense for which the inmate was sentenced to more than 50 years), (3) their potential for escape, or (4) the fact that they have just "graduated" from the Phase Program and they "cannot be returned to another maximum security setting for any reason."<sup>40</sup> The facility is designed to provide the appropriate level of security for these inmates. Furthermore, there are crowded conditions at some of the Commonwealth's other maximum security institutions, and there is space available at MCC. Finally, the presence of the maximum security unit at MCC provides a readily available group to work in the MCC kitchen.

However, the Committee believes that the advantages of locating a maximum security unit at MCC are far outweighed by the disadvantages. Both correctional personnel and inmates felt there were a number of serious disadvantages. The Study Committee agrees.

Such disadvantages include:

- ° Two very different types of maximum security inmates are assigned to MCC;
- ° Assignment criteria have been diluted;
- ° It is much more difficult to operate programs for, and grant privileges to, maximum security inmates at MCC than it is at other facilities;
- ° This lack of programs and privileges leads to an attitude problem on the part of the inmates which makes them more difficult to control; and
- ° Correctional officers may have a tendency to relax somewhat in the maximum security areas, where in general there is a less tense atmosphere than in the Phase Program area.

The criteria for assignment outlined above have resulted in at least two very different types of maximum security inmates

being assigned to MCC: (1) hardened "graduates" of the Phase Program who by definition have demonstrated disruptive behavior in the past and, despite completing the program, certainly have the potential for such conduct in the future, and (2) recently incarcerated offenders who were sentenced to long prison terms for violent crimes but who have no prior prison experience. The Assistant Warden for Programs at MCC stated to the Committee that this practice of mixing "inexperienced" inmates with "experienced" and formerly disruptive inmates has led to difficulties and he therefore has had to confine them separately.

MCC staff believe that the Institutional Classification Committees (ICCs) at the institutions from which inmates are transferred and the Central Classification Board have diluted the "potential for dangerousness" requirement, especially the criterion that an inmate must have received a sentence "in excess of 50 years for a crime(s) of violence." Some staff felt this dilution had occurred to take advantage of available bedspace at MCC.

It is much more difficult to operate the same "programs" for, and grant the same "privileges" to, maximum security inmates at MCC than it is at other institutions. Part of the problem is due to lack of staff. For example, no job skills training programs are available for maximum security inmates at Mecklenburg other than for those inmates employed in the kitchen. In addition, MCC has a small counseling staff--two psychologists and seven counselors. It is therefore difficult to provide the often very different types of counseling required by inmates in the Phase Program and those in the maximum security unit.

A great part of the problem, however, is that the facility was designed for segregation and lockdown. Many of the programs and privileges available to maximum security inmates at other institutions such as more recreation and access to the library, involve inmate movement. MCC was not designed for such movement; indeed, inmate movement jeopardizes security. For example, because of the design of the facility, it is much more difficult to give maximum security inmates easy access to the recreation yard at MCC than it is at most other maximum security institutions in the Commonwealth. Correctional officers must accompany inmates from their cells to the yard since permitting inmates to go to the yard without supervision would jeopardize security.

This perceived security problem has been exacerbated by two other factors. First DOC officials indicated that the inmate population statewide is in general becoming more violent as more non-violent offenders are being placed in diversion programs such as community service or are being required to make restitution, rather than being imprisoned. Several correctional officials noted to the committee that while they in theory support alternatives to incarceration for non-violent offenders, they are concerned by the loss of the stabilizing influence such offenders previously provided in the prison setting. Second, the greater inmate movement necessary to meet the terms of the settlement agreement in Brown v. Procunier (see Chapter 5 for a discussion of this settlement agreement) which was signed by the Commonwealth in April 1983, and in particular the increased recreation time required by that decree, already has been difficult for MCC to manage. MCC and DOC staff therefore believed it was not possible



to provide more programs or privileges to maximum security inmates at MCC without seriously jeopardizing security.

In the words of one MCC staff member, "We never were able to realize that we needed to offer a regular maximum security unit program. Instead, we tried to superimpose the Phase Program on the maximum security unit." The result is not only in violation of DGL 825, which provides that an assignment to the MCC maximum security unit "will not involve any participation in the phase program,"<sup>41</sup> it is also a source of both deep frustration to the maximum security inmates and friction between those inmates and staff. One indication of that frustration was the response of maximum security inmates to the lockdown following the August 4 hostage situation: they, like the protective custody inmates, did not take part in the hostage situation; yet they still were subjected to a lockdown just like those who did participate. They felt they were being "made to pay" for the actions of other inmates. This perception leads to a serious attitude problem on the part of the inmates which makes them more difficult to control.

Finally, a number of MCC staff were concerned by what they described as the "flip-flop" problem. The basis for this problem is that maximum security inmates in general are perceived by staff as being much less disruptive than Phase Program inmates, especially those in Phases I and II, and therefore in less need of close scrutiny. One MCC staff member described the problem as follows: "Correctional officers have to remember where they are, and not be too tough in the maximum security unit or too relaxed

in the Phase Program units."

This perception has at least two troubling implications. The Committee believes that maximum security inmates at MCC are generally less disruptive than Phase Program inmates and that there is therefore less tension for staff when they are assigned to maximum security units than when they are on duty in Phase Program units. The Study Committee strongly takes the position that correctional officers should use utmost care at all times regardless of where they are on duty. Nonetheless, the Committee recognizes that settings involving less tension have the potential for being ones in which officers relax somewhat--which is precisely the problem; they may relax too much. Many maximum security inmates still have the potential for being dangerous. Staff should not relax to the point where they become complacent with maximum security inmates; the maximum security unit is not a "time out" or "relief" area.

The other troubling implication is that staff will become too relaxed with Phase Program inmates, perhaps unintentionally. Unlike the protective custody building with its Lexan doors, there is no convenient way for staff to distinguish between maximum security and Phase Program areas. Other than the protective custody pod areas, all pods look approximately the same. The potential for confusion exists. Less than 50% of the current MCC inmate population is in the Phase Program. If correctional officers adopt a more relaxed attitude towards maximum security inmates, there is a serious risk that the same attitude will be adopted towards inmates in the Phase Program.

In summary, the presence of the maximum security unit at MCC

makes the safe and reasonable administration of the facility more complicated and difficult and has been a cause of concern to, and friction among, both staff and inmates. Therefore, the Study Committee recommends:

**Recommendation 11.** The maximum security unit should be moved from MCC unless sufficient personnel and capital outlay funds are made available to enable MCC to provide the same level of counseling services, jobs skills training, and recreation programs as are provided to maximum security inmates at other institutions in the Commonwealth. These inmates could be replaced, for example, by (1) inmates who would be appropriate for the Phase Program, (2) additional protective custody inmates currently confined in other institutions, or, possibly (3) if Recommendation 12 below is implemented, additional mental health inmates from other institutions. The Committee believes this "exchange" can be implemented smoothly if the transfer criteria in DOC Departmental Guideline 825 are properly applied.

**f. Mental Health Unit:**

There are at least two advantages to using MCC to confine inmates who have mental health problems but who are not so seriously ill as to warrant confinement at Central State Hospital or Marion Correctional Center. The first is available bedspace at MCC, which the Committee has indicated previously it believes is not an appropriate basis for assignment to MCC. The second is that the facility is designed for segregation and lockdown and therefore can be used to separate mentally ill inmates, especially those who are also violent, from the remainder of the prison population.

However, several disadvantages to locating the program at MCC were reported to the Committee. The first and most important is



inadequate staffing. The MCC medical and counseling staffs reported that their staffing level was not even adequate to meet the needs of the non-mental health inmate population for psychological and counseling services. Thus, they did not believe they would be able to provide the level of services needed by patients truly suffering from mental health problems.

Second, many correctional staff felt that either the standards for assignment to the mental health unit were unclear or they were being implemented improperly. Instances of inmates "conning" their way into the mental health unit merely to avoid a more stressful environment elsewhere were reported to the Committee. The Committee was unable to determine the truth of these allegations but found it interesting to note that some correctional officers did not seem to realize that reaction to stress could be a mental health problem.

Third, some correctional officers felt that even in a maximum security institution such as MCC it was difficult to segregate mental health inmates sufficiently from other inmates, to the detriment of both groups.

Finally, the mental health unit at MCC is being used as a waystation for the "observation" of inmates who have been confined at Central State Hospital to determine if they can readjust to prison life before transferring them to another prison. Some MCC staff believed that this was not a proper use of bedspace at the facility.

Therefore, the Study Committee recommends:

**Recommendation 12:** A small mental health unit should be retained at MCC for the temporary confinement of MCC inmates who the MCC medical and

counseling staffs determine may have mental health problems. However, unless the additional psychological and psychiatric staff necessary for appropriate and adequate mental health care is made available, MCC should not be used for the long-term mental health care of inmates from MCC or other State correctional institutions. If such additional staffing can be provided, a larger mental health unit at MCC for long-term care of inmates with mental health problems might be appropriate, but such a unit should be a lower priority assignment category for use of space at MCC than the Phase Program and protective custody. Finally, MCC should not be used as a facility for the long-term care of the "criminally insane."

**Recommendation 13:** As long as space in the MCC mental health unit is available, it is not inappropriate for that unit to be used for the temporary confinement of inmates from Central State Hospital or other State correctional facility for the mentally ill to determine if those inmates can readjust to a prison environment before they are sent to another correctional facility.

**CHAPTER 4**  
**MANAGEMENT AND OPERATIONS ISSUES**

**A. INTRODUCTION:**

It is clear to the Committee that a number of management and operations problems existed at the Mecklenburg Correctional Center (MCC) at the time of the May 31 escape and August 4 hostage situation. Many had existed for a long period of time, some since the facility began operations in 1977.

Most of the public discussion of problems at MCC has focused on security problems at the facility. But other serious problems at MCC, and with DOC itself, involving general management and supervision, communication, staffing levels, procedures for terminating unsatisfactory employees, and staff morale also existed and contributed to the occurrence of the incidents at MCC this past spring and summer.

**B. SECURITY:**

**1. Background:**

MCC is located in rural Mecklenburg County approximately 15 miles north of the Virginia-North Carolina border. The facility is a modern, attractive institution, containing seven buildings within an elliptical-shaped perimeter fence. Access to the compound is obtained through a two-story administration building at the head of the perimeter. Four three-story security towers rise at different points around the perimeter. Perimeter security



consists of a combination of fencing, barbed wire, and coiled razor wire. The institution's power plant and a 36-bed Bachelor Officers Quarters (BOQ) are located outside the compound.

Inside the compound, five two-story buildings are used to confine inmates. Each building is relatively self-contained, with three "pods," or housing areas on the second floor. Each pod contains 24 individual cells. Several of the pods, including the Death Row pod, are further subdivided by a concrete block wall into two 12-cell subunits. The first floor of each building provides space for programs, operations and storage. Each building has four control centers--one main control room on the first floor which provides access to the building and a control room for each pod area.

Part of the Study Committee's charge was to examine the "concept and design" of MCC. The issue of physical security was reviewed in detail during the summer by consultants retained through the National Institute of Corrections at the request of Virginia's Secretary of Transportation and Public Safety.<sup>42</sup> The Committee examined these reports in detail and reviewed implementation of the consultants' recommendations by DOC.

The Committee recognizes that issues of management and supervision and other personnel decisions and actions are as essential to the security of a correctional facility as building construction and design. Since the need for improvement of physical security at MCC already was addressed in detail this past summer by outside consultants and currently is being pursued aggressively by DOC, the Committee decided to focus its primary

attention on MCC security policies and procedures, and management, supervision, staffing, and program implementation as they affect security. The latter four areas are discussed in Chapter 3 and in Sections C and D of this Chapter. This section of the report briefly reviews the status of earlier consultant recommendations regarding security, describes certain basic design flaws in the facility, and discusses MCC security procedures.

## 2. Findings and Recommendations:

### a. Consultant Recommendations and Other Efforts to Improve Security at MCC:

In June and July 1984, technical assistance reports prepared by national consultants retained through funding from the National Institute of Corrections were submitted to the Secretary of Transportation and Public Safety. The reports reviewed security and operations of the entire MCC facility, and provided over fifty specific recommendations in these areas. The Study Committee was briefed several times during its deliberation on the implementation status of these recommendations. The major recommendations and either the stage of their implementation or DOC's reason for not implementing them are summarized below.<sup>43</sup>

#### (1) Consultant Recommendations on Equipment and Physical Security

##### ° Procure body alarms for staff in all housing units.

This recommendation is under consideration by DOC for inclusion in its appropriations request to the 1985 General Assembly. The estimated cost to equip staff in all five housing units with the devices is \$70,500.

##### ° Install closed circuit televisions for surveillance of strategic areas where visibility is impaired.

This recommendation is being initiated at an estimated cost of \$375,000. No vendor has been selected, and the date for final installation of the system has not been established.

° Increase utilization of two-way radios.

Additional radios to equip staff during regular shifts have been ordered and are expected to be received within 60 days.

° Install an open intercom system between towers, gates and control centers to assist in monitoring events throughout the institution.

The installation of an open intercom system has not been implemented, although efforts have been directed to improving the operation and utilization of the existing intercom system.

° Install mirrors at strategic locations where blind spots exist.

Mirrors have been installed.

° Install a walk-through metal detector at key traffic points in the institution.

This recommendation has not been implemented because DOC does not consider the walk-through units to be as effective as searches utilizing hand-held metal detectors; the walk-through units also require high maintenance. Procedures have been implemented to increase the frequency of searches with hand-held metal detectors.

° Install smoke detection equipment and a sprinkler system in all inmate housing areas.

This recommendation has not been implemented. DOC believes it may not be feasible. Sprinkler systems will be included in the renovation of eight isolation cells



in Building #1, and are being planned for the tailor shop. Inadequate water supplies and the existing cell construction present major difficulties in installing the recommended system.

- ° Install an electronic intrusion detection system for fence and roof areas.

DOC does not believe this recommendation is necessary in light of other increased steps which have been taken to secure the perimeter of the facility.

- ° Install a gate interlock system on the vehicle entrance to the facility.

This has been accomplished.

- ° Increase the number of recreation yards for the purpose of reducing the number of inmates in one area during recreation, and install handcuff ports in each gate in the yards.

Handcuff ports have been installed in each yard. Plans have been made for expanding the size of the existing recreation yard for Building #5, as well as creating 12 five-foot wide, 25-foot long enclosed individual recreation areas for Building #1 by subdividing the existing Building #1 recreation yard. The estimated cost for the project is \$37,000.

- ° Install security doors on all inmate showers.

This recommendation has not been implemented. MCC staff believe security doors on inmate showers are not needed, based on revised policies for the duration and staff supervision of inmate showers. However, DOC may include the recommendation in its 1986-88 State biennial budget request.

- ° Improve compound lighting by installing at least one high intensity, high-mast light.

The estimated cost for improved lighting is \$144,000, and plans have been made to request an appropriation for the project from the 1985 General Assembly.

- ° Modify locks on staff restrooms adjacent to control rooms in all buildings.

This has been accomplished.

- ° Review locking procedures for housing unit control rooms.

A "sallyport" entrance to a room is a hallway or breezeway separated by two doors. An individual who wishes to enter the room enters the sallyport through the first door, which is then locked behind him before the second door is unlocked. DOC does not consider the installation of "sallyport" doors in the pod areas to be feasible. The recommendation has been addressed by procedures to restrict key access to these areas. DOC also is exploring other alternatives to provide additional structural security to the pod control rooms.

- ° Close off access ports located in control centers, which are accessible from the pod areas.

These "access ports" are small openings between the pod control rooms and the pod day rooms which were intended to assist staff who were in the pod day room in exchanging keys and other equipment with staff in the control room. The problem identified by the recommendation has not been corrected.

- ° Interlock sallyport doors of main control centers in each building.

The main control room on the first floor of each housing unit controls access to the building through sallyport doors. To "interlock" the sallyport doors

means to make certain one door cannot be opened until the other door has been closed and locked. These main control room sallyport doors were designed to interlock, but some of them have not been working properly.

This recommendation is being addressed. The problem identified was not a design flaw, but rather a problem of routine electronic maintenance. Institutional maintenance personnel have now increased their scheduled maintenance, and a shift commander double checks the doors for correct adjustment on a daily basis.

- ° Establish a communications/command center at the facility staffed by Major, Captain or Lieutenant who is securely removed from inmate contact.

This recommendation is being implemented. A request for two additional Captains will be made to the 1985 General Assembly. Capital outlay for enclosing an area of the administration building for this purpose may be proposed by DOC in its 1986-88 State biennial budget request.

- ° Establish additional perimeter security by installing razor wire on the roof of the administration building.

Plans are underway to implement this recommendation at an estimated cost of \$10,000. A request for a special appropriation will be made to the 1985 General Assembly.

- ° Establish a telephone "hotline" to the local Sheriff's Department and the State Police Divisional Headquarters.

Plans are being completed for installation of a "hotline" to the Sheriff's Department, which will relay communications to the State Police during emergencies.

(2) Consultant Recommendations on Operations, Policies and Procedures:



- ° Increase the visibility of MCC administrators and mid-level managers within the institution.

This recommendation is being addressed through regular tours and inspections of the facility by the Acting Warden, Acting Assistant Warden for Operations, Assistant Warden for Programs, and Chief of Security.

- ° Increase emphasis on basic housekeeping and sanitation.

In these areas one consultant described the situation he observed as "best characterized as unacceptable by contemporary standards."<sup>44</sup> The problem was due at least in part to the State cutback in positions authorized for DOC. Much attention has been directed at correcting this problem since this past summer. Two additional custodial staff have been employed, increasing the total number of such individuals to three; they are assigned custodial tasks in the Administration Building, BOQ and other non-inmate contact areas. Housekeeping and custodial duties in the inmate areas are performed by inmates themselves under the supervision of the correctional staff.

- ° Develop specific policy and operations guidelines for agency-wide and institutional security and security audits.

This recommendation has not been implemented but is being addressed in a centralized fashion by DOC as part of the duties of the newly-created Inspector General position.

- ° Specific, functional "post orders" should be developed for each manned post at the institution.

Post orders were available at the time of the consultants' review. They are currently being reviewed in depth and revised and updated as needed, with plans for periodic

reviews in the future.

- Establishment of an Institutional Special Investigator for the facility should be considered.

This position is one of twelve new positions for which authorization will be requested from the 1985 General Assembly.

- Increase the number of shift supervisors by two.

New positions for this purpose are being requested from the 1985 General Assembly.

- Remove the firearm from the officer assigned to the reception area at the main entrance to the Administration Building.

This recommendation has not been implemented. DOC believes continuation of this practice is necessary.

- Increase the number of official inmate counts to five per day.

This recommendation is being implemented.

- Institute a system of "watch calls".

The consultants recommended that shift commanders institute a system whereby correctional staff in the housing units and pod areas would report periodically by telephone or radio to the shift commander in the administration building. This recommendation is being accomplished at regular intervals during non-daylight hours.

- Improve the inmate identification system.

This recommendation is being implemented. Information on and photographs of all inmates have been collected and are kept in a central location for quick access in an emergency situation.

- Upgrade key control and emergency key procedures.

This recommendation is being addressed, but it has been of lower priority than other recommendations. The staff time needed for individual key inventories and the establishment of a key control system delayed implementation.

- Upgrade weapons and equipment inventory and storage procedures.

This recommendation is being addressed.

- Implement a system of security checks and inspections.

This recommendation is being addressed. A regular three-person search (shakedown) team has been established, and unannounced individual inmate searches are being conducted more frequently than in the past.

- Reorganize and revise procedures for Death Row.

This recommendation is being implemented. Detailed procedures have been revised and are being reviewed administratively for approval.

(3) Other Efforts to Improve Security at MCC:

In addition to implementing most of the security recommendations made by the national consultants, DOC has initiated numerous other security measures to improve the security of the physical plant at MCC. Among the more notable of these efforts are: reinforcement of the glassed-in areas of control rooms with bar grill screens in most housing units; reinforcement of outside windows and panels in the administration and medical buildings; plans to secure inmate beds and lockers in individual cells; and substantial repair of the damage done to Building #5 by inmates during the August 4 hostage situation.



Many additional security measures also have been implemented in the form of new staff operations and procedures. These include: the establishment of a three-person search team; the establishment of a 13-person Tactical Team for riot response and supervision of recreation; and the implementation of a new employee identification system.

These improvements in physical plant and security procedures are among more than 80 problem areas identified between July and early September through a security audit conducted by the Acting Warden and his assistants. The Warden's list, submitted to the DOC regional and central offices, included both major and minor security problems and the institution's plans for addressing them. The Study Committee commends the Acting Warden and his staff for the thoroughness with which they conducted the security audit for the facility this summer.

The Committee concluded that DOC is taking appropriate, prioritized steps to implement most of the security recommendations contained in the national consultant reports. Both staff security procedures and security of the physical plant have been improved in recent months, and many additional improvements beyond those recommended by the consultants have been implemented by DOC and the Acting Warden at MCC. Although it was not able to examine in detail all the technical and fiscal aspects of each request for funding DOC plans to submit to the 1985 General Assembly, the requests seemed reasonable and the Committee therefore generally endorses those requests. Thus, the Study Committee recommends:

**Recommendation 14:** Completing the implementation of the security improvements at MCC recommended by the national consultants and DOC staff must remain a high DOC

**priority.** The Board of Corrections should support all necessary and reasonable DOC funding requests for these improvements.

**Recommendation 15:** DOC should be required to report its progress in implementing recommended security improvements to the Board of Corrections on a monthly basis. DOC should also be required to report to the Board any decision not to implement or not to seek funding for a particular recommendation, and the reasons for that decision.

**b. Basic Flaws in Design:**

During its study the Committee did not dwell at length on the issue of physical design of the institution. Continued use of MCC as a correctional institution was, of course, never in question. Since its expertise was not in the area of architectural design, the Committee focused its attention on reviewing efforts to improve the facility's physical plant and security procedures.

Nevertheless, even as laymen, the Committee feels compelled to mention several facility design issues which it found questionable. First, the Committee does not understand why all inmate cells were constructed on the second floor of each housing unit; it appears to be a design flaw. Because of this design, additional travel by inmates through stairways and hallways is required. The Committee wonders why this design was not questioned during the facility planning stages.

In addition, the Committee noted blind spots in some hallways, and in some inmate housing areas where the correctional officer in the pod control room cannot see the doors to several cells in the pod. There also were at one point open spaces under stairwells where inmates could hide. These problems also are design flaws; they have been addressed through the installation of mirrors and the use of cinder blocks and cement to close the open

areas under the stairwells. Again, the Committee wonders why such obvious design flaws were not addressed during planning for the facility or in the first several years of its operation.

According to the national consultants and the State Police Bureau of Criminal Investigation, these design flaws contributed to the May 31 escape and August 4 hostage situation.

c. Security Procedures:

As noted previously, staff compliance with established operating procedures is as critical to maintaining security as is the physical plant itself. Breakdowns in established procedures were in large part the cause of both the May 31 escape from Death Row and the August 4 hostage situation. If correctional officers had counted the Death Row inmates returning from recreation on the evening of May 31, for example, the escape probably would not have occurred. If the inmates returning from recreation on the morning of August 4 had been handcuffed to their belt, rather than having only their wrists handcuffed, they probably would not have been able to subdue the supervising correctional officers and take over the building. Both these security procedures are expressly included in established MCC operating policies and procedures.

Furthermore, based on observations during both its announced and unannounced visits to the facility and other information provided to it, the Committee has concluded that inspections for drugs and other contraband entering the institution may still be inadequate.

DOC must continue to address as a high priority the improvement of security procedures at MCC, as well as consistency in the



implementation of, and strict staff adherence to, those procedures. Steps to improve physical security are being adequately addressed; thus, the Committee believes that the essential ingredient for improved security in the future will be the consistent implementation of, and strict adherence to, MCC security procedures. Appropriate management and supervision by both DOC and MCC, which are discussed in Section C of this Chapter, are the key to ensuring such implementation and strict adherence.

The Study Committee therefore recommends:

**Recommendation 16:** DOC and MCC should be directed to continue as a high priority the development and consistent implementation of, and strict staff adherence to, adequate security procedures for MCC.

Finally, the Committee wishes to make note of one consultant recommendation which DOC has chosen not to implement and to suggest that DOC reevaluate the merit of that recommendation. The consultant recommended the removal of the firearm presently worn by the officer stationed at the reception desk at the front entrance to the Administration Building, outside the security perimeter. The Committee believes this is a sound recommendation. In the Committee's view, as in that of the consultant, the potential value of arming this officer is substantially outweighed by the risk it presents. Thus, the Study Committee recommends:

**Recommendation 17:** The Correctional Officer stationed at the reception desk at the front entrance to the MCC administration building should not be armed with a firearm.

C. GENERAL MANAGEMENT AND SUPERVISION:

1. Background:

Management of the inmate population in Virginia is a hierarchical responsibility in the Department of Corrections (DOC), beginning with the Board of Corrections and the DOC central office and continuing through the regional offices, institutional administrators and line supervisors at the institutions. Accordingly, the Committee reviewed organizational responsibilities and management controls from the top down both to assess why the recent incidents at MCC occurred and to determine if management changes are required to minimize the potential for future such incidents.

There are five basic levels of management responsible for institutions in DOC. They are:

- (1) Board of Corrections -- The Board is a nine-member, part-time citizens board appointed by the Governor. Prior to 1982, it was solely an advisory group. The General Assembly amended the Code of Virginia, effective July 1, 1982, to provide that henceforth the Board would be a policy-making board with the broad responsibility to oversee DOC, set program and fiscal standards for DOC, and, in general, "to monitor the activities and effectiveness" of DOC.<sup>45</sup> The Board was not given additional resources to perform these important and demanding new duties. It still has the same staff today it did prior to July 1982 -- one full-time secretary -- even though it has indicated a need for additional staff since prior to July 1982.
- (2) Central Office (Director, his deputies and support services) -- The Director, through his staff, has Code responsibilities to implement standards and goals of the Board and to supervise and manage correctional facilities.<sup>46</sup>
- (3) Regional Offices (Adult Services) -- The adult correctional system is divided into five regions; each region is managed by a Regional Administrator and staff. The region is intended to be the link between the central office and the institutions.

Regional staff commonly provide administrative support and coordination to institutions, as well as general management oversight. MCC is located in Region II.

- (4) Wardens/Assistant Wardens -- Wardens and Assistant Wardens are responsible for the day-to-day management of an institution. Areas of responsibility are security, administration, operations, and inmate programs. The MCC top management structure includes a Warden, an Assistant Warden for Programs, an Assistant Warden for Operations, and a Chief of Security (Major).
- (5) Line Supervisors (Captains, Lieutenants, Sergeants) -- The line supervisors are responsible for supervision of correctional officers, correctional Corporals, and inmate control and movement. At MCC a Captain is considered the shift commander; a Lieutenant performs administrative work or monitors overall activities for the Captain in the five buildings housing inmates; Sergeants are responsible for supervising activities in one or two buildings. Occasionally, Corporals act as building supervisors.

The Committee believes the executive level of management (the Board and central office) responded quickly and effectively to the recent incidents and remaining management problems at MCC. However, the Committee believes there are inherent structural and organizational problems at each level in DOC that contributed to the situation at MCC.

## 2. Findings and Recommendations:

### a. Board of Corrections/DOC Central Office Relationship:

The incidents at MCC have caused the Board of Corrections to reassess its role and responsibilities. The Study Committee believes that this study has provided the Board with considerable insight into the correctional system, while also highlighting the tremendous difficulties of "monitoring" on a part-time basis, and with only one secretary as its staff, the activities of a large, complex agency. The Board does not have the time available to



review most correctional programs in the depth MCC was reviewed by this Committee. The key to successful Board oversight in the future is access to reliable information, the availability of necessary staff, and an adequate, independent budget. The Study Committee therefore believes strongly that the newly-created Inspector General position for DOC should be included in the Board's budget and should report directly to the Board.

The Board is highly dependent on DOC and its staff to provide it with timely, accurate information on the internal management of the Department. Information on the seriousness of morale and security problems at MCC was not presented to the Board prior to the May 31 escape. Interviews with DOC management officials indicated they also lacked knowledge about the severity of problems at MCC. There had not been what DOC officials would consider enough information (employee and inmate grievances or letters to the central office from MCC staff) which might have alerted them to the existence of serious problems at the facility.

It is understandably quite difficult for the Board or central DOC management officials to be aware of the internal problems of every institution, considering the scope of the agency's responsibilities. However, the Committee believes that the incidents at MCC might have been prevented if the Board and DOC had the appropriate management controls in place. For example, until recently DOC lacked an ongoing central office mechanism to assess the effectiveness of security in institutions. Furthermore, the agency lacks an ongoing, viable internal audit program to assess financial and general management practices. Although an

internal audit unit does exist in DOC, it conducts few routine, planned audits and rarely presents its findings or reports to the Board. Additionally, while the agency has the appropriate management policies in place, presented in such documents as the Departmental Guidelines, no ongoing central assessment is conducted to determine if institutional policies conform to DOC guidelines and are, in fact, followed by the managers and line staff in the institutions.

Recent actions by the Secretary of Transportation and Public Safety and DOC are important first steps in strengthening management controls. Examples of these efforts include: a consultant is currently completing reviews of both physical security and security procedures at each adult institution; additionally, two positions were established, an Inspector General and a Security Analyst, whose duties will include statewide audits of institutional security practices. However, the issue of access by the Board to these individuals and their audit reports has not yet been resolved. The Committee believes that the Inspector General should report directly to the Board to ensure that the person can function independently of DOC, and to enable the Board to act swiftly, in concert with the DOC Director, to correct any deficiencies.

b. DOC Central Office

Development of a strong Inspector General (and internal audit) program should provide central management at DOC with timely, objective information on institutional deficiencies. The Committee is also satisfied that DOC has taken aggressive, concerted actions to improve management problems at MCC, including:

the appointment of, and strong support for, the acting Warden and Acting Assistant Warden; discussions with local community officials about their concerns; an in-depth study of employee concerns and operational issues at MCC; and the initiation of a major review of physical security. The Committee believes, however, that the special attention being provided to MCC by DOC was warranted long before the recent incidents occurred.

The nature of the MCC facility -- a "super maximum security" prison coupled with a special program to control the Commonwealth's most disruptive inmates -- requires constant attention from the DOC central office. The constantly shifting objectives and continuing weaknesses of the institution's Phase Program (see Section B of Chapter 3), as well as the actions at MCC that led to the 1981 lawsuit by, and settlement agreement with, the ACLU, are indicators of a lack of management direction and attention to MCC. Apparently, management concern about MCC did not translate into action until serious incidents occurred there this past spring and summer. The complacency of management in identifying and addressing problems at an early stage was evident in interviews with top officials, as well as in interviews with regional and MCC staff.

The Committee believes that a primary example of misguided and ineffective management of MCC has been DOC's handling of the 1983 ACLU settlement agreement. Rather than accepting the settlement agreement as an integral part of the future operations at MCC, DOC displayed a top-down attitude of disagreement with and indifference to the agreement. This continues to be reflected in the attitude of many officers at MCC, most of whom have never seen



a copy of the agreement (see Chapter 5 for a discussion of the settlement agreement). Management must provide leadership to demonstrate that the institution can operate effectively within the boundaries of the agreement. This can be accomplished by more frequent meetings between the central office and MCC staff, an ongoing training program on the ACLU settlement, and a shift of additional positions to MCC, if necessary, to handle the requirements agreed to by the Commonwealth.

c. Regional Office:

Responsibilities of the Region II office are not clearly defined. Discussions with DOC management, MCC officials, and the Region II Administrator highlighted organizational problems at the regional level that contributed to the incidents at MCC this past spring and summer. These include:

- ° Each regional office is responsible for a number of institutions and programs, making frequent site visits difficult. Region II is responsible for seven field units, two major institutions, nine probation and parole districts and 20 jails.  
(The Committee also noted that recommendations to the General Assembly earlier this year would have further increased this workload by abolishing one of five existing regional offices.)
- ° It is not clear whether the primary objective and mission of the regional office is oversight or managerial support to institutions. In Region II, the staff is oriented to operations (e.g., food

service) and training support, not administrative oversight.

- ° It is not clear how often the Region II Administrator conducts field visits to MCC. Estimates ranged from twice each month to once every four months.
- ° Field visits to MCC by the Region II Administrator do not seem to have a clear purpose. For example, no specific activities or data are reviewed, buildings are rarely inspected, and line officers have little opportunity to talk with the Administrator or his staff.
- ° Regional offices lack timely, accurate, and consistent information on the attendance of institutional personnel at training sessions.

DOC now requires regional administrators and staff to increase their presence in the field. This could be more difficult than in the past since budget cuts effective July 1, 1984 resulted in a loss of regional training officer positions and increased responsibilities for the remaining regional staff. However, considering that the central office will be absorbing certain responsibilities -- security audits and training oversight -- in the near future, the regional administrators and their assistants should be able to increase their presence at the institutional level.

The responsibilities being added to the central office should not be viewed as a reduction in the regional office's authority or responsibilities. The regional offices are responsible for the

adequacy of security, training, and other functions at the institutions in their region. In addition, the regional office must keep the central office better informed of institutional problems. More frequent and clearly focused field visits and group meetings between the Region II Administrator, wardens and superintendents in the Region are necessary to ensure uniformity of management practices in the Region.

d. Institutional Management

Wardens and assistant wardens are responsible for day-to-day management of an institution. Although it may be difficult to know exactly "what is going on" throughout a facility at all times, a warden and his staff are responsible for determining "what is going on" and for developing appropriate management and organizational processes to respond to potential and actual problems.

Responsibility for the administration of MCC is, and should be, a shared one. But it is clear that certain management practices of MCC staff contributed to the institution's recent problems. These practices included:

- ° excessive delegation of authority to and centralization of responsibility in, certain staff;
- ° an inability to provide leadership to staff in resolving concerns over the ACLU settlement agreement;
- ° ineffective communication mechanisms; and
- ° an inadequate balance between security needs and inmate programs.

The Committee's review of consultant reports and extensive interviews with current and former MCC staff indicated that exces-



sive authority was delegated to the Warden's staff and that a great deal of the responsibility for the facility was centralized in one person. The former Chief of Security, a recognized expert in security matters, administered all hirings and promotions of officers and supervisors, developed major security strategies, handled crisis situations, and often acted as a shift commander and building supervisor as well, despite the presence on each shift of Captains, Lieutenants and Sergeants, who are normally responsible for most of these functions. He still performed many of these same tasks when he became the Assistant Warden for Operations. While this may seem appropriate considering the "chain of command" structure within an institution, the lack of knowledge displayed by line supervisors and officers during recent incidents indicates that the Warden lacked appropriate controls to ensure that qualified staff were hired and promoted, and that staff were familiar with security procedures. A review of the personnel files of various supervisors indicated that the Warden provided little written input on the performance of supervisors. Similarly, the Assistant Warden for Programs exercised considerable authority over the Phase Program with little supervision from the Warden and questionable success.

The Committee remains concerned about the continuing pattern by former MCC managers of placing the blame for MCC's problems on others. The ACLU was, and still is, cited as the major cause of institutional problems. Many officers and supervisors "gave up" after the decree, according to former managers. However, one measure of a successful manager is his or her ability to operate effectively within known constraints. The consensus within DOC

from the top down, then and now, is that the decree is workable and should not have a major impact on operations at MCC. This philosophy was not clearly and consistently transmitted to MCC staff through DOC management officials in the central office, at the regional level, or at the institution.

Other communication problems existed as well. While institutional managers provided an open environment for employees to discuss their general concerns, few mechanisms were developed to transmit adequately security and procedural information from management to staff. For example, departmental and institutional procedures for handling bombs, fires, and hostage situations were not communicated to all line officers and staff -- even after the May 31 escape. Similarly, reports of serious incidents were not transmitted between shifts, leaving officers coming on duty unaware of the potential for further serious incidents.

The Committee also questions MCC management's ability to maintain a proper balance between security and programs. Allowing ratios of inmates to guards of 12:2 and 12:3 during open recreation time surely was an invitation to serious incidents. Security and support staff noted inmates often moved freely in hallways after outdoor recreation and that employees who had been on the job as little as two weeks were at times operating control rooms, unaccompanied by a more experienced officer. Most disturbing to the Committee, however, was the decision by MCC management not to order more than a 3-4 day lockdown of the facility after the May 31 escape. Not until the August 4 hostage incident were standard lockdown procedures implemented to regain control of the facility.

The institutional managers at MCC did take a number of positive management actions prior to the escape. Employee concerns were directed to the Regional Administrator by the Warden and openly discussed at the institution. Shakedowns of inmates and cells were conducted prior to the escape. And several of the physical security changes now in place were initiated by former MCC managers. Unfortunately, these actions and others by management at different levels within DOC were inadequate to address the problems at MCC.

While the Acting Warden and Acting Assistant Warden for Operations have earned the respect of most staff through increased communication (roll calls, staff meetings) and changes in security measures, DOC and the new Warden still will face a problem unresolved since the opening of the facility -- how to balance security needs with the need for a degree of inmate movement and involvement in programs. The current lockdown status may be more responsible for improved staff morale and respect for the acting management than any other action taken. But the facility cannot remain locked down forever.

e. Line Supervisors:

The "supervisors" -- Captains, Lieutenants, and Sergeants -- have on-line authority for management of an institution. Only exceptional problems should involve Majors, Assistant Wardens, or the Warden. The recent consultant reports were critical of the skills and practices of line supervisors at MCC. Two different consultants noted that both correctional officers and supervisors consistently failed to follow established written procedures during the recent incidents, particularly the May 31 escape. The



necessary components of supervision -- visibility, communication, exercise of authority, direction to subordinates, problem-solving and decision-making capability -- apparently were sorely lacking at MCC this past summer. Although improvements were noted during the Committee's on-site visits, extensive retraining and in some cases a thorough evaluation of performance may be necessary to improve substantially the quality of supervision.

Among the problems at MCC noted directly by the Study Committee were:

- ° Decisions often are passed up the line, first by Sergeants responsible for a building to Lieutenants and Captains responsible for the shift. This practice may be a holdover from recent organizational practices when the Chief of Security (later an Assistant Warden) operated as a line officer, making many of the decisions normally required of lower level supervisors. As noted by an officer on temporary assignment from another facility: "someone, preferably the Sergeant, should have unquestionable authority in each building; this does not occur here."
- ° The line supervisors with the most day-to-day contact with inmates and direct supervision of officers (Sergeants) receive the least amount of supervisory training in the correctional training program.
- ° Captains, and particularly Lieutenants, often have

more administrative than operational duties to perform, which causes them to spend more time as administrators in the Central Administration building than as supervisors in the five housing units.

- ° Manpower shortages often place supervisors in positions for which they have little experience or training. For example, Sergeants occasionally have served as shift commanders; and on the 12 p.m.-8 a.m. shift, a Corporal is the building supervisor. According to MCC Institutional Operating Procedures, these functions should normally be performed by Captains (or Lieutenants) and Sergeants, respectively.
- ° Many of the supervisors interviewed seemed unaware of basic supervisory requirements -- visibility of supervisors in the buildings remains inconsistent; many supervisors have limited knowledge of major security procedures (e.g., for handling bomb or hostage situations); and few supervisors were able to explain their specific responsibilities and authority, particularly with regard to security.
- ° Performance evaluations of supervisors are not used as an effective management tool. Performance goals are general and easily attained, as evidenced by consistently high scores on the performance evaluation forms for supervisors. Furthermore, supervisors whose evaluations cite the need for

more training in supervisory skills and communication are still rated extremely high, thereby reducing their incentive to improve those skills. Overall, neither DOC's nor the consultants' criticisms of the capabilities of MCC supervisors are reflected in performance evaluations.

Despite these problems, several supervisors appear to be doing an effective job and others may have the capacity for improved performance. Supervisors must be re-educated as to their responsibilities and authority, provided with more opportunities to develop their skills, and held accountable for their performance. If these actions do not result in significant improvements, it may be necessary to return some supervisors to line correctional officer positions.

The Committee therefore recommends:

**Recommendation 18:** MCC should continue to be a top priority of DOC management. A Board of Corrections subcommittee and DOC management should meet with employees at MCC to discuss the findings and recommendations of this report. The Board should also request regular status reports from DOC on the implementation of the various recommendations in this report.

**Recommendation 19:** The reporting relationship of the new Inspector General to the Board of Corrections, the Director of DOC, and the Secretary of Transportation and Public Safety should be clearly defined and established by December 1, 1984. The Committee believes it is imperative that the Inspector General report directly to the Board and be included in the Board's budget. The Board is ultimately responsible for monitoring the activities of the Department and must have the information to do so. In turn, the Inspector General must have the independence and authority to: review security practices; investigate serious incidents; audit financial and management practices; and assist in developing management standards and controls. As is the practice in other State agencies and private institutions, the Committee believes direction and oversight of the audit



function by an agency's Board is the most effective way to ensure this independence and authority. Hiring and evaluation of the Inspector General should be a joint responsibility of the Board and Director, while report distribution should be simultaneous to the Board, Director, and Secretary.

**Recommendation 20:** The DOC regional offices should increase their oversight of field activities. In particular, the Region II Administrator and his staff should have clearly defined responsibilities for implementing this Committee's recommendations specific to MCC. In order to ensure consistency among the regions in management oversight, the Committee also recommends that DOC report to the Board in the near future on the purposes and responsibilities of all regional offices.

**Recommendation 21:** The vacant Warden's position at MCC should be filled by an applicant experienced in both security and programs. The reestablishment of strong security measures initiated by the Acting Warden should remain the focal point of the new Warden during the next few months. Programs, however, are a necessary component of the facility and should be reviewed and refined. The Committee recommends that the new Warden take the following actions, among others, to continue improvements initiated in recent months:

- (a) establish better communication mechanisms;
- (b) develop a management reporting system (e.g. "management by objectives") to ensure that top MCC staff have clearly defined objectives and that, in turn, the Warden can monitor the progress of his staff;
- (c) make certain that the provisions of the 1983 ACLU settlement agreement continues to be integrated into institutional operations;
- (d) revise institutional operating procedures; and
- (e) review the operation of the Phase Program.

The new Warden should be instructed to meet with the Board as soon as practicable to discuss his goals and objectives for MCC and the findings and recommendations of this report. MCC is a special institution which requires continuing Board involvement.

**Recommendation 22:** DOC should take the following actions in order to improve supervision at MCC:

- (a) Revise performance evaluation practices at MCC.

Supervisors need to be retrained to use the employee performance evaluation system effectively. More emphasis should be placed on identifying tangible goals and objectives for a supervisor to meet, and identifying skill deficiencies requiring improvement. The central DOC personnel office should participate in this process.

- (b) Involve line supervisors (i.e. Captains, Lieutenants and Sergeants) in the revision of institutional operating procedures. This action would increase knowledge of procedures by these supervisors.
- (c) Increase individual supervisory training. Group training does not always account for individual weaknesses and constitutes only a short-term solution. (See Chapter 8 for more details).
- (d) Develop written definitions of job requirements specific to MCC for Corporals, Sergeants, Lieutenants and Captains. These should include descriptions of each supervisor's responsibility in specific situations as well as such general managerial duties as the performance evaluation of employees. Most importantly, a Sergeant's responsibility as a "building supervisor" should be well-defined.
- (e) Rotate MCC supervisors to other institutions to increase their knowledge of the correctional system and of more effective management practices.
- (f) Increase the number of Sergeant positions to ensure adequate supervisory coverage on evening shifts. This could be done without staff increases by reclassifying and training several Corporals or by eliminating Corporal position(s).

D. STAFFING ISSUES:

1. Background:

At the direction of the 1984 General Assembly, the Joint Legislative Audit and Review Commission (JLARC) is conducting a long-term study of staffing in DOC. A major segment of the study is security staffing at adult institutions, including MCC. This segment of the JLARC study originally was scheduled to be completed prior to the 1986 Session of the General Assembly. As a result of the May 31 escape of six death row inmates from MCC, however, JLARC decided to submit an interim report on DOC institutional security staffing by December 1984, in time to be considered by the 1985 General Assembly. The study is not limited to MCC and includes such areas as adequacy of manpower assigned to each institution, adequacy of DOC's methods for determining manpower, the appropriate use of security staff (i.e., to perform security rather than non-security duties), and a general review of security procedures. DOC is also conducting an internal review of security manpower levels at adult security institutions and the methodology for determining those levels.

Both the JLARC and DOC manpower studies were underway before this Study Committee was appointed. The national consultants who reviewed the May 31 escape and August 4 hostage situation at MCC also addressed staffing issues.<sup>47</sup> Given the depth of these other manpower studies--especially the JLARC study--and the time constraints of, and other issues to be addressed by, this report, the Study Committee decided to limit the scope of its review to a general examination of staffing at MCC, particularly the methods



used by MCC staff to determine their security staffing needs.

In the Committee's interviews with MCC staff, the most frequently mentioned employee concern was "understaffing." MCC employees generally believe that the institution has insufficient numbers of staff in relation to the type of inmate confined at MCC and the amount of inmate movement which takes place there. Management and employees also raised other staffing issues: turnover and recruitment problems with correctional officers; staff quality; and the use of security personnel to perform non-security duties. The consultant reports focused primarily on these latter issues, although recommendations were made to establish several specific positions at MCC and to expand certain security functions. By reviewing consultant reports, DOC staffing documents, statistics on staffing, and the methods used by DOC to determine staffing needs, the Committee developed several conclusions and recommendations on MCC staffing which are set forth at the end of this section of the report. However, the final decision on MCC staffing needs also should take into account the results of the JLARC study and DOC's internal assessment of MCC staffing needs.

2. Findings and Recommendations:

a. Overall Staffing Levels:

Overall staffing levels (i.e., both security and non-security positions) for each institution are established by the Governor and General Assembly after an assessment of DOC staffing requests. From 1980, when 26 correctional officer positions were added, to June, 1984, authorized staffing levels at MCC (the "manpower

employment level") have been relatively stable. Table 2 illustrates the overall staffing level during the past four years. MCC is currently authorized to fill 335 positions.

The decrease in authorized positions in July 1984, from 346 to 335, resulted from the Governor's recommendations to reduce DOC's overall employment level by 201 positions. Fourteen positions were to be eliminated at MCC, but the DOC central office permitted MCC to retain three positions and absorbed the cuts elsewhere in the Department. The 11 positions abolished were non-security positions.

Within overall staffing levels, DOC has the authority to determine the number of security positions for each institution. The total number of authorized and filled security positions at MCC is illustrated in Table 3. While the number of authorized security positions remained constant over the past four years, MCC recently experienced difficulties in filling vacant positions. The recent vacancies are being filled temporarily with officers from other institutions.

During the Committee's on-site visits to the facility, MCC management was preparing a revised budget request for 1985-86. The request, which is currently under review by the DOC central office, asks for an authorized total employment level (security and non-security positions) of 347, an increase of 12 positions over the current authorized level. Due to time constraints and higher priority issues identified in its charge, the Study Committee did not attempt to validate the exact number of positions needed at MCC. However, the Committee did review in

Table 2

Authorized Positions at MCC<sup>48</sup>

<u>Date</u>	<u>Authorized Positions</u>
7/1/80	320
11/80	346
11/81	344
11/82	346
11/83	346
7/84	335

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Table 3

Security Staffing at MCC<sup>49</sup>

<u>Date</u>	<u>Auth. Security Positions</u>	<u>Filled</u>
7/80	233	Not Available
10/80	259	Not Available
12/81	259	Not Available
12/82	259	250
12/83	259	250
7/84	257	236
9/84	257	223



some detail the methods used by DOC and MCC to project overall staffing needs as well as the justification given for adding 12 positions.

b. Security Staffing Levels:

DOC uses a formal system-wide process to determine authorized security staffing levels at each institution. Institutions determine their staffing needs and submit requests to the regional and central office for review and approval. This process is outlined below:

(1) Institution:

Institutional management conducts a "Post Audit" in two phases. The Warden or Assistant Warden first determines (a) the number of posts essential to the security of the institution and the custody and control of the inmate and (b) the number of hours and days of the week a post must be manned. For example:

<u># Posts</u>	<u># Hours/Post</u>	<u># Days/Week</u>
30	24 hour posts	7 days a week
25	16 hour posts	7 days a week
15	8 hour posts	7 days a week
8	8 hour posts	5 days a week

The institution then applies a formula to each post that takes into account the "administrative" aspects of an employee's job--days off, annual and sick leave, holidays, and training days. The formula--called the "Sharp formula"--was developed by DOC and a consultant (Sharp) in 1975 and updated in 1982. For example, while a 24-hour correctional officer post manned seven days per week theoretically requires only three officers, if the institution only staffed the post with three officers, there would be no one to cover it when one of the officers was sick or

on vacation. Under the DOC formula, a 24 hour, seven day per week correctional officer post therefore requires 5.05 officers (See Appendices C and D for a detailed example).

**(2) Regional Office:**

The Regional Administrator analyzes the request and either asks for a revised post audit or approves the request and forwards it to the Central Office.

**(3) Central Office/Adult Service Division:**

The DOC Deputy Director for Adult Services and his staff review the request from the standpoint of (1) posts essential for security, (2) proper use of formula, and (3) other DOC priorities. Final recommended staffing levels are approved by the Director.

The Study Committee's review of the process by which MCC management estimated its security staffing needs indicated some inconsistencies, which made it difficult to determine accurately MCC's actual staffing needs. Among the problems identified by the Committee were:

- ° The post audit process was inconsistent, was geared too specifically to MCC, with little reference to the criteria used by other maximum security institutions, and was overly subjective.
- ° MCC management failed to apply the Sharp formula properly, due either to a misunderstanding of the formula or an attempt to stay within previously authorized funding levels (i.e., to make certain no more positions were requested than were already authorized).
- ° The Sharp formula does not include overtime as a component. Staff at MCC work a large number of overtime hours.

- ° The justification for all new positions was not adequately detailed.

The Committee reviewed three post audits conducted by MCC-- May 1982, January 1984, and September 1984. Table 4 illustrates the inconsistencies which can occur when a post audit is conducted only by institutional personnel.

Table 4

MCC Post Audits<sup>50</sup>

	<u>May, 1982</u>	<u>January, 1984</u>	<u>September, 1984</u>
24 hour posts/7 days	30	29	34
16 hour posts/7 days	20	23	20
8 hour posts/7 days	9	3	10
8 hour posts/6 days	0	2	-*
8 hour posts/5 days	20	31	37*
8 hour posts/2 days	<u>0</u>	<u>5</u>	<u>-*</u>
Total posts	79	93	101

\*Unclear from data whether all 37 posts were 5 days a week. However, large majority are 8 hour 5 day a week with a few 8 hour, 2 day.

Not only has the number of necessary posts apparently increased during the past two years, but the requested coverage for particular posts also varies significantly. This inconsistency extends to individual buildings.<sup>51</sup>



<u>MCC Building</u>	<u>Manpower Projection (8:00 a.m.-4:00 p.m.)</u>	
	<u>1/84</u>	<u>9/84</u>
Bldg #1	8	12
Bldg #2	7	8
Bldg #3	7	9
Bldg #4	7	8
Bldg #5	7	8

The importance of consistency in determining necessary coverage of a post is illustrated by the examples of an actual and a hypothetical post audit in Table 5. The Sharp formula itself, which tells a manager how to take into account sick leave, training, vacation, etc., when determining staffing levels, generally provides a consistent and objective approach to staffing. However, in the end, manpower requests still are driven by an institutional manager's assessment of the number of posts and amount of coverage for each post which are necessary. The MCC Actual post audit in Table 5 shows the number of 24 hour and 16 hour posts, 7 days a week, which MCC management estimated were needed in 1982. To illustrate how subjective the post audit process can be, the Committee developed a hypothetical post audit. In the hypothetical example, five of the 16-hour posts are shifted to be 24-hour posts. This increases the number of 24 hour posts and in turn increases staffing requirements after application of the Sharp formula. In the example, the difference is 8.45 positions. The key issue then is how management decides the number of posts needed and the hours per day those posts need to be covered. The Committee does not at all question the intent or

Table 5

Actual vs. Hypothetical Post Audit at MCC<sup>52</sup>

1982 MCC Post Audit (Actual)

30 24 hour posts - 7 days a week =  $30 \times 5.05 = 151.50$

20 16 hour posts - 7 days a week =  $20 \times 3.36 = 67.20$

Total positions 218.70

1982 MCC Post Audit (Hypothetical)

35 (+5) 24 hour posts - 7 days a week =  $35 \times 5.05 = 176.75$

15 (-5) 16 hour posts - 7 days a week =  $15 \times 3.36 = 50.4$

Total positions 227.15

Difference: 8.45 positions

professionalism of the MCC staff in carrying out its post audit responsibilities. The Committee's purpose in comparing MCC post audits in 1982 and 1984 and in developing the hypothetical case is to demonstrate the subjective and inconsistent nature of the process.

The Committee is not in a position to justify or refute any of the post audits conducted by DOC or MCC staff. Such an assessment is best left to corrections professionals who must periodically reassess security requirements. However, the Committee is seriously concerned that the inconsistencies in the MCC approach to conducting post audits may be resulting in either an over- or under-estimation of staffing needs. DOC is currently reviewing the MCC post audit system in an effort to ensure greater accuracy and consistency in that system.

A closer examination of the MCC post audit system also caused the Committee to question whether the post audit process and the Sharp formula are being used consistently statewide. The Committee noted, and brought to the attention of DOC management, MCC's inaccurate determination of the number of relief officers necessary to ensure that all administrative aspects of an officer's position are covered (i.e., leave, training, etc.). The Sharp formula was developed to ensure consistency statewide. Yet, in comparing MCC to the State Penitentiary, for example, the Committee noted that MCC's use of the Sharp formula varied significantly from the manner in which it was used by the Penitentiary staff.

Table 6 illustrates that inconsistency between the two institutions. The first two columns show the actual staffing



requests and how those were determined by the two institutions. Apparently, MCC computed the number of required relief officers differently from the Penitentiary. The third column--"MCC (Actual)" is the Committee's computation of staffing needs at MCC, based only on the assumption that the MCC post audit is correct and then applying the Sharp formula properly. Under these assumptions, an increase of 42 positions would be required. The Committee is not recommending this increase since we are concerned about the inconsistencies in the post audit process. The inconsistency also caused the Committee to question why the State Penitentiary is apparently funded and staffed closer to identified needs and MCC is apparently staffed to meet overall DOC budget objectives.

Officials at MCC indicated that their staffing computation (the "MCC" column in Table 6) was developed in consideration of their current authorized employment levels and the likelihood that increases would not be approved, rather than actual requirements. The Committee believes that the judgment on final staffing requests should be made by the DOC central office, not the institution, in relation to other priorities in the Department. Then, the Governor and General Assembly should authorize what is appropriate in relation to statewide priorities.

The Committee also identified a third major staffing concern--neither the post audit process nor the Sharp formula accounts for overtime hours worked by correctional officers or other employees. At MCC, combined overtime and compensatory time hours worked by employees during 1983 equalled the man hours of

Table 6

Post Audits - Use of "Sharp" Formula at  
MCC and VA State Penitentiary<sup>53</sup>

	<u>1984</u>		
	<u>Penitentiary</u>	<u>MCC</u>	<u>MCC (Actual)</u>
Total Positions*	197	189	189
Total Relief Officers	<u>115**</u>	<u>68</u>	<u>110**</u>
Total	312	257	299

\*Number of security positions without considering administrative requirements.

\*\*Computed using Sharp formula for administrative requirements.

approximately ten officers. Thus, including overtime and compensatory time in the Sharp formula's equation would increase actual staffing needs at MCC even higher than the Committee projected.

The Committee noted that MCC already has the highest security officer-to-inmate ratio of adult institutions in the Commonwealth-- 1:1.2 (when using the authorized 257 security positions and the average daily population from 1982-84 of approximately 320). If staffed at 299 (257 + 42 new officers) or higher, MCC security personnel currently would outnumber the 286 inmates at MCC (August 1984).

The Committee is not reluctant to endorse more staff for MCC and the continuation of the high ratio of officers to inmates. As designed and constructed, the facility requires a high staff-to-inmate ratio. In addition, the incidents which occurred at the facility this past summer, the fact that the Commonwealth's most disruptive inmates are confined there, and the high annual number of inmate assaults on staff and other serious incidents all point to high staffing requirements if the facility is to operate effectively. The alternatives are to close the facility or to change significantly the type of inmates and programs there. The Committee does not support either alternative. However, the inconsistent methods used at MCC to project staffing needs and the conflicting information contained in the post audits conducted at the facility over the past several years made it difficult for the Committee to assess properly MCC's actual staffing needs. The Committee fully supports the steps DOC has taken to reassess both MCC's overall staffing needs and its



request for 12 new positions.

Based on its study, including its two on-site visits to the facility, the Committee generally endorses MCC's requests for the 12 positions, although more detailed justification is warranted. The extent of that need is not clear at this time. The results of the JLARC study should be most helpful in making a more accurate determination of the need for additional staffing at the facility, as would a new comprehensive post audit of the facility.

c. Turnover and Recruitment of Security Personnel:

Regardless of the number of correctional officers and other staff actually required to staff the facility, MCC management is likely to have continuing problems filling officer positions.

While supervisory turnover rates at MCC have remained fairly stable, even after the escape and hostage situations this summer, the institution has experienced significant turnover among correctional officers over the past nine months. Recruitment of new officers has become exceedingly difficult despite aggressive recruiting efforts by MCC management and DOC's central personnel office. Table 7 illustrates the stability of the workforce in 1983 and, in turn, the sharp decline in filled security positions from December 1983 to August 1984. While the number of filled correctional officer positions began to decline in early 1984, significant turnover did not occur until after the August 4 hostage incident. At that point, 20 security employees, primarily correctional officers, resigned within a two-week period. Between 1982-1983 and 1983-84, turnover of security personnel at MCC increased from 15% to 33%, even excluding the August 1984 data.

Table 7

Mecklenburg Correctional Center  
FTE Positions Filled54

<u>Year</u>	<u>Month</u>	<u>Security</u>	<u>Non-Security</u>	<u>Total</u>
1982	December	250	90.75	340.75
1983	January	256	91.25	347.25
1983	February	257	92.25	349.25
1983	March	257	92.25	349.25
1983	April	255	92.25	347.25
1983	May	252	91.25	343.25
1983	June	252	91.75	343.75
1983	July	253	91.75	344.75
1983	August	252	90.75	342.75
1983	September	250	89.25	339.25
1983	October	248	89.25	337.25
1983	November	245	88.25	333.25
1983	December	250	86.25	336.25
1984	January	249	84.75	333.75
1984	February	243	83.75	326.75
1984	March	239	82.75	321.75
1984	April	238	82.75	320.75
1984	May	234	84.25	318.25
1984	June	238	80.75	318.75
1984	July	236	72.75	308.75
1984	August	220	73.75	293.75
1984	September	223	71.25	294.25

DOC acted quickly to solve the manpower shortage. Vacancies were filled by transferring correctional officers from other State institutions to MCC on a temporary basis, ranging from two weeks to 90 days. In addition, the Acting Warden and DOC central office initiated an intensive recruiting effort statewide and in the northern portion of North Carolina. Newspaper and radio advertisements and other expensive recruiting devices were used. This first recruiting effort generated only 200 applications, of which approximately 20% were qualified and only 5% offered positions.

The low number of "qualified" applicants is in part due to the stringent background investigation being conducted by the DOC Internal Investigative Unit on all applicants for MCC employment. However, the Committee and many DOC officials also believe the qualified applicant pool in the areas surrounding MCC has been depleted and may remain so for an extended period. Historically, MCC has not had difficulty recruiting from the surrounding community. But during both our interviews with MCC staff and the public hearing with officials from surrounding local communities, it was apparent that the difficulties at MCC had become a major public relations problem, at least as far as recruitment is concerned. Officers are not recommending that family or friends apply for jobs, and local officials indicated many people who may have applied in the past will not now do so because of a fear for personal safety. Several local officials also raised the issue of the quality of both the applicant pool and some current members of the MCC staff, questioning the ability



of local residents who were known to have had difficulty completing high school to function effectively as career correctional officers.

The number of vacancies, the frustrations of current security personnel, the poor public image of both the facility and the position of "correctional officer," and the poor recruitment statistics clearly indicate that staff turnover and recruitment are serious problems confronting MCC. The Committee believes MCC is a unique institution and requires a creative solution to what are likely to be continuing problems in recruitment and the quality of corrections officers.

During the Committee's study, DOC officials proposed that the rotation of correctional officers and supervisors from other institutions to MCC, begun as an emergency measure to meet manpower needs at the facility after the incidents this past summer, be continued. This practice would permanently reduce manpower shortages at MCC, would provide staff from other institutions with on-the-job training in the handling of more disruptive inmates, and would expose MCC permanent staff to new and different perspectives on how other maximum security facilities in the Commonwealth are operated. The Committee strongly endorses this proposal and suggests two other additional steps for consideration: (1) requiring a temporary tour of duty at MCC to be one qualification for officer promotion throughout Virginia's corrections system, and (2) requiring MCC officers also to rotate on a temporary basis to other facilities. However, before either the DOC's proposal or the Committee's suggestions are implemented, a cost-benefit analysis should be completed to determine whether

additional staff would be required for such a rotation system and what the cost would be to build housing or to provide a housing allowance to staff on temporary assignment.

d. Staff Quality:

Throughout the study, numerous comments were made from a variety of sources about the low quality of staff at MCC, both at the supervisory and line-officer level. Evaluating the quality of staff is often a highly subjective process--and certainly is when conducted at a "study committee" level. Even so, the Committee is concerned that the low quality of staff has been exaggerated in the news media. During its interviews, public sessions and tours of the facility, the Committee met a number of MCC security personnel and other staff who exhibited considerable professionalism and an adequate knowledge of security. However, the overall quality of staff at MCC is suspect due to a number of factors, several of which are beyond the control of MCC employees or management:

- ° According to the national consultants who studied the facility, many MCC supervisors and officers are unable to exercise sound judgment in crisis situations and are complacent in following established security procedures.<sup>55</sup>
- ° Of 17 supervisors at MCC, approximately 25% have obtained advanced education, either of a general nature or in a public safety curriculum.
- ° The performance evaluation process at the institution is poorly handled by supervisors.
- ° The institution is relying on inexperienced recruits more than in the past due to manpower shortages, and often is forced to have them occupy sensitive posts at the facility.

- The stated job qualifications for a correctional officer are generally low compared to other public safety positions and job requirements. This problem is exacerbated at MCC due to the depleted pool of qualified applicants.
- Many correctional officers at MCC have never worked in another institution, which dramatically limits their experience and perspective.
- Employees reported that promotions were tied to favoritism and the "buddy" system. The overall quality of supervisors observed by the Committee partially validates this perception.
- Special training on the requirements of working in a maximum security institution is not currently provided to correctional officers at MCC or elsewhere.

Unfortunately, there is no simple answer to improving staff quality. Many of the concerns raised above are discussed in other parts of this Chapter and in other Chapters. Changes in the level of compensation and training for correctional staff, higher standards for promotion, proper use of the State's employee performance evaluation process, and an increase in the qualification standards to become a correctional officer all must occur in order to improve the quality of staff at MCC and other institutions. The rotation of correctional staff to and from MCC, as proposed in the previous subsection, also should improve staff quality.

e. Duties and Assignments for Security Personnel:

A major source of employee concern--and low morale--at MCC was the use of security personnel to perform non-security duties. The Committee identified these duties as being in one of three categories (1) security officers in each housing unit performing



menial low-level tasks in addition to their normal duties, (2) security officers in positions which could be handled by either security or support personnel, (3) security personnel performing strictly support duties.

The first category is the one of greatest concern to the Committee and officers. At the time of our two on-site visits to the facility, correctional officers were washing inmate clothes, mopping floors, and delivering food to inmates. In a number of instances, officers were cleaning up food and other debris (including human waste) which had been thrown on walls, ceilings, and floors by inmates. This contributed to the perception that officers were the servants of inmates and in turn to the low morale of many officers. The Acting Warden noted that the particular group of inmates which would normally perform housekeeping duties were confined in that portion of the institution which was still under "lockdown" (i.e., inmates are confined to their cells except for showers and brief periods of individual exercise time) since the August 4 hostage situation and therefore could not leave their cells.

The Acting Warden has taken several steps to reduce the need for officers to perform these tasks. In September, he received DOC authorization to hire two housekeeping employees. In addition, he has been given funds by the DOC central office to construct a central laundry facility--to be staffed by inmates--in one of the housing units. The Committee fully supports these steps. But more needs to be done. During its unannounced on-site visit in October the Committee observed officers wearing hats

similar to those worn in a "fast-food" establishment, and plastic gloves, serving food to inmates, and other officers mopping the floors in the pod area. The Committee believes it is virtually impossible for correctional officers to maintain a sense of professionalism and pride in their work when they are asked to perform such duties. The Committee does not support correctional officers being asked to perform such duties, regardless of the security reasons or budgetary shortages which may have prompted their assignment.

The Committee did not review in depth the duties of correctional officers assigned to support positions, although we did note several examples. For example, a security officer operates a water supply truck full-time. Employees in security positions should perform security-related functions to the greatest extent possible. This should not, however, be seen as a blanket endorsement to increase the number of security positions at the facility. The fact that some security positions have been assigned support duties should be considered in the reassessment of the MCC post audit.

The Committee reviewed one additional issue relating to security staff duties--functions performed by female correctional officers. Approximately one-third of the security work force at MCC is female. However, female officers are normally assigned to less dangerous posts such as the main control rooms on the first floor of each housing unit and the guard towers along the perimeter of the facility. Reasons for this practice were not entirely clear. Some officers noted serious concerns about having female officers "back them up" in a pod area if the use of force

against an inmate becomes necessary. Regardless of the reasons for the practice, however, post assignments are made more difficult if an inordinate number of male officers are absent on a given shift. One solution is to ask male officers to work overtime, which could lead to the regular use of overtime to fill many of the more dangerous posts at the facility. The assignment of female officers to favored posts also could lead officers to raise questions of equity and discrimination.

f. Recommendations:

Based on its review of staffing issues at MCC, the Study Committee recommends:

Recommendation 23: DOC should be directed to conduct a new Post Audit of security staffing needs at MCC. It should be conducted by a team composed of DOC central office, regional and institutional personnel and at least one team member with special expertise not employed by DOC by February 1, 1985. The current inconsistent post audit process and incorrect use of the "Sharp formula" to determine actual manpower needs at MCC are of great concern to the Committee since accurate staffing levels at this special purpose maximum security facility are of critical importance to the security of the facility.

Recommendation 24: The Board of Corrections should direct DOC to use the new Post Audit of MCC as an opportunity to identify possible systemwide deficiencies in the Post Audit process and in the application of the Sharp formula. This action also may help remove the apparent confusion within both other State agencies and the General Assembly as to what DOC security staffing levels are necessary and appropriate.

Recommendation 25: The new post audit to determine MCC's current staffing needs should consider a number of issues which arise from general observations on staffing made by the Committee during its two on-site visits to the facility. These include:

- (a) whether surveillance equipment (e.g., television cameras mounted on the wall in the hallways outside the pod areas) will lead to a reduction in the need for security positions;



- (b) whether use of a tactical team is the most appropriate method to respond to special security needs, what the appropriate size of the team should be, and what the impact is on overall staffing.
- (c) whether the officer and supervisory staffing level on the 12:00 midnight to 8:00 a.m. shift is too low;
- (d) whether seven transportation officers and two mail room officers are required;
- (e) whether the number of posts to which female officers are assigned should be expanded;
- (f) how soon the use of security officers to do janitorial tasks and administrative support duties can be eliminated.

**Recommendation 26:** DOC should implement a rotation system in which correctional staff from other institutions are rotated periodically to MCC on a temporary basis. Similarly, MCC correctional staff should be rotated periodically to other institutions to enhance their job experiences and broaden their perspectives. A "tour of duty" at an institution other than the officer's "home" institution, and a tour of duty at MCC for every officer in the adult corrections system, should be a factor considered in career progression and promotion.

E. STAFF DISCIPLINARY AND GRIEVANCE PROCEDURES:

1. Background:

The smooth operation of any organization involves a delicate and difficult balance in management-employee relations. Both management and employees need personnel policies and procedures to guide their actions. In addition, in order to supervise and administer an organization effectively, management needs the authority to discipline employees for noncompliance with those policies and procedures--including the authority to suspend, demote, and dismiss where necessary and appropriate. On the other hand, in order to ensure that they are treated fairly, employees first need the opportunity to discuss their problems and complaints with management; if those discussions fail to resolve the matter, employees then need access to a more formal dispute resolution process.

The Commonwealth's personnel policies and procedures governing management-employee relations are contained in the Department of Personnel and Training Policies and Procedures Manual. Authority for management to discipline employees for unacceptable conduct is contained in Policy No. 1.05 of the Manual, "Standards of Conduct." The Standards are intended to establish a fair and objective process for responding to unacceptable conduct, distinguish between serious and less serious conduct, and, in general, limit "corrective action" to unacceptable conduct occurring when the employee is on the job or otherwise representing the Commonwealth in "an official or work-related capacity."

The process established by the Commonwealth to ensure the fair and timely resolution of disputes between State agencies and their employees is the "Grievance Procedure" set forth in the Virginia Personnel Act, Code of Virginia, §§ 2.1-114.5:1 through 2.1-114.5:6, and in Policy No. 1.06 of the Manual. In 1978, the General Assembly created the Office of Employee Relations Counselors as an independent agency reporting directly to the Governor and responsible for establishing a grievance procedure to resolve employee disagreements with management.

As designed by the Office of Employee Relations Counselors, the Commonwealth's grievance procedure consists of three "management steps" and a "panel hearing": (1) a series of verbal and written communications about the complaint between the employee and his or her immediate supervisor; (2) review of the employee's written complaint by the next direct level of management; (3) review by either the agency head or the director of the facility where the employee is employed, whichever is lower; and (4) review by a three-person hearing panel, with one member appointed by the employee, one by management, and one by the other two or, if they cannot agree, by a circuit court judge. Section 2.1-114.5:1(D)(4) of the Code of Virginia provides that "[t]he decision of such panel shall be final and binding and shall be consistent with law and written policies."

The grievance procedure has been subject to ongoing review by the Office of Employee Relations Counselors to ensure that the process is responsive to the needs of employees, management, and the Commonwealth. The procedure also currently is being reviewed by a joint subcommittee of the House and Senate General Laws



Committees pursuant to Senate Joint Resolution No. 38, which was adopted during the 1984 Session of the General Assembly.

2. Findings and Recommendations:

Given the scope of its specific charge and the limited time available for this study, the Committee was not able to conduct an in-depth review of all the various disciplinary and grievance procedure issues which could potentially affect DOC and MCC.

However, the Committee did conduct a limited review of three perceived problem areas:

- (1) Reversals of DOC management decisions by grievance hearing panels;
- (2) Alleged misuse of the State grievance procedure;
- (3) Certain statutory exceptions to the grievance procedure.

a. Reversals of DOC Management Decisions by Grievance Hearing Panels:

Section 2.1-114.5:1(D)(4) of the Code of Virginia provides that the decision of the hearing panel "shall be final and binding." Several persons with whom the Committee spoke noted that DOC management decisions had in fact been reversed in the past and that such reversals were frustrating and demoralizing to DOC staff--management and employees alike--and "undermined the efforts of management to insist that employees adhere to appropriate standards if they wish to continue in correctional service." As one person noted, "In effect, it has become impossible to fire anyone, for incompetence or even criminal conduct."

To determine the validity of these perceptions, the

Committee examined data on DOC employee grievances filed under the State grievance procedure. The data indicated that the number of grievances filed by employees at MCC is in line with the number filed at other comparably staffed DOC adult institutions, and in fact is lower than some: during 1983-84, for example, eight grievances were filed and completed by MCC employees; 23 were filed and completed by employees at Buckingham Correctional Center; 30 at the State Penitentiary; and six at Brunswick Correctional Center.<sup>56</sup> The grievances filed by MCC employees appeared to be routine employee issues, except for grievances filed by two employees who were terminated following the May 31 escape from Death Row and one by an employee who was suspended and transferred after this past summer's incidents. (It should be noted that no grievances were filed in three other terminations resulting from the escape.)

A comparison of DOC with other State agencies indicates that DOC and the Department of Mental Health and Mental Retardation usually have the highest number of grievances each year. The Office of Employee Relations Counselors noted, however, that a high number of grievances does not necessarily reflect poor management, but in the case of DOC probably reflects, at least in part, both the fact that more persons are employed by DOC than by most State agencies and the stressful nature of the work, particularly for correctional officers.

As Table 8 below indicates, DOC has been fairly successful in resolving employee management disputes before they reach the hearing panel stage of the grievance procedure: over the past

three years, approximately 75% of DOC employee grievances were resolved before reaching a hearing panel; 25% were resolved by a panel.

**Table 8**

**DOC Employee Grievances Which Reached the Hearing Panel Stage**<sup>57</sup>

Fiscal Year	<u>1981-82</u>	<u>1982-83</u>	<u>1983-84</u>
# Grievances	186	248	239
% to Panel	28%	13%	26%

These percentages are comparable to those for other State agencies.<sup>58</sup> However, the Committee was concerned about the 13% increase between 1982-83 and 1983-84 in the employee grievances which reached the hearing panel stage. This increase may indicate that DOC management--at the central office, regional, and institutional levels--needs to review its internal processes for handling grievances. The Study Committee therefore recommends:

**Recommendation 27:** DOC should further emphasize training on management and supervisory responsibilities under the State grievance procedure, especially at the first two "management steps" of the procedure, which involve attempts to resolve management-employee disputes at the immediate supervisor and next highest supervisory levels.

Table 9 below indicates that over the past three years DOC management decisions have been upheld in approximately 60% of the disputes which reached the hearing panel stage. During 1983-84, for example, 65% of DOC management decisions reaching the hearing panel stage were upheld. In State government as a whole, however, only 46% of management decisions were upheld.<sup>59</sup> These figures caused the Committee concern.



Table 9

Hearing Panel Decisions on DOC Employee Grievances<sup>60</sup>

Fiscal Year	1981-82	1982-83	1983-84
DOC management upheld	68%	48%	65%
DOC management modified	15%	30%	29%
DOC management reversed	17%	21%	6%

The figures for cases involving termination of an employee are approximately the same as in cases where less-serious disciplinary steps were taken (e.g., suspension, demotion). During 1982-83, DOC management was upheld in 8 of 9 employee termination cases (89%); during 1983-84, management was upheld in 14 of 22 terminations (64%).

A closer examination of these nine termination cases over the past two years in which DOC management was not upheld caused the Committee even more concern. Four of those nine cases involved situations where the employee was terminated after being convicted by a court of a criminal offense: stealing State property (Corporal), petty larceny for stealing State property (carpenter foreman), possession of marijuana and drug paraphernalia (Corporal), and hit-and-run (Correctional Officer). A fifth case was one in which a Corporal was charged with stealing money from an inmate. According to DOC files, the decisions were reversed because of "mitigating circumstances," such as the employee's "good work record."<sup>61</sup>

The Study Committee was told of widespread concern in DOC that the high percentage of management decisions which had been modified or reversed by a grievance hearing panel over the past several years was undermining the effectiveness of DOC management.

The Committee was not able to determine the extent to which the effectiveness of DOC management had in fact been affected by these modifications and reversals. However, the Committee did note with concern that in four of nine cases which involved employee termination and in which management's decision to terminate was not upheld, the employee had been dismissed following a criminal conviction. In a fifth, the employee had been charged with a criminal offense. Cases involving termination generally receive more public attention than non-termination cases, and the failure of a hearing panel to uphold management's decision therefore is more visible in termination cases.

At least two suggestions were made to the Committee for reducing or eliminating the possibility that a DOC management decision to terminate an employee convicted of a criminal offense would be reversed: make the termination mandatory under such circumstances, or transfer the decision-making authority from a hearing panel to some other entity.

It is the Committee's understanding that merely by changing its Departmental Guidelines, DOC could provide that an employee convicted of a criminal offense would be terminated automatically. DOC apparently has elected not to so change its guidelines because it believes both that it would be difficult to determine which offenses should result in mandatory termination and that it should be permitted to exercise discretion in certain cases to consider mitigating circumstances, such as the employee's good work record.

The Committee was not able to study this issue in detail. It therefore is not prepared to recommend that every criminal convic-

tion should result in mandatory termination. However, the Committee believes it is extremely important that correctional staff set a good example both for one another and for inmates. It is difficult for other correctional staff and inmates to understand how a staff member convicted of a criminal offense, especially one involving moral turpitude (such as theft of State property or possession of drugs), can retain his or her position at a correctional facility. Serious morale problems can result. Perhaps mandatory termination is not the appropriate response in every case; perhaps mandatory reduction in pay or rank, or transfer, would be more appropriate, depending on the seriousness of the offense. The issue has not previously been reviewed by the Board of Corrections. It should be. Therefore the Study Committee recommends:

**Recommendation 28:** The Board of Corrections and DOC should explore the possibility of amending DOC Departmental Guidelines to provide that mandatory disciplinary action be taken at least against employees who are convicted by a court or jury of a criminal offense, perhaps with the particular action taken being dependent upon the seriousness of the offense.

A second alternative is to transfer the "final and binding" decision-making authority from a hearing panel to some other entity. A joint subcommittee of the State Senate and House General Laws Committees is currently considering a proposal which would substitute a circuit court judge for the three-member hearing panel in grievances involving employee termination following a criminal conviction or probation in a drug case. A number of objections to this approach have been raised: (1) it in effect delegates all difficult DOC personnel decisions to the circuit courts, since the court hearings contemplated in the



proposal apparently are not intended merely to determine whether the management decision was "arbitrary and capricious" or represented an "abuse of discretion," but instead apparently would result in a new hearing on the merits of the case; (2) it raises Constitutional separation of powers issues concerning the duties of the legislature and the judiciary; (3) it would place a substantial new burden on circuit court judges; and (4) it might make DOC management even more reluctant to take appropriate measures against employees who are incompetent or engage in unacceptable conduct. The purpose of substituting a circuit court judge for a three-member hearing panel apparently is a belief that judges would be less willing to reverse a management decision than a three-person hearing panel. It is not clear that this belief is accurate.

However, there is precedent in the Virginia Personnel Act itself for such judicial involvement. Section 2.1-114.5:1(C) of the Code of Virginia provides that permanent classified employees of the Department of Mental Health and Mental Retardation who are terminated for patient abuse may pursue a grievance through the circuit court "in lieu of a panel hearing" if the earlier internal "management steps" do not resolve the matter. Note, however, that this provision provides an option to the employee of a three-person panel or a circuit court judge to hear the case.

A second suggestion made to the Committee was that a hearing panel's decision should be subject to the review of the "agency head" (in DOC, the Director) who would be given 15 days to modify or reverse the panel decision or it would then become final and

binding.

The advisability of transferring the grievance procedure decision-making authority--at least in cases where an employee has been terminated because of a criminal conviction--from a hearing panel to some other entity has not been reviewed by the Board of Corrections. It should be. The Study Committee therefore recommends:

**Recommendation 29:** The Board of Corrections and DOC should request the Office of Employee Relations Counselors to review the Commonwealth's current grievance procedure--and in particular the hearing panel step of that procedure--to determine whether, in its judgment, reversals of DOC management decisions in cases where the employee was terminated because of a criminal conviction were justified. If not, the Board and DOC should request that the grievance procedure be amended to provide for either (1) the transfer of the final grievance procedure decision-making authority in such cases from the current hearing panel to some other entity or (2) mandatory disciplinary steps against employees so convicted, as described in Recommendation 28.

b. Alleged Misuse of the State Grievance Procedure:

The Committee heard several disturbing rumors about alleged misuse of the State grievance procedure. These rumors are mentioned here only because they have damaged the department. A number of recent incidents involving DOC, including recent events at MCC, were ones in which DOC received highly visible public criticisms. DOC management was rumored to have developed a practice in response to such incidents of (1) taking disciplinary action against employees which would be perceived as favorable by the public (e.g., dismissal) but which DOC "knew" would be reversed by a hearing panel if the grievance were heard after the public reaction had subsided; and of (2) informally telling employees who

could not file a grievance because they were exempt from the grievance procedure that they would be reinstated at some point after public reaction had subsided.

One example reported to the Committee of the former alleged practice was an employee in the DOC central office who was dismissed for making a serious error in projections for the Governor and General Assembly of future DOC prison bedspace needs. DOC indicated that the dismissal "was due because the negligence was so damaging to the Department and the error, if left unnoticed, would have cost the Department 1000's of dollars . . . not to mention the public and political embarrassment." The hearing panel voted 3:0 to reinstate the employee in the same grade level he occupied before the dismissal, with full back pay.

The Committee could not conclude that DOC had in fact dismissed this employee "knowing" or "with the hope" that he would be reinstated. Even rumors of such practices, however, can be damaging to management. Therefore, the Study Committee recommends:

**Recommendation 30:** DOC management and supervisory staff should continue to take only those disciplinary actions against an employee which are deemed appropriate in the circumstances of the particular case. In order to protect DOC management, the Board of Corrections, through the newly-appointed Inspector General, should investigate any allegation that disciplinary action was taken against a DOC "managerial employee," warden or assistant warden for reasons other than that the employee's conduct warranted the action.

c. Exceptions to the State Grievance Procedure:

The Virginia Personnel Act provides that certain employees are not eligible to file grievances under the Commonwealth's



grievance procedure. The two most important exceptions for the purposes of this report are set forth in Section 2.1-

114.5:1(C)(2) and (4) of the Code of Virginia:

"2. Agency heads . . .; [and] 4. Managerial employees who are engaged in agency-wide policy determinations, or directors of major state facilities or geographic units as defined by regulation, except that such managerial employees below the agency head level may file grievances regarding disciplinary actions limited to dismissals."

Subsection (2) would include the Director of DOC; Subsection (4) would include the Deputy and Assistant Directors of DOC and the Warden at each of the major DOC institutions, including MCC, but not the Assistant Wardens or Chief of Security. Thus, the Director of DOC is not eligible to file a grievance for any disciplinary action taken against him. Deputy and Assistant Directors and Wardens may file a grievance only if they are dismissed. Assistant Wardens and Chiefs of Security may file grievances in any case involving disciplinary action against them.

Some members of the Committee were concerned that failure to take disciplinary action for incompetence on the part of "managerial employees" (e.g., the Deputy Directors and Wardens) and their assistants could be rationalized on the grounds that if disciplinary action were taken against the employee, the employee might prevail in a grievance filed to reverse the action. The problem, of course, is that such rationalizations can be--and often are--made at every managerial level in State government.

The Committee was persuaded that many of these problems can be avoided through the proper use of the Commonwealth's perfor-

mance evaluation process (the process for rating employees), which is discussed in Section C of this Chapter, and which will document the incompetence or other personnel problems and therefore make it much more likely that management will be upheld at each of the internal "management steps" and by the hearing panel. However, members of the Committee also believe that Superintendents, and other correctional security personnel with a rank higher than Major, should not be permitted to file a grievance under the State grievance procedure for disciplinary actions taken against them, including termination. Recognizing that this policy would require an amendment to the Virginia Personnel Act, the Committee decided to recommend that the Department of Personnel and Training and the Office of Employee Relations Counselors be asked to review the issue. Thus, the Study Committee recommends:

**Recommendation 31:** The State Department of Personnel and Training and the Office of Employee Relations Counselors should be asked to review the exceptions to the State grievance procedure to determine if the "agency head" and "managerial employees" exceptions should be expanded, with a view to providing that DOC Superintendents, and other correctional personnel with a rank higher than Major, would not be permitted to file a grievance under the State grievance procedure for disciplinary action taken against them, including termination.

**F. STAFF MORALE:**

**1. Background:**

The morale of an organization is often defined as its state of "health." The healthier an organization, the more likely it will attain its goals and objectives. National studies indicate that the nature of correctional work is inherently stressful,

leading to low morale and ineffectiveness in institutions. Keeping these factors in mind, the Study Committee examined the level of morale of the employees at MCC and isolated unusual problems affecting morale.

The Committee reviewed DOC documents relating to morale problems at MCC and conducted follow-up interviews as well as an open forum with MCC staff. Overall, morale has been extremely low for a number of months; this is true despite recent positive actions by DOC, and is likely to remain so without further steps to address real and perceived problems.

## 2. Findings and Recommendations:

The recent incidents at MCC may be partially attributable to low staff morale. Turnover, a strong indicator of morale, increased from 15% at MCC in fiscal year 1982-83 to 33% in fiscal year 1983-84. Apparently officials at MCC became concerned about staff morale soon after the ACLU settlement in April 1983. Documents reviewed by the Committee indicate that their concern increased when significant employee turnover began in early 1984. Staff morale and turnover problems were reported by the previous Warden in correspondence to the Regional Administrator on May 3, 1984, four weeks prior the May 31 escape. The Warden advised that employees indicated the following problems:

- ° workload too great;
- ° lack of control over inmates as a result of ACLU settlement decree;
- ° fear for personal safety and job stress;
- ° concern about compensation because of freeze of merit pay and lack of hazardous duty pay;
- ° lack of support by the "administration";



- ° work schedule;
- ° quality of new employees; and
- ° harassment by supervisors.

Internal steps were initiated by the former Warden in early May 1984--several weeks before the escape--to address these employee concerns (initiating open meetings with employees, paying employees for overtime work rather than merely giving them compensation time, increasing efforts to recruit officers, requesting a DOC review of pay issues).

A DOC-initiated study of morale at MCC began in June 1984 in response to the Warden's May 3 letter and the May 31 escape. The study used an employee survey, conducted in August 1984, to document further MCC employee concerns. The most prevalent concerns were: fear for personal safety; excessive inmate privileges; loss of control due to the ACLU settlement; and pay.

During its on-site visits in September and October 1984, the Committee found morale improved. This appears to be due to a number of recent actions taken by DOC and other State agencies, including: the DOC study of the key stress factors affecting officer morale; meetings with employees by top DOC officials; appointment of an Acting Warden and Acting Assistant Warden (and their efforts to strengthen security and make other internal changes); and the concern shown by the Governor in appointing this Committee. The Committee noted, to a degree, a greater sense of teamwork and cooperation among supervisors and staff during our visits, compared to that reported earlier in the year.

The Committee believes, however, that the improved morale at

MCC is tenuous. While many staff cited improvements in recent months -- particularly in security, workload and communications -- many of the same issues cited earlier were raised. Besides pay (particularly, lack of merit pay) and understaffing, the staff noted problems of poor security practices by certain officers, inappropriate duties assigned to officers (doing inmate laundry, cleaning pod areas), lack of supervisory visibility in the buildings, favoritism in promotion, and sexual harassment. The primary area of concern was the feeling that due to the ACLU settlement agreement, officers could no longer control inmates.

The Committee believes that there is no single answer to improve staff morale at MCC. The institution continues to operate on rumors and hearsay rather than fact. Many of the issues raised by the staff during the Committee's visits have been followed up by the Committee and DOC. Problems that were verified and of a significant nature are addressed in other sections of this report. Whether factual or not, the perception that many issues are factual has undermined DOC's ability to manage the institution effectively. The major issues should continue to receive the attention of the Board of Corrections and DOC. Over time, substantive change must occur in a number of areas in order to improve staff morale.

Thus, the Study Committee recommends:

**Recommendation 32:** Implementation of the recommendations in this report should significantly improve staff morale at MCC. Additional actions should be taken to improve morale and ensure employees do not feel "isolated" or unsupported by the DOC administration. These actions should include:

- (a) Periodic visits to Mecklenburg by DOC officials and members of the Board of

**Corrections -- These visits should be both announced and unannounced and should occasionally include closed meetings with employees.**

- (b) Formation of employee teams -- The establishment of a Tactical Team to respond to situations in which inmates are disruptive and to supervise outdoor recreation is the first step in fostering a teamwork approach to solving problems and operating the facility. Rotating staff assignments to the Team would be an appropriate second step.**
- (c) Involve officers and other security personnel in program planning and management -- Officers have valuable insights into inmate behavior which could be helpful in program planning. Another potential area for staff involvement is in the revision of Institutional Operating Procedures (IOPs). Use of supervisors and staff in this process should result in improved quality of these procedures and greater staff knowledge of them.**



## CHAPTER 5

### IMPACT OF LEGAL PROCEEDINGS

#### A. INTRODUCTION:

Over the past decade there have been an increasing number of cases filed against corrections systems alleging poor prison conditions and guard brutality in many of our nation's correctional institutions, particularly state prisons and local jails. These "prisoner's rights" cases have addressed a wide variety of issues, including: physical safety for inmates, the physical condition of cells, cell space, overcrowding of facilities, public health matters, and access to educational, vocational, and religious programs.

Many state prisons and local jails were in fact in deplorable condition; some still are. Nationally, corrections typically has not been a high priority budget item--until a crisis occurs, such as the prison riot at the Attica state prison in New York several years ago, or a lawsuit is filed by or on behalf of inmates in a facility and a court orders, or the parties settle the case and the state or locality agrees, to make certain improvements in its physical facilities or programs. A large number of courts--state and federal--from all over the country, including here in the southeast, have been willing to order such improvements, and many states and localities have decided not to litigate these cases but instead have signed settlement agreements in which they have agreed to make certain improvements in their prisons and jails. This fact alone is strong evidence that something is lacking in

the physical condition of, and programming available at, many of our nation's prisons and jails.

B. RECENT LEGAL PROCEEDINGS INVOLVING MCC:

1. Background:

a. April 1983 ACLU Settlement Agreement Case:

The Commonwealth's corrections system has not been immune from prisoner's rights litigation alleging poor prison conditions and guard brutality. The two most relevant such cases for the purposes of this report are (1) a suit filed against the Department of Corrections (DOC) in 1979 by a group of inmates at the Powhatan Correctional Center (Powhatan) on behalf of all inmates at the facility, alleging that the conditions of their confinement were unconstitutional; and (2) a suit filed against DOC in September 1981 by inmates at the Mecklenburg Correctional Center (MCC) charging that "the totality of the conditions at MCC falls beneath standards of human decency, inflicts needless suffering on prisoners and creates an environment which threatens prisoners' mental and physical well being and results in the unnecessary deterioration of prisoners confined there."<sup>62</sup> Both cases were filed in Richmond in the United States District Court for the Eastern District of Virginia but were handled by two different federal judges. Neither case went to trial; both were settled.

The former suit was settled by the Commonwealth in 1981 and resulted in a "consent decree" (a decree entered by a court setting forth a binding agreement between the parties to a lawsuit) dated February 12, 1981, in which the Commonwealth agreed to

improve certain conditions at Powhatan.<sup>63</sup> A second consent decree was entered in this case in June 1983 in which the Commonwealth agreed to pay certain damages to inmates who were confined at Powhatan between February 1976 and February 1981.<sup>64</sup> The relevance of the Powhatan consent decree to this report is that it involved an institution comparable in many ways to MCC.

The second case, Brown v. Procunier,<sup>65</sup> was a suit against MCC alleging inhumane prison conditions and guard brutality. The case was filed in September 1981 after almost four years of discussions between DOC officials and representatives from the American Civil Liberties Union (ACLU) National Prison Project in Washington, D.C. concerning conditions at MCC. The case was terminated by a "settlement agreement" (a binding agreement, or contract, signed by the parties to settle a case) dated April 8, 1983. The inmates in the case were represented by two Virginia attorneys and representatives from the ACLU National Prison Project--hence the title "April 1983 ACLU settlement agreement/consent decree case" has been used to describe the case by virtually everyone with whom the Study Committee spoke.

The settlement agreement is quite long (19 pages). Because of the importance so many persons with whom the Committee spoke have attached to this agreement, those of its more important provisions which are most relevant to this report are described below. Among other things, DOC agreed to:

- (1) implement several changes in the Phase Program:
  - (a) Inmates will begin in Phase II, not Phase I, if they "satisfactorily adjust" during orientation.
  - (b) Inmates in a particular phase "normally" will



be reviewed for advancement to the next phase after half the time required for a particular phase.

- (c) "Under ordinary circumstances which will be further defined by the parties," DOC will transfer an inmate to another institution after two years at MCC, even if he did not complete the Phase Program.
- (2) "tighten significantly screening . . . [and] criteria for assignment to MCC."
- (3) develop a written plan for transferring to another facility persons who complete the Phase Program or who are found to be inappropriate for permanent assignment to MCC.
- (4) increase "outdoor recreation" for all inmates except those in special detention categories (e.g., isolation, segregation) to "a minimum of between 5 to 6 hours . . . per week, weather permitting. During the summer months, between 6 and 7 hours of outdoor recreation will be provided, weather and staff permitting."
- (5) "implement by special memorandum from the Director that it will be the policy of the DOC and the staff at MCC not to use excessive or unnecessary force including excessive use of chemical agents, i.e., that such force as may be used will be reasonable."
- (6) continue its current policies and procedures for reviewing "Serious Incident Reports." The DOC Director agreed for a period of one year "to investigate complaints of excessive force [received] from counsel" for the inmates, and "to review 15 past instances of use of force complaints [which are] submitted by counsel" for the inmates and which occurred during the prior two years.
- (7) "use counseling staff with particular training and crisis-defusing skills as resources to resolve problems without the use of force."
- (8) have applicants for positions at MCC be investigated by a special DOC investigator to help screen out applicants who might have "propensities for violence."
- (9) continue its past practice of videotaping "possible serious incidents" for at least the next year.

- (10) "develop a comprehensive plan for the improvement of medical and psychiatric care at MCC." Almost two pages of the agreement were devoted to this issue.
- (11) dedicate one of the five MCC housing units for assignment of non-Phase Program maximum security inmates. "This population will be separate from MCC and will include programming and vocational opportunities similar to other maximum security institutions."
- (12) "make jobs available for all Phase III inmates and for as many Phase II inmates as possible."
- (13) give more out-of-cell time to Phase III and Phase II inmates and permit "[c]ounseling . . . [to] take place as appropriate."
- (14) expand the time for inmate access to the law library, especially for Death Row inmates.
- (15) provide "daily access to newspapers and magazines" unless the inmate misused such materials within the prior two weeks thereby "creating a security or sanitation hazard."
- (16) restore Saturday mail service.
- (17) "review the dietary requirements of adherents of the Nation of Islam" and ". . . . assure the non-contamination by pork of the meals of non-pork eaters."
- (18) permit "group religious activity . . . subject to reasonable staff and security needs as determined by DOC."
- (19) "use reasonable search procedures," but was permitted to continue certain strip searches.
- (20) allow Death Row inmates two non-legal telephone calls per month and unlimited calls to their attorney, and permit them to have family members and certain other enumerated individuals visit them in the MCC visitation area in the administration building.
- (21) "explore the possibility" of college courses for certain inmates.
- (22) "make a good faith effort" to provide more program activities to protective custody inmates.

# Exhibit 1-C



- (23) make a "general reading library" available to certain inmates.<sup>66</sup>

b. October 1984 ACLU Attorney Access Case:

In August 1984, the inmates in Brown v. Procunier (now entitled Brown v. Landon because of the change in a Director of DOC) filed a motion in federal court in Richmond claiming that inmate access to attorneys at MCC was being unduly restricted by institutional management--by unduly delaying the production of inmates once attorneys arrived at the facility; unduly restricting the duration and time of day for attorney-inmate visits; refusing to permit more than one attorney-inmate visit at any given time (many of the attorneys represent more than one inmate); not assuring the confidentiality of an attorney-inmate visit; and "[r]equiring that the inmate interviewed remain with his wrists shackled to his waist."<sup>67</sup> On October 2, 1984, the court enjoined DOC and MCC from engaging in the above practices, except for the last practice, which was permitted if "the Chief of Security at . . . [MCC] determines, in light of the institutional record of a given inmate, that the safety of the institution dictates that the inmate be so shackled."<sup>68</sup> Again because of the involvement of the ACLU National Prison Project, this particular aspect of Brown v. Procunier has become known as "the October 1984 ACLU attorney access" case.

2. Findings and Recommendations:

In the judgment of the Study Committee, the April 1983 ACLU settlement agreement (and to a lesser extent the October 1984 ACLU attorney access order) have taken on an importance in DOC and among employees at MCC which is greatly misplaced and out of

# **Exhibit 46**

## **Part III**

proportion to what the agreement in fact provides. But there is no question that the agreement has had a profound impact on MCC staff morale and on the manner in which, as a practical matter, the institution is now operated. As one Committee member has phrased the situation, "Over the past year, the ACLU settlement agreement has become a reason and excuse for a great deal of what happens or doesn't happen at" MCC.

MCC employees talk in terms of "we were sold out," "the ACLU is running this place," "the prisoners are running this place," "the ACLU agreement won't let us do" certain things such as discipline inmates (which is not the case), "the ACLU requires us to do" certain things such as dedicate one of the two ovens at MCC for the preparation of food to be eaten by inmates whose religious beliefs do not permit them to eat pork (which the agreement does not require). The 1983 ACLU settlement agreement--or more accurately, the myth surrounding it--does indeed seem to "run" MCC, but only because DOC and MCC officials have permitted that to happen. As the United States Supreme Court has stated, "the scope of a consent decree [or settlement agreement] must be discerned within its four corners, and not by reference to what might satisfy the purpose of one of the parties to it." U.S. v. Armour & Co., 402 U.S. 673, 683 (1970). On its face, most of the 1983 ACLU settlement agreement does not seem inappropriate or unreasonable to the Committee. As will be discussed in some detail below, DOC officials agree.

The problem with the agreement is, in general, not its terms; the problem was a lack of sufficient and effective communication about the agreement within DOC and the resulting attitude which



developed. The Study Committee made no findings with regard to DOC or MCC compliance with the 1983 ACLU settlement agreement. The Committee's sole focus was on the communication about, and acceptance of, the agreement within the DOC hierarchy. The major communication was between (1) the DOC central office and the Office of the Attorney General, which represented DOC and the Commonwealth in the case, on the one hand, and (2) the Region II office, MCC management, and individual MCC correctional officers and other employees on the other.

The Director of DOC and other officials in the central office indicated to the Committee that they did not have serious problems with most of the terms of the agreement. Their major concerns were with items (1)(b) and (c), and (4) in the list above: reviewing Phase Program inmates for advancement at a faster pace than in the past; the two-year time limit on an inmate's participation in the program; and the regional increases in recreation.

DOC officials were concerned about moving inmates through the various phases of the Phase Program too quickly because they did not believe inmates would adjust sufficiently in a shorter period of time or, more importantly, that inmates would not be in a phase long enough for the MCC staff to make a judgment as to whether they had adjusted sufficiently.

DOC officials also were concerned about transferring Phase Program inmates from MCC after two years even if they had not successfully completed the Phase Program. This concern was based on a fear that the incentive for an inmate to participate in the

program would be substantially reduced if he knew he would be transferred to another facility after two years even if he never participated in the program.

The increase in outdoor recreation time greatly concerned DOC officials. Their concern was one of manpower. DOC agreed with MCC management that it would be difficult to provide all inmates with the additional increased outdoor recreation time required by the agreement with the current level of staffing at MCC.

Most DOC officials with whom the Committee spoke thought the majority of the remaining terms of the agreement were either reasonable, or at least acceptable. However, it is clear that this attitude was not passed on to the Region II office or to MCC management and staff. Indeed, MCC management and staff have the impression that the DOC central office only grudgingly accepted the agreement.

By way of example, officials in the DOC central office told the committee that they "hadn't really given up anything" on item (1)(a) above--starting Phase Program inmates in Phase II rather than Phase I if they satisfactorily adjust during orientation. According to these DOC officials, "we had been thinking for some time about doing that anyway." MCC management and staff believed in August 1983, and still believe, however, that it is a "bad thing" and a "real mistake" to start Phase Program inmates in Phase II and, more importantly, they believe that the DOC central office agrees. Once again, there is a major communication gap.

In the judgment of the Committee, greater efforts should have been made by the DOC central office and the Office of

the Attorney General to inform all MCC management and staff of the terms of the agreement and their implications and potential impact on their duties and responsibilities at the institution.

The former Warden of MCC reported to the Committee that on the day the case was settled, he had heard a rumor that a settlement had been reached. Since he had not been contacted by either the DOC central office or the Office of the Attorney General, he called the attorney from the latter office who had been responsible for the case and was told that a settlement had been reached, had the agreement explained to him briefly, and was told that the attorney would drive down to MCC (approximately a 1 1/2-hour drive) the first thing the next morning to explain the agreement to him in detail. The next morning, the attorneys for the inmates arrived first and distributed copies of the agreement to inmates. The former Warden told the Committee that he and many correctional officers received their first copy of the settlement agreement from the inmates.

The agreement was explained later that day to the Warden and his staff by a representative from the Office of the Attorney General, and at some later time efforts were made by the DOC Director and the Deputy Director of DOC Adult Services to explain the agreement to MCC staff. It was clear, however, from the Committee's discussions and interviews with MCC staff that the staff still did not understand the terms of the agreement. Rumors seemed to be the basis of what most staff members knew about the terms; very few staff members seemed to have had a copy of, seen, or read the actual agreement.

The Study Committee believes that the failure to provide more



and better information more rapidly was one factor that caused the serious deterioration in morale which has occurred at the facility over the past year. It may also have had an indirect effect on the increased laxness on the part of security staff in the observance of security procedures which developed over at least the past year and was the major factor contributing to both the May 31 escape and August 4 hostage situation.

Finally, DOC indicated that an individual in the DOC central office had been given the responsibility for monitoring MCC acceptance and implementation of the agreement. A similar approach, with a different individual, had been used with success during the implementation of the 1981 consent decree involving Powhatan. According to DOC management, acceptance of the Powhatan decree had gone smoothly. The Committee believes that the DOC central office did not provide sufficient guidance to the individual in the central office responsible for monitoring MCC acceptance of the 1983 settlement agreement.

Thus, DOC officials took the position that they had communicated their position accurately to MCC management and staff and were monitoring MCC compliance; the problem in their judgment was "an attitude problem down there." Even if true, the Committee still believes it was the responsibility of the DOC central office to change that attitude. If their message to MCC management and staff was not being communicated effectively or was not having its intended impact, then it was the responsibility of the DOC central office and the Region II office to correct the situation.

DOC does not report to the Office of the Attorney General.

Committee recognizes that as such, the attorneys representing DOC in the case had only very limited formal authority and ability to affect DOC's response. However, the Committee believes that greater efforts should have been made to ensure that DOC was fully informing MCC management and staff about the content of the settlement agreement and its potential impact on MCC.

The Study Committee therefore recommends:

**Recommendation 33:** DOC personnel--from officials in the DOC central office to correctional officers in individual institutions--should receive additional and more detailed training in the developing area of "prisoner's rights" law so they are better informed as to their rights and obligations under the law as correctional personnel and can therefore better perform their responsibilities. The Office of the Attorney General should be asked by the Board of Corrections and DOC to assist in this training.

**Recommendation 34:** The Board of Corrections should direct DOC that, whenever a court order is entered against, or a settlement agreement is signed by, the Commonwealth directing that conditions or programs at a DOC institution be changed, management officials at the DOC central office, regional office, and at the affected institution, as well as all correctional staff at the affected institution, should be fully and immediately informed by DOC of the requirements of that order or decree. The Office of the Attorney General should be asked by the Board of Corrections and DOC to assist in this process.

**Recommendation 35:** Each DOC management level--from the DOC Director to the Warden of each affected institution--must make it clear to all affected DOC employees that DOC expects to comply fully with any court order entered against, or settlement agreement signed by, the Commonwealth which may affect DOC or its individual institutions.

**Recommendation 36:** DOC should be directed to review its procedures for ensuring full compliance with any court order entered against, or settlement agreement signed by, the Commonwealth affecting DOC or its individual institutions.

**Recommendation 37:** The Study Committee made no findings with regard to DOC or MCC compliance with the August

1983 ACLU settlement agreement or the October 1984 ACLU attorney access order. DOC management should be directed to (a) make certain that DOC and MCC are in compliance with both the 1983 agreement and 1984 order, and to (b) file monthly reports with the Board on that compliance.





## CHAPTER 6

### INMATE-STAFF INTERACTION

#### A. INMATE-STAFF RELATIONS:

##### 1. Background:

During its study, the Committee focused attention on the quality of inmate-staff relations at MCC. Many factors affect these relations. There is a high level of tension among and between staff and inmates at MCC, due in large measure to the series of incidents over the past several months, the extended "lockdown" of most inmates (i.e., almost 24 hours per day confinement to their cells), and the increased emphasis by staff members on security and control. However, it also is partially due to the structure of the facility, which is better designed for keeping inmates in lockdown than it is for handling the movement of a general prison population. Indeed, inmate movement at MCC creates security risks unless inmates are accompanied by correctional staff. Thus, the very design of MCC may cause greater staff-inmate interaction than would be necessary at other maximum security facilities in the Commonwealth.

On the second day of its September visit to MCC, the Committee arranged personal interviews with nine inmates at the institution. The inmates were randomly selected by the Committee from a list of inmates present at the facility on that day. These inmates had been confined for varying amounts of time at MCC, and were assigned to differing buildings and programs. The Committee also talked informally with inmates during its October

visit, and reviewed video-taped "serious incidents" from the past several years, written incident reports for a five-year period, and inmate grievance reports for the past two years.

2. Findings and Recommendations:

The Committee's interviews with inmates occurred at a time when most inmates at the facility had been on general lockdown status for an extended period--most since early August--as a result of the incidents at the facility this past summer. The lockdown status, and the resulting decrease in privileges, was the most frequent concern voiced by the inmates the Committee interviewed. The view generally expressed was that the restrictions were unfairly imposed on inmates who had not been responsible for the recent incidents. For example, an inmate from Death Row, who had had the opportunity to leave during the escape but did not do so, felt that the restrictions on recreation, which had been in effect for Death Row since May 31, were unreasonable--especially in light of the fact that the recaptured escapees, who were temporarily housed at other correctional facilities in the Commonwealth before their return to MCC, had in his opinion received more opportunities for recreation than those who had remained at MCC and not escaped.

The Committee also asked each inmate his view of the frequency of physical or verbal abuse of inmates by staff and vice versa. The Committee received generalized complaints about staff physically assaulting inmates, with particular reference to the in-depth searches of the facility ("shakedowns") in July. The nature of these complaints, combined with its own observations, review of the "serious incident" video-tapes, and interviews with



staff, indicated to the Committee that serious physical abuse of inmates was not a frequent or substantial problem at Mecklenburg. However, the Committee does have some concern that the institution may be over-disposed to using force and physical restraint in some instances--e.g., physically removing an inmate from his cell for failure to comply with a staff instruction, when the inmate is neither threatening, nor inflicting, injury on himself or others. The inmates also indicated that staff directed a high level of verbal abuse toward them, and seldom communicated with them in a positive, constructive manner. Although it believes that the inmate complaints in this area were excessive, the Committee is reasonably convinced that a number of staff members routinely interact with inmates in a cursory, swearing and baiting manner intended to promote an excitable inmate to become disruptive.

Taken as a whole, the Committee believes that the inmate reports on the frequency of inmates assaulting staff members were reflective of the true situation. The inmates the Committee interviewed indicated that verbal abuse of officers by inmates was a constant occurrence. Indeed, this was evident throughout the Committee's tours of the housing units, although it clearly would be a mistake to indicate that such actions characterize all the inmates. The inmates also acknowledged the prevalence of physical assaults on staff, although the inmates reported, and the Committee believes, that a relatively small number of inmates at MCC physically assault officers.

Physical assaults on staff take many forms. Data reviewed

by the Committee indicated that assaults with weapons occurred at the facility as often as once or twice per month.<sup>69</sup> Other assaults, including hitting, spitting, and throwing of feces, urine, or food on officers appear to be equally frequent occurrences. Indeed, the latter category was a complaint the Committee heard from virtually every staff member interviewed at the facility. The inmates interviewed by the Committee acknowledged that the throwing of feces, urine, and food at officers by inmates did occur. Such exceptionally regressive behavior represents the lengths to which some inmates go to respond to their environment and frustrations. However, interestingly, there was agreement among the inmates interviewed that the throwing of feces and urine was inappropriate and unacceptable behavior.

The Committee is convinced that inmate assaults on staff is a problem at MCC, although it is not one which can be solved through an abandonment of personal interaction between staff and inmates. The Committee is concerned that an absence of appropriate personal staff-inmate interaction may, in fact, cause the already hostile environment at the facility to become more hostile.

Two additional complaints were the subject of frequent comment by inmates interviewed by the Committee. First, many inmates indicated that nursing and other medical care at the facility were inadequate. The Committee could find no basis on which to conclude that this complaint was reasonably grounded, although the Committee is aware that, since early this past summer, there has been a serious shortage of nurses at the

facility (only about half the number authorized). The second complaint centered on a lack of jobs and productive educational or vocational programs for the majority of inmates at the facility. This is a point which the Committee agrees should be reviewed further in conjunction with recommendations in Chapter 3 of this report.

Thus, the Committee believes that consistent with the need for security, MCC management should continue to proceed cautiously to ease the current lockdown and restrictions on MCC inmates, and should attempt to give inmates access to appropriate programs for which they are suitable.

Finally, the Committee believes that the availability of more religious programs at MCC would be very beneficial to the inmates and also might aid inmate-staff relations by improving the current hostile atmosphere at the facility.

The Committee therefore recommends:

**Recommendation 38:** DOC and MCC management and supervisory staff must continue to make it clear to MCC staff that assaults on, or otherwise abusive behavior directed towards, inmates by correctional staff is not condoned and will not be tolerated.

**Recommendation 39:** DOC and MCC management must continue to make it clear to inmates that assaults on MCC staff will not be tolerated and that inmates who assault staff will be prosecuted or otherwise disciplined to the extent permissible by law, DOC Departmental Guidelines, and MCC Institutional Operating Procedures.

**Recommendation 40:** DOC should be directed to review its Departmental Guidelines governing institutional disciplinary steps which may be taken against inmates who assault correctional staff, with a view towards making certain that (a) the penalty provided for various forms of assault (e.g., assault with a weapon, threats to the



physical safety of staff, throwing of human waste or food, and verbal abuse) is proportionate to the seriousness of the conduct and that (b) the penalty is imposed as swiftly as fairness and legal requirements will permit.

**Recommendation 41:** DOC and MCC management should continue to proceed cautiously in easing the current lockdown and restrictions on MCC inmates. Attention should be directed throughout this process to fundamental fairness for inmates and their need for productive programs.

**Recommendation 42:** DOC and MCC management should take steps to secure the services of a chaplain for MCC.

B. INMATE GRIEVANCE PROCEDURE:

1. Background:

Another area examined by the Committee in an effort to assess the level of inmate concerns at the facility was the inmate Grievance Procedure. DOC Policy 4-14 states that the purpose of the procedure is:

"To provide fair and prompt decisions and actions in response to inmate complaints; to provide a regularly available channel for hearing and resolving grievances and concerns of inmates; to provide a mechanism to help keep managers informed and better able to carry out the Department's mission; and to meet national standards."

The referenced "national standards" are the Minimum Standards for Inmate Grievance Procedures promulgated pursuant to the Civil Rights of Institutionalized Persons Act, Pub. L. 96-247, 94 Stat. 349 (42 U.S.C. 1997). The DOC policy provides that the procedure is to be appropriately communicated to inmates, that there is to be free and easy access to the various aspects of the procedure, that there are to be no reprisals against inmates for use of the procedure, that responses to inmates are to be in writing

and with reasons, and that time limits requiring a prompt response are to be observed. Special procedures are available for handling emergency complaints more promptly than normal time limits would permit.

2. Findings and Recommendations:

The Committee reviewed data on the number and type of inmate grievances filed each month at MCC, as well as the system and procedures implemented at the facility for reviewing those grievances. The data revealed that during an average month in 1983 fewer than 300 inmate grievances were filed at MCC. These totals increased substantially in 1984. During the three months preceding the May 31 escape (March-May), the number of inmate grievances had increased to an average of 400 per month. During June, July and August, these figures increased dramatically to 600-800 each month.

A significant increase in the number of grievances filed might reasonably have been expected as one form of response to administrative actions taken this summer following the May 31 escape, the July 12 disturbances in the recreation yards, and the August 4 hostage situation. However, it is more difficult to explain the increase in the average number of grievances per month during the period immediately preceding the escape. These statistics should have been important information to the MCC Warden and his staff, both by themselves and when considered in conjunction with other data. For example, the increase in the number of grievances filed at MCC probably should have been a signal to institutional and regional management that problems might be developing in the inmate population at MCC. This point

must be tempered somewhat, however, by the fact that inmate grievance statistics often can be quite misleading. For example, if a few inmates file a large number of grievances during a given period--whether well-founded or not--the overall figures for the facility, which include the grievances from those inmates, may be misleading if used to make a judgment with regard to the overall state of staff-inmate relations at the facility.

The importance of the information is further underscored, however, when considered in combination with a major increase in the number of grievances inmates had appealed from MCC to the Region II office in the months immediately preceding the escape. A large number of appeals to the regional level also should have been interpreted as a danger signal, since the appeals would indicate inmate dissatisfaction with institutional management's efforts to resolve their complaints. Such information should be considered a valuable management tool, and, indeed, this information was available both to the Region II office and to MCC management prior to the recent incidents at MCC this past spring and summer.

In its review of the inmate grievance procedure as implemented at MCC, the Committee concluded that the institution's system was structured appropriately. MCC utilizes one full-time security officer to serve as the Grievance Coordinator. The coordinator is supervised by the institution's operations officer, the Assistant Warden for Operations, and is assisted by about 20 inmate Grievance Clerks. An Advisory Committee made up of three staff and three inmates also operates



to guide the procedure. Although during its interviews with inmates the Committee heard complaints about the procedure, and specific remedies that were or were not provided, the Committee sensed that the inmates viewed the system as an appropriate, effective mechanism for airing their complaints. Indeed, the Committee believes that, in some respects, the enormous increase in inmate grievances filed this summer is a good sign--one indicating that inmates at least believe that their complaints about the recent restrictions will be heard and, where appropriate, remedied.

The Study Committee therefore recommends:

**Recommendation 43:** DOC and MCC management should be directed to monitor regularly the Inmate Grievance Procedure as it has been implemented at MCC to make certain that it continues to be appropriately communicated to inmates, that there is free and easy access by inmates to the various aspects of the procedures, that there are no reprisals against inmates for use of the procedures, that inmates receive written responses to their grievances indicating the reasons for management decisions concerning the grievances, and that grievances are processed in an appropriate and timely manner.

**Recommendation 44:** DOC, Regional Office, and institutional management should be directed to analyze regularly and systematically the number, scope, and content of inmate grievances filed at the Commonwealth's various correctional facilities, for the purpose of assuring that institutional managers at MCC and other facilities receive the necessary information and take appropriate action when such an analysis reveals the potential for serious incidents at a correctional facility.



**PART III**

**COMPENSATION ISSUES**



**CHAPTER 7**  
**COMPENSATION FOR CORRECTIONAL**  
**OFFICERS AND OTHER STAFF**

**A. INTRODUCTION:**

Compensation for correctional staff is a broad issue with major policy implications for the correctional and public safety system. The Study Committee was asked to review three issues related to compensation for correctional officers: salary and fringe benefits, housing for wardens, and the potential for other forms of compensation. The major focus is on the salary issue.

**B. SALARY AND FRINGE BENEFITS FOR CORRECTIONAL OFFICERS**

**1. Background:**

The Study Committee discussed the issue of compensation with both permanent and temporarily-assigned correctional officers and supervisors at MCC. The Committee also solicited the viewpoints of DOC officials, obtained national comparative salary and personnel data, and reviewed recent study reports by consultants and State agencies.

An important source of information was a study report prepared by the State's Department of Personnel and Training, which has statutory authority to manage the Commonwealth's compensation system. The study began in July 1984, and the results were presented to the Committee and made public on September 26, 1984. Major findings include:

- ° At the midpoint of the authorized salary range, the salary of Virginia's correctional officers is approximately 2% below the average salary for 13 southeastern states. Virginia ranks 8th among those 13 states.
- ° Fringe benefits provided by the Commonwealth are competitive with other southeastern states.
- ° The average salary for correctional officers places Virginia 41st among the 47 states nationally that reported data. The salary difference between Virginia and other states at the midpoint of the national salary average is approximately \$1,450.
- ° The Commonwealth ranks 38th overall in salary for all State employees.
- ° Turnover among Virginia correctional officers, an indicator of recruiting and salary problems, is comparable to other southeastern states, regardless of the salary paid by any particular state.
- ° A compensation increase for correctional officers could affect salaries paid to other correctional and public safety employees, and potentially all State employees. For example, increases for correctional officers might require that salaries for line supervisors (Captains, Lieutenants, and Sergeants) also be increased accordingly.<sup>70</sup>

Although the Department of Personnel and Training data was quite useful and informative, the Committee did not limit its analysis to this data.

## 2. Findings and Recommendations:

### a. General:

The Committee's interviews and discussions revealed that the salary and fringe benefits issue is a highly complex and, at times, emotional one. Although a number of viewpoints and factors were considered, it was clear that no one factor or combination of factors provided a clear answer. Viewpoints and data were disparate in nature and included the following:

- ° DOC management is concerned that officer morale, which is already low, will deteriorate further

without a salary increase, resulting in higher turnover and increased recruitment difficulties.

- ° State and national studies have not yet linked higher correctional officer salary directly to greater success in the recruitment of more qualified applicants or lower turnover.
- ° According to an August DOC survey of MCC employees, 91% believe they are underpaid.
- ° During Committee discussions with MCC correctional officers, the ~~major~~ concerns cited were understaffing and the impact of the 1983 ACLU consent decree on the staff's ability to control inmates, not pay. References to pay focused more on the freeze of State merit pay, rather than low pay for the job itself.
- ° The Department of Personnel and Training study data did not indicate major problems in correctional officer recruitment and turnover patterns in Virginia relative to other states.

The disparity in data and viewpoints led the Committee to reassess the salary and fringe benefits issue through a "systems" approach. The Committee first attempted to address three basic questions most relevant to officer salary: (1) What does a correctional officer actually do? (2) What classifications and skills are required to carry out those duties? and (3) Is current salary adequate to attract and retain the type of applicant who is qualified to perform those duties? The Committee also reviewed the concepts of salary incentives for officers and hazardous duty pay. Finally, the Committee considered the cost implications of salary increases.

b. Correctional Officer Duties:

The following statements describe the duties and qualifications of a Virginia correctional officer (Grade 6) as outlined in the current State class specification:



"Distinguishing Features of Work

- Custodial and escape prevention duties.
- Policing and supervision of inmates.
- Independent decisions on use of firearms might be required.
- Checking of visitors and inmates for contraband.
- Patrolling gates to prevent unauthorized entrance and exit.
- Supervising inmates on their work tasks.

"Qualifications

- Ability to read and explain guidelines.
- Ability to follow instructions and communicate effectively with inmates, staff, and public.
- Ability to write incident reports.
- Graduation from the Basic Officer Training Course at the DOC Academy for Staff Development in Waynesboro.
- Graduation from high school or GED, or qualifying education and experience."

The Committee believes that the features of a correctional officer's work, or job duties, are more varied and complex than those described above. In particular, the Committee believes that the above class specification is too general, and is misleading about the nature of an officer's work. For example, the specification does not describe "escape prevention duties." In practice, among other duties, officers are expected to be highly familiar with modern security equipment and practices. The "checking of visitors and inmates for contraband" is, in fact, a highly skilled and difficult task, particularly during shakedowns of inmate cells. For example, during an in-depth search of a portion of MCC

this past summer, it took several law enforcement officers and corrections supervisors four hours to find inmate weapons--even when they had a diagram from an inmate of the location of the weapons. Similarly, "independent" decisions are frequently required to prevent serious incidents and the need to resort to firearms.

Surprisingly, the job description of a correctional officer makes no mention of the job's unique requirements or, particularly, the hazards. While much of an officer's time is spent handling routine inmate movement, crisis situations are occurring with more frequency each year systemwide according to the 5-year "serious incident" statistics maintained by DOC and mentioned previously in this report. In contrast, the State Trooper (Grade 9) specification notes the job is "frequently dangerous," while the specification for Port Police Officer (Grade 7) itemizes such duties as governing crowds, preventing theft and fire, and ensuring dangerous substances are not received at the ports of Virginia. Correctional officers also must deal with crowd control -- of "inmates," not the general public -- and occasionally must deal with internal fires, theft and smuggling of illegal substances. While the Study Committee realizes that the lack of law enforcement authority is a major distinction between the correctional officer's duties and those of other comparable personnel classes, the Committee also believes an in-depth review and "job validation" (an official study of the duties of a position) of correctional officer duties is needed and will indicate the changing and more complex nature of the job requirements.

This review also should include an examination of the duties

of a Corporal. The Committee's observations of and interviews with correctional officers and Corporals at MCC indicated little distinction between correctional officer and Corporal duties. Furthermore, the job duties listed in the class specification for a Corporal correspond directly to those required of correctional officers at MCC and to the skills taught to correctional officers in basic training at the DOC Academy for Staff Development. The only major distinction in job duties occurs when Corporals fill in for Sergeants due to manpower shortages--a practice that is supposed to be on a temporary "emergency" basis. Discussions with correctional officers and Corporals at MCC and on temporary assignment to MCC from other institutions also indicated little distinction between the duties at MCC or at other institutions.

c. Correctional Officer Qualifications:

Qualifications for correctional officer positions appear insufficient to attract candidates able to perform the various roles and duties expected of officers. Graduation from high school or "qualifying experience" and the ability to read and write are unlikely to disqualify most candidates. While job qualifications for correctional officers nationwide are not particularly stringent, some minor distinctions do exist. For example, five states require entry and recurring physical agility tests, and many others require physical examinations.<sup>71</sup>

Statewide, correctional officer qualifications are less stringent and extensive than comparable job classes cited in the Department of Personnel and Training study report.<sup>72</sup> Bridge Tunnel Patrolmen, Institutional Police Officers, Campus Police



Officers and State Troopers have similar, but slightly more difficult, job qualifications. Bridge Tunnel Patrolmen (Grade 6), for example, must pass a written exam and a physical, as well as a physical agility test. Institutional Police Officers must have two years' work experience in dealing with the public. Campus Police Officers must have two years' work experience or college education on an equivalent time basis. State Troopers must meet more stringent age and physical requirements than a correctional officer. While one might argue that the required completion of basic training at the DOC Academy for Staff Development is comparable to job requirements of other public safety positions, in practice this appears to be an inappropriate measure of a candidate's ability to perform the job. During 1983-84, 97% of the attendees at the basic officer training course passed. Of the 20 who failed, 16 were allowed to repeat the course. In effect, the requirement is one most any candidate can meet. Overall, the qualifications to become a correctional officer are easily met and may be too low to ensure that only those candidates with the ability to meet actual job requirements are recruited and hired.

d. Recruitment and Turnover:

The data on recruitment and turnover does not show a direct correlation between salary and the ability to attract and retain correctional officers. In a 1981 national survey of the turnover and recruitment problems of correctional agencies, only 13 of 29 agencies cited low pay as a major reason for turnover.<sup>73</sup> Other reasons cited just as frequently were working conditions and job stress. The recent Department of Personnel and Training survey noted that turnover in 13 southeastern states is not directly

attributable to salary. For example, turnover for all correctional positions in Virginia was 22.6% in 1983-84, compared to 18% for the states ranked first, second, and third in regional salary at midpoint of the salary range. This 4.6% difference in turnover seems insignificant when reviewing national turnover data for 1983, which indicates a range in state correctional officer turnover of 10% to 46% per year, regardless of salary.<sup>74</sup>

There are indications that salary may, however, be a factor in turnover of Virginia's correctional officers, when viewed independently of Corporals and above. Turnover rates of officers rose from approximately 12% in 1982-83 to 18% in 1983-84. Conversely, increases in turnover rates for Corporals and above were negligible. Many of the officers interviewed by the Committee cited pay as a major area of concern. However, verifying the link between turnover and salary is difficult due to limited data. Resignation data collected by DOC is not comprehensive and lacks information on salaries of those officers who left for better jobs.

The Committee also questions whether salary would be a major issue among officers had they received merit pay increases. Invariably, officers questioned the loss of merit pay, rather than the actual salary range for a corrections officer.

A more relevant issue than salary scales may be the correctional recruiting process in Virginia and other states, particularly employee selection. The DOC Employee Relations Unit has established an extensive, continuous recruiting program for corrections officers. The DOC also has a Department of Personnel

and Training approved policy on "Recruitment, Selection, and Appointment of Employees." However, in Virginia, the highest rate of officer turnover occurs in the first year of employment. This may indicate that once job candidates are identified, selection problems occur. It is possible that ineffective candidate screening and insufficient preparation of the new employee for the actual requirements and working environment of correctional work are affecting turnover. Also, salary may be a factor.

Recent recruiting efforts at MCC may prove to be a model for recruiting within the Virginia corrections system if used in conjunction with higher job qualifications. Out of approximately 200 applicants for approximately 30 vacant officer positions at MCC, fewer than 10% were hired. A thorough review process was developed to screen out "minimally" qualified or inappropriate candidates. As a result, several final candidates had college backgrounds and more work experience than previous applicants. The Committee believes the key to the process has been the use of the DOC Internal Investigation Unit to conduct a thorough background review on recent MCC applicants. At the moment, this practice is not followed with applicants for positions in other DOC facilities. However, while time consuming and expensive, the practice may lead to better qualified and more stable candidates, particularly if combined with upgraded job qualifications.

e. Salary Incentives:

The Committee also noted that no salary incentives are built into the correctional officer recruitment and promotion system. Candidates with more experience or education are not offered



higher salaries. In contrast, local police agencies in Virginia and other states offer a salary incentive to employees who have or obtain two-year and four-year degrees.

The Committee realizes that major changes in the State personnel and compensation system would be required to implement such a practice. However, other less expensive incentives could be developed. One viable approach which the Committee strongly supports is to make promotion dependent upon successful completion of certain training or education requirements. Currently, in-service supervisory courses are completed after promotions occur. If promotion were linked to training and education, concurrent changes in grading systems for supervisory training would be required. Currently, only a pass/fail system is in place, and it apparently is not difficult to pass.

f. Hazardous Duty Pay:

The concept of paying "hazardous duty" pay to correctional officers in maximum security prisons is a practice with little state or national support. DOC officials point out that most prisoners sent to MCC were first confined at other institutions and that those transferred to MCC for the Phase Program were by definition "disruptive" at other institutions. That is, officers at other DOC institutions also must interact with that same "disruptive" inmate population. Furthermore, DOC officials indicate that maximum security officers may in fact be somewhat more protected from hazards than officers at other institutions since inmates in a maximum security facility such as MCC are confined in a physical structure designed to contain the inmates

and promote officer safety.

Nationally, and in Virginia, other public safety jobs have taken hazardous duty into consideration when the overall compensation rate is established. Also, the Department of Personnel and Training noted that only one of 13 states in the southeastern region pays a salary differential to correctional employees for "hazardous duty" in maximum security institutions.<sup>75</sup> While it does not support special hazardous duty pay for correctional officers, the Committee does question whether the hazards of the correctional officer's position were adequately considered when originally establishing the job requirements and the appropriate level of compensation for the position. As noted earlier, the hazards of the job are not included in the class specification.

g. Cost and Other Implications of a Salary Increase:

The potential cost implications to the Commonwealth of a salary increase for correctional officers certainly will--and should--be a major factor in the decision-making process. Increasing correctional officers salaries would have both direct and indirect cost implications.

An increase in salaries through a regrade of the Correctional Officer classification from Grade 6 to 7 could result in a "bumping up" process that would require each security classification to be raised one grade (i.e., Corporals from grade 7 to 8; Sergeants from grade 8 to 9, and so on). The total cost of a regrade for the entire corrections series could vary from \$2,000,000 to \$5,000,000 annually, depending on where the regrade places each employee in the salary range of the new grade. Alternatively, the regrade could be for correctional officers only;

however, unless such an increase is supported by a review of job requirements that indicates correctional officers perform the same duties as Corporals, a severe morale problem is likely to be created among Corporals -- and, indeed, is likely to occur among higher ranking officers as well. This problem is exacerbated, of course, by the fact that there have been no "merit increases" in salaries throughout the entire State personnel system for the past two years..

Indirectly, increases for correctional officers could have implications throughout at least the public safety system and, perhaps, throughout the entire State personnel system. As noted by the Department of Personnel and Training, the grades and salaries for a large number of correctional positions (e.g., counselors, staff at juvenile institutions, probation and parole officers) may be considered inequitable if security personnel are paid at higher grade levels.<sup>76</sup> Similarly, other public safety employees (e.g., institutional police officers, port policemen, and so on) may raise fairness questions. The major indirect effect could be on State employees generally. A grade (two-step) increase would move the correctional officer class to approximately 30th in the nation while the average salary for other State employees would remain approximately 38th.

h. Summary:

The Committee believes that it is important for the Governor, the General Assembly, and the Secretary of Transportation and Public Safety to consider the following factors prior to making a final decision on a salary increase for correctional officers:



- Cost implications to the Commonwealth;
- The varied and dangerous nature of a correctional officer's job versus the relatively low qualifications to become an officer;
- The limited difference in job qualifications between correctional officers and Corporals;
- Increased turnover in Virginia's correctional officer series (12% to 18% between 1982-83 and 1983-84);
- Low turnover of correctional supervisors;
- The concern of correctional officers over the freeze of merit pay;
- Potential limitations in the recruitment and training processes, evidenced by high turnover in first year officers; and
- Lack of salary and promotional incentives within the corrections system.

The Committee's analysis of these factors indicates that while there is merit to a salary increase for security personnel, salary increases alone will not solve the problems at MCC or the systemwide problems noted in this report. The oft-cited low quality of security personnel, while arguably unfair and exaggerated, is clearly more the result of deficiencies in recruitment, training, and promotional practices than lack of effort by employees. The Committee bases the following recommendation on what it believes is in the long-term interest of both DOC and individual employees:

**Recommendation 45:** The Committee recommends that the Governor and General Assembly consider granting a salary increase to corrections officers only. However, the Committee would not support a salary increase unless it is tied to a major reassessment of personnel practices for security positions. The Committee recommends that this reassessment include the following actions:

- (a) Review the job duties of security personnel and compare them to other public safety classes.

- (b) Review the qualifications of security personnel in relation to other public safety classes in Virginia and corrections personnel in other states.
- (c) Develop a performance-based system of training at the Academy for Staff Development for supervisors and officers. Training performance should become a consistent part of an employee's performance evaluation.
- (d) Develop methods to link job retention, promotions, and salaries to the completion of education and training. In particular, completion of training should be a requirement for promotion.
- (e) Develop a consistent statewide procedure for selecting corrections officers, including effective use of interview panels for officers and thorough background investigations.
- (f) Revise the exit interview process to obtain better information on the reason for voluntary terminations by correctional officers, particularly information specifically related to salary issues.

This recommendation is intended to promote long-term improvements in the Department's personnel system through increased qualifications and greater uniformity in the personnel selection and promotion process. In addition, strengthening of the training program and requirements for promotion should result in an improved system of incentives for personnel to gain and maintain desired skills. In the Committee's view, a salary increase not coupled to efforts to address the structural issues identified in this Chapter will have an impact short-lived at best. The citizens of the Commonwealth will be better served through additional appropriations based on demonstrated merit rather than response to crisis.

The job requirements of an officer, possible salary inequities between officers and Corporals, and increasing

turnover rates among officers combine to make a valid case for an increase. But the above actions must be initiated to confirm this and to ensure the quality of security personnel will improve. If the Governor and General Assembly concur with this recommendation, the Committee suggests placing language in the Appropriations Act that would directly link a salary increase to the above listed changes.

C. COMPENSATION FOR OTHER CORRECTIONAL STAFF:

1. Background:

There are over 70 non-security employees at MCC. They include physical plant and maintenance employees, medical personnel, counselors, food service employees, recreation supervisors, typists and other general administrative personnel. Many of these employees do not have direct contact with the inmates, but some do--e.g., counselors, medical personnel, and the recreation supervisors.

2. Findings and Recommendation:

A large number of the non-security employees at MCC experience job stress similar to that experienced by correctional officers and other security personnel. The Committee's charge did not include a review of compensation for staff other than correctional officers. However, a study should be completed as soon as practicable to determine whether non-security staff at the Commonwealth's various correctional facilities are adequately compensated. Therefore, the Study Committee recommends:



**Recommendation 46:** The Board of Corrections and DOC should request the State Department of Personnel and Training to conduct a study of compensation for non-security staff at the Commonwealth's various correctional facilities to determine if such staff is adequately compensated.

**D. HOUSING FOR THE MCC WARDEN AND ASSISTANT WARDENS:**

**1. Background:**

The Committee was asked to review DOC's request for \$250,000 for the construction of three houses at MCC for the Warden and two Assistant Wardens. The amount requested also includes funding for water and sewer lines and a circular gravel driveway. DOC noted that providing housing to wardens and assistant wardens at a low monthly rental cost is a common practice at other institutions in the Commonwealth. The purpose is to ensure that a warden and his assistants are available to respond immediately to crisis situations.

**2. Findings and Recommendation:**

The Committee is generally supportive of providing low-cost housing to wardens and staff as a standard practice. MCC is a special institution which requires particularly effective management. The "super maximum security" nature of the institution and the recent incidents and problems there highlight the need to have officials quickly accessible 24 hours each day. Moreover, the nature of the institution requires staffing with highly-qualified managers. Despite a recent salary increase and class regrade for the Warden's position and a nationwide recruitment search for a new Warden, DOC has not yet found a qualified candidate prepared to accept the position. The

availability of low-cost housing may be an additional fringe benefit which would help attract and retain a capable Warden.

The Study Committee therefore recommends:

**Recommendation 47:** The Governor and General Assembly should be asked to authorize funding for housing for the Warden and Assistant Wardens at MCC. Should funds be difficult to authorize in light of other State priorities, the Committee recommends that funds be authorized only for a Warden's home.

**E. OTHER COMPENSATION:**

**1. Background**

Within any private and public personnel system, compensation other than salary often is provided. Amenities are of lower cost than salary and can contribute significantly to the morale and effectiveness of an organization.

**2. Findings and Recommendations:**

The Committee recently interviewed a national corrections consultant with experience in a variety of corrections positions. One area of discussion focused on the issue of low-cost employee incentives. The consultant noted that such minor amenities as modern equipment, arm patches and other supplies and procedures had greatly influenced the attitudes of correctional officers in institutions with which he was familiar.

Similar actions are occurring at MCC. For example, a special Tactical Team was organized to respond to situations in which inmates are disruptive and to supervise inmate outdoor recreation, and is being provided with special uniforms and modern equipment. In addition, the Acting Warden also plans to recommend the construction or rental of additional bachelor officers quarters (BOQ)

to make both permanent and temporary assignment to MCC more pleasant and inexpensive for correctional staff. Mecklenburg currently has a BOQ which sleeps up to 36 persons.

The Committee supports efforts to provide other compensation less expensive than salary. Purchasing more athletic equipment (preferably of better quality than that provided to inmates) and providing a recreation area for officers to use in off-duty hours may also be appropriate actions. However, a more detailed review is necessary prior to purchasing or leasing facilities to serve as a BOQ. Such an amenity is likely to be expensive and the need for such housing can only be determined after a permanent staffing plan for MCC is developed.

**Recommendation 48:** DOC and MCC officials should continue to purchase reasonable amenities for staff members. A decision to build or lease a bachelor officers quarters (BOQ) should be delayed until completion of both a staffing plan for MCC and a cost analysis of alternative methods for providing such housing. These efforts should include plans for continued use of the available bedspace in the current BOQ.



**PART IV**

**TRAINING ISSUES**

CHAPTER 8  
TRAINING FOR CORRECTIONAL OFFICERS  
AND OTHER STAFF

A. INTRODUCTION:

The Study Committee reviewed the DOC training program for adult institution security personnel, with particular emphasis on personnel who work in maximum security institutions. At the request of the Secretary of Transportation and Public Safety, the entire DOC training program was examined in June 1984 by a private consultant. Although the consultant's two reports<sup>77</sup> were a major source of information about DOC's training program, the Committee also attempted to validate the consultant's findings and conclusions by reviewing other documents and interviewing a number of individuals responsible for the training of security personnel.

Among the other documents reviewed were training records, course descriptions, curriculum guides, and compulsory minimum training standards. Each of the correctional officers and supervisors interviewed at MCC was asked to comment on the quality of his or her training both at MCC and at DOC's training facility, the Academy for Staff Development in Waynesboro. Staff at the Academy also were interviewed and asked to comment on future training goals and objectives in light of the recent events at MCC.

Training of correctional officers and supervisors is a responsibility shared by DOC and several state agencies. The

regulations governing such training, The Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the State Department of Corrections, Division of Adult Services, are promulgated by an independent board, the Criminal Justice Services Board, in accordance with the requirements of the Administrative Process Act. Proposals for amending such regulations historically have been initiated by DOC upon the recommendation of its Advisory Training Board. A DOC representative presents the proposal to the Criminal Justice Services Board's Committee on Training and explains DOC's rationale for proposing amendments or new requirements. The Committee on Training then advertises and conducts a public hearing on proposed amendments or new requirements, encouraging and allowing comment by interested parties. After obtaining comment, the Committee votes on whether to recommend the proposals to the full Board for adoption.

The following facts must be considered in reviewing the correctional staff training program:

- ° The Criminal Justice Services Board sets compulsory minimum and in-service training standards for correctional security personnel;
- ° The State Department of Criminal Justice Services provides general oversight of training for DOC security personnel;
- ° DOC management and the DOC Advisory Training Board are responsible for directing and implementing the program;
- ° The DOC's Academy for Staff Development is the principal DOC trainer and training coordinator;
- ° DOC Regional Offices for Adult Services are responsible for serving as liaisons between the Academy and institutions within their jurisdiction



on training matters; and

- ° Each major institution has at least one staff member responsible on a full-time basis for institutional training.

Sections B and C of this Chapter focus on training for correctional officers and supervisory security staff at DOC's Academy for Staff Development and at MCC itself. Section D discusses briefly training for staff other than correctional officers and supervisory security personnel. Section E contains the Committee's recommendations on training. Thus, this Chapter is organized differently than most of the other Chapters in this report, with all the recommendations at the end. This was done because the Committee found the training issues to be much more interrelated than the issues in most other Chapters, and the recommendations therefore simpler to understand if grouped together.

#### B. THE ACADEMY FOR STAFF DEVELOPMENT:

##### 1. Background:

The mission of the DOC Academy for Staff Development is to improve DOC staff performance. The Academy's basic goals reflect that mission. They are:

- (1) to develop and maintain a proactive role in DOC training;
- (2) to coordinate all DOC training;
- (3) to explore alternative approaches to training development, delivery, and evaluation; and
- (4) to formulate a career development process for all employees.<sup>78</sup>

Employees of both State correctional facilities and local jails are the Academy's target population (12,100 in fiscal year 1983-84). Of this number, 3700 are in the DOC "adult correctional officer series," which includes correctional officers, Corporals, and all institutional security supervisors through the Warden. Excluding training for local jail personnel, 40% of the training conducted at the Academy is devoted to basic correctional officer training.

The Academy is staffed with 56.5 positions for 1984-85, and the budget is approximately \$2,000,000. The Academy is presently in a transition stage in its staffing and program philosophy. A new Director and Assistant Director were recently hired. Due to budgetary retrenchment, regional office staff devoted exclusively to training were recently eliminated, leaving the Academy to absorb more regional training responsibilities. These staff changes and the recent events at MCC already have prompted an internal Academy staff reassessment of the mission and purpose of the Academy. The Study Committee made a number of observations which the Academy should include in this process.

## 2. Findings:

### a. Correctional Officer Training:

In general, the Academy's training program for correctional officers, particularly its basic training program, appears to be effective. The basic training program is thorough and comprehensive. The Criminal Justice Services Board's "Compulsory Minimum Training Standards" require that entry-level correctional officers complete five weeks, or over 196 hours, of basic training within the first twelve months of their employment (two weeks of training at

the institution to which they are assigned and three weeks at the Academy). The Academy's training covers a broad range of subjects that also must meet Criminal Justice Services Board standards. The courses are directly related to an officer's job. The curriculum covers such topics as self defense, crowd control, crisis intervention techniques, legal rights and responsibilities of officers and inmates, and security procedures.

The Study Committee is satisfied with the quality of the Academy's basic correctional officer training programs, and with the competence of the training staff. However, the training program does not appear to be effectively integrated into DOC's employment and promotion system for correctional officers.

Although basic training is a written prerequisite to an officer retaining his or her job, in practice few employees are screened out as a result of training at the Academy. In 1983-84, 97% of the officers attending basic training received passing grades. Of the 20 who failed, 16 successfully repeated the program. Although Academy personnel believe hiring, screening, and promotion of correctional officers are institutional management's responsibilities, the Study Committee strongly believes major efforts should be made to link successful completion of training requirements to the "performance evaluation" (the Commonwealth's personnel rating system) of employees and their eligibility and suitability for job retention and promotion.

In the Committee's interviews with officers, supervisors and DOC managers, basic correctional officer training generally received high marks. Records reviewed by the Committee also indi-

cated most officers complete training within the initial 12 months of employment, as required by Criminal Justice Services Board standards. However, a common complaint voiced by officers was that they do not believe they receive sufficient training of a specialized nature, especially in how to handle particularly disruptive inmates.

Although entry-level correctional officers must complete five weeks of basic training within the first 12 months of employment, in-service training standards require the completion of only three days of training in each succeeding two-year period. Recent incidents at MCC, an increase in the number of serious incidents at many DOC institutions, and litigation involving institutions throughout the corrections system all appear to support the need for more frequent and substantive training in the future, both in the basic training course and in training programs required after the completion of basic training.

The Committee believes this is particularly true for staff in maximum security institutions. The basic correctional officer curriculum, for example, is the same for all officers throughout the corrections system. Even taking into account the institutional specific on-the-job training component of the basic curriculum, the Committee does not believe there is sufficient emphasis on the specialized problems which exist in maximum security institutions. This is especially true in the in-service training program, where the training appears to be of a general, repetitive nature covering such subjects as report writing, legal updates, and effective communication. The issue is further complicated by the fact that in-service training is most often provided in a



decentralized manner at the institutional or regional level.

Academy Staff noted to the Committee that correctional officer training standards are set by the Criminal Justice Services Board; that regional courses conducted by the Academy provide officers with opportunities to complete additional, specialized training; and that institutional training officers provide in-service and other training courses. However, the Study Committee found:

- ° Although the standards permit officers to receive in-service credit for specialized training, in practice few officers request or receive such credit.
- ° Correctional officers from MCC (and apparently other institutions as well) only infrequently attend regional specialty courses.
- ° Institutional trainers noted poor attendance at classes offered at the institutions unless in-service credit is provided.
- ° Institutional managers and supervisors routinely indicate to the Academy, and have impressed upon their staff, that little time exists to train beyond the minimum requirements because of manpower shortages. In fact, the Academy must often remind some institutions of their obligation to ensure that officers are given an opportunity to complete in-service requirements.
- ° The advanced correctional officer training courses, held approximately twice each year with 20-30 participants per session, normally include a significant number of supervisors, managers, and treatment personnel (and, on occasion, non-employees) thus limiting the opportunities for participation by a larger number of correctional officers and corporals.

Many of these issues are under review by the Academy and DOC management. The Academy has assumed a more active role, and in recent months, in conjunction with DOC's Training Advisory Board, has been reviewing the need for additional specialized training

for correctional officers. The Academy has discussed with institutions the need for training in emergency procedures, and has initiated training in security audits for top institutional managers. These audits will include an assessment of the extent to which correctional officers understand security procedures and eventually should lead to a better understanding of those procedures by officers.

As noted by several of the consultant reports, training and follow-up are major responsibilities for institutional management.<sup>79</sup> Skills and procedures taught in training courses must be reaffirmed on a regular basis by an officer's supervisor, and skill deficiencies must be documented in writing, on the employee's personnel evaluation form or otherwise. Follow-up such as this does not occur with correctional officers at MCC. The Committee believes similar inadequacies may exist at other institutions.

**b. Supervisory Training:**

One of the national consultants retained following the May 31 escape focused on DOC training programs and indicated that the escape was due more to staff complacency and ineffective management and supervisory practices than to inadequate training.<sup>80</sup> After that report was submitted on July 5, two other major incidents occurred at MCC--a significant disturbance in the recreation yards on July 12 and the hostage situation on August 4. The Committee believes that ineffective management and supervisory practices again played a major role in these incidents since breakdowns in established procedures occurred. Repeatedly poor supervisory performance reflects deep-seated problems which can

only be resolved through a variety of personnel actions, including discipline, transfer, rotation, and revised recruitment and promotion practices. However, supervisory training should be an integral part of the solutions to these personnel problems.

The Academy has a well-developed supervisory and managerial curriculum, designed to comply with established Criminal Justice Services Board standards. Required and elective supervisory courses are available to sergeants and lieutenants and include: Supervisory Skills, Principles of Supervision (I, II, III) and Employee Relations Training. Captains and above can choose from a variety of management courses, including: Leadership Assessment, Management of People, and Budget Development. Minimum training requirements for Sergeants (as with correctional officers and Corporals) are completion of three days in-service training every two years; completion of five days in-service training is required for Lieutenants and above.

The national consultant who examined the DOC training program was impressed with the scope of the Academy's supervisory training. So is the Committee. However, through our interviews with Academy staff, other DOC management officials, and staff at MCC, several issues were raised relating to supervisory training. Among the problems noted by the Committee were:

- ° DOC's target population for supervisory courses may be too narrow; although supervisors are drawn from the Corporal rank few attend supervisory training. Training emphasis for security positions is directed at the upper level supervisor who, in many cases, may in fact have been serving in a supervisory capacity for 1-1/2 to 2 years before receiving formal supervisory training.
- ° Minimum training standards may be too low; and

- ° The Academy's philosophy on supervisory training (its emphasis on a generic rather than specialized approach) may be limiting its ability to assist institutions in addressing institution-specific staff weaknesses.

According to Academy officials, correctional officers and Corporals rarely attend supervisory courses, and, in fact, are rarely given the opportunity to do so with the exception of one infrequently offered regional course for potential supervisors. While the Committee realizes the practical difficulties in regularly providing supervisory courses to correctional officers, it questions the apparent lack of emphasis given to supervisory preparation and training for Sergeants.

Sergeants are not required to obtain supervisory training as a condition of promotion. Once promoted, Sergeants are required to complete only three days of in-service training every two years (2-1/2 days are devoted to supervisory skills). In practice, Sergeants have day-to-day responsibilities for staff scheduling, planning, and supervision of correctional officers. At MCC, Sergeants are normally responsible for managing one housing unit, which involves supervision of 6-10 officers and management of 50-75 inmates. Frequently, a Sergeant will act as the supervisor for all five housing units or, in unusual circumstances, as the person in charge of the entire shift ("shift commander"). The supervisory responsibilities of a Sergeant are not properly reflected in the training program.

Similarly, because their duties are primarily administrative in nature, Lieutenants generally are excluded from "management track" courses provided to Captains and above. Yet, in practice,



a Lieutenant's duties often involve the assumption of major responsibilities, including being the shift commander for the entire institution.

The Committee believes that any redirection of Academy resources to provide supervisory training to a greater segment of correctional personnel must be accompanied by a review of training standards and an increase in the number of hours of in-service training required for supervisory personnel. One apparent problem with the current hourly requirements is of a perceptual nature-- minimum hours are viewed, in practice, as being the maximum needed to continue as a supervisor. Of 17 supervisors at MCC, only a few had advanced educational degrees or coursework. According to the MCC Institutional Training Officer, not many MCC supervisors had taken advantage of the numerous elective courses available through the Academy, with the exception of those courses required to complete minimum in-service requirements. The Committee believes that this perceptual problem may also exist at other institutions.

The Committee also believes, however, that institutional security supervisors are interested in more training for their security staff. Individual weaknesses in staff and the need for more training often are recognized but not in fact followed up with training. At MCC, performance evaluations for supervisors frequently include indications of training needs. Comments include: "needs more management training"; "needs training in working with people"; and, "needs any management training available." This interest in, and recognition of, the need for additional training was evident when a special course on crisis inter-

vention was provided by the Academy to MCC supervisors in late 1983. After some initial misgivings, MCC supervisors gave the Academy trainers an enthusiastic response.

Comments by MCC supervisors also reflect problems in the supervisory training system from their perspective. Among complaints noted to the Committee the two most prevalent were lack of time to attend training due to manpower shortages, and lack of in-service credit or other incentives for completing more training than the minimum required. The "lack of time" is both a real and perceived problem at MCC and other institutions. Turnover at MCC has made it difficult for supervisors to attend Academy in-service training. However, as was evident from Academy training records, certain institutions continue to lag behind others in ensuring that supervisors complete their training regardless of manpower levels. MCC was not one of those institutions. Institutional management and the regional offices, as well as the Academy, must take steps to encourage supervisory training.

Increased training would be more inviting to management and supervisors if certain incentives were developed. For example, institutional managers now receive little formal feedback on the performance of supervisors at in-service or elective courses. Supervisors are given certificates for completing the courses, although no grades are received. The lack of performance-based tests for supervisors at the Academy denies management valuable feedback and gives employees few incentives to improve skills and performance--or, indeed, to take the training seriously. In addition, supervisors lack incentives to complete more training than

the minimum, particularly any specialized courses, since they must go through a formal approval process to receive in-service credit for completing such courses, and there is no generally accepted rule or practice that such training is a prerequisite to promotion.

c. Specialized Training for Supervisors:

The need for more specialized training for supervisors and correctional officers is largely an issue of management philosophy. DOC and the Academy have developed generic supervisory courses which are attended by all supervisors in DOC, not just supervisors in adult institutions. Coursework emphasizes the basic principles of management and supervision which are common to all organizations (planning, delegating, and so on). The Academy believes this broad approach, coupled with the opportunity for security supervisors from adult institutions to interact with DOC personnel other than just adult services employees, results in long-range benefits to those supervisors.

Whether the Academy's approach and DOC's management strategy on training--that it should be general in nature--is appropriate can be argued either way. It is not within the scope of this study or the expertise of this Committee to suggest that the approach is incorrect. However, the Committee believes that poor performance of supervisors cannot be blamed solely on the institution and its management practices. The Committee believes that supervisory training with more emphasis on institutional-specific needs should be adopted and can be accomplished without a major change in program philosophy. The Academy has developed a basic supervisory training course specifically for MCC supervisors and

Corporals to be held in November 1984. This is a positive step in addressing special institutional problems at MCC. However, the Committee believes an assessment of individual supervisory skills deficiencies at all maximum security institutions is likely to be of more systemic value. MCC and other maximum security institutions need special attention. Thus, the Committee believes that a shift in Academy training priorities, at least for the short term, is both necessary and appropriate.

d. Oversight Role of the Academy:

Until recently, the Academy's organizational objectives and recordkeeping ability did not allow for a strong Academy role in overseeing training at the institutional level. Academy officials define their role with regard to institutional training as "training coordinators" and as "providers of technical assistance and management information." They view institutional managers as being responsible for ensuring that training objectives are identified and met. However, the recently-revised Academy Charter now includes such institutional objectives as:

- ° assessing performance needs with site visits and other tools; and
- ° following-up and evaluating the results of training.<sup>81</sup>

Academy officials have recently taken steps to expand their role in overseeing training in other institutional levels. For example, in past years field visits to assess training needs of individual institutions have been unstructured and undocumented; an Academy committee is now preparing a formal process to be used during field visits. In addition, the Academy recently received its first automated report, broken down by region and institution,



identifying correctional personnel who had completed, and those who had not completed, training requirements. The Academy is approaching this new oversight role with caution, however, since its responsibilities in this area relative to those of institutional managers is not yet clearly defined.

e. Summary:

As noted throughout this report, management of correctional institutions is a shared responsibility. While it recognizes that institutional managers are ultimately responsible for the performance of correctional officers, the Committee does not believe that institutional managers can fulfill that responsibility without having the benefit of information from all available sources, including an officer's performance in training programs at both the Academy and the institution. An employee's ability to complete Academy training courses successfully has not been fully integrated into the personnel evaluation system, thus depriving managers of a valuable tool for improving personnel performance. Neither basic nor in-service training are closely linked to performance evaluations. Similarly, managers are not evaluated on the basis of how well they document employee weaknesses and then ensure that the employee receives an opportunity to correct those weaknesses through training. Making successful completion of training an integral part of the performance evaluation process would strengthen personnel management.

Academy officials note that the proposed changes in their role and mission will require additional resources--improved automation capability, increased staff, and funds to contract with

outside trainers to absorb the loss of five regional training officers. The Committee agrees that resources will be needed if more specialty courses are offered and in-service requirements are increased. However, before providing additional resources to meet these needs, the Committee believes that an assessment of the Academy's priorities needs to be conducted.

Based upon a review of Academy training calendars, course descriptions, and records, the Committee noted several possibilities for internal resource reallocations. A number of the general courses offered by the Academy, particularly at the regional level, may be available from other sources in the State. For example, the State Department of Personnel and Training offers a number of courses statewide similar to the Academy's courses in "Data Processing Concepts," and "Effective Communication"; the State Community College System also offers a number of courses similar to those offered by the Academy. However, it is not clear that these courses would be as relevant to correctional operations as would be necessary or appropriate. The Committee also noted that 19% of the Academy's classes were cancelled due to low attendance during 1982-83. This percentage was reduced to 13% in 1983-84.<sup>82</sup> This data may indicate that additional resource reallocations are possible through the identification and elimination of lower priority training activities.

C. INSTITUTIONAL TRAINING:

1. Background:

Institutional training programs are designed to be an integral part of DOC management's approach to training for

security personnel. Correctional officers normally receive their first two weeks of basic training at the institution, prior to the three-week Basic Correctional Officer Course at the Academy. The first week of institutional training is taught by the staff of the institution; the Institutional Training Officer (ITO) or other employees of the institution asked by the ITO to participate as trainers, are responsible for conducting these sessions. The second week involves on-the-job training, a responsibility assigned to line supervisors (Captains, Lieutenants, and Sergeants). Institutions also are responsible for coordinating-- and in many cases teaching--in-service training courses for correctional officers, as well as specialized courses for other security personnel. In addition, institutional managers are expected to keep records of training attendance, ensure in-service requirements are met, and identify and then inform the Academy of any individual or group skills deficiencies that require training.

The Committee focused its efforts on the institutional training program at MCC, although institutional training programs in general were discussed with Academy personnel. In addition to a visit to the Academy and a review of the national consultant's reports on training, the Committee interviewed the MCC Institutional Training Officer and reviewed training records of MCC correctional officers and supervisors.

2. Findings:

a. General:

The national consultant who reviewed DOC and MCC training programs and practices gave the overall training program at

MCC a favorable evaluation. However, the consultant was critical of the ability of management and supervisors to integrate fully the training program into the management practices of the institution.<sup>83</sup> The Committee confirmed this deficiency during its follow-up interviews at the institution in September and October. Institutional management, for example, excluded the training officer from policy and procedure development and, in some instances, had not provided the training officer with copies of emergency plans and procedures, such as the institution's procedures for handling a bomb threat. The Institutional Training Officer therefore did not have all the necessary--and in this case extremely important--information needed to structure a complete training program.

It should be recalled that the central feature of the plan for the May 31 escape from Death Row was a hoax involving a bomb. If MCC security staff had been familiar with the bomb policy, the escape probably never would have occurred. The Committee also found that institutional management did little to highlight deficiencies in supervisory skills, and then work with the training officer and Academy to meet special training needs. In turn, line supervisors did little to identify weaknesses in their staff which could be corrected through training. It also appears that supervisors failed to ensure correctional officers actually used the skills learned in training in their day-to-day work (e.g., routine inmate counts, identification of relief officers, and so on). The consultant also noted certain specific improvements that were required in the training program. These included: more emphasis by management on completion of in-service



requirements by staff; identification and development of specialized course work applicable to maximum security institutions; and the addition of another training officer at MCC to provide more training, to maintain records, and to observe officers and supervisors in actual work situations.<sup>84</sup>

b. Recent Progress:

Management at MCC has taken a number of steps over the past several months to improve its training program. These have been accomplished through the efforts of the Acting Warden, his assistants, and the Institutional Training Officer (ITO). Among the steps are:

- ° More emphasis on completion of in-service training requirements. (According to the ITO's records, all MCC supervisors and officers will have completed required training by December 1984.)
- ° More emphasis on timely completion of basic training for correctional officers. (Officers hired between April and July 1984 have completed all five weeks of basic training; this was accomplished despite significant manpower shortages at MCC during the preceeding six months.)
- ° Redesign of institutional basic and in-service training to reflect the maximum security nature of the institution. (Both the first week of basic training and all in-service training at MCC include less general information and more emphasis on emergency procedures than in the past; for example, procedures for handling a bomb threat are now a standard part of the program.)
- ° Development of additional specialized courses for all security personnel. (Both stress management and non-violent crisis intervention are to be taught by the institution in the future, rather than being offered solely by the Academy at the regional level.)

The Committee believes these are important and effective steps designed to improve the skills of the MCC staff. However, as discussed previously, the training program at MCC has yet to be

fully integrated into the institution's management system.

Training continues to be viewed as the responsibility of the ITO, not management or supervisors. This leaves the training function as an isolated component of the management and personnel system--a "necessary but separate appendage." Numerous examples of continuing problems were evident to the Committee during its two visits to MCC. Examples included:

- ° During its first visit in September, the Committee was astonished to learn that the ITO had not been given a copy of the consultant's reports on training at the institution, which had been completed over two months earlier.
- ° On-the-job training continues to be a weak component of the training program. Several new employees reported to the Committee that they were often left alone at duty posts--including in the pod area control rooms--within their first few days or weeks on the job, and without the benefit of institutional training. (However, more experienced officers noted that this practice is less prevalent than prior to the May 31 escape.)
- ° As reflected by employee performance evaluations, the Warden, his assistants and the ITO do not routinely receive information from supervisors on weaknesses in the skills of their staff. It appears that few supervisors routinely document and follow up on employee weaknesses.
- ° Supervisors do not routinely check and test an officer's knowledge of procedures while touring their assigned building(s).
- ° Management and supervisors rarely assist in the training process. Most courses are taught by the ITO or the Academy.
- ° The ITO has not been asked by the Academy to participate in the development of the planned courses to be conducted at MCC on basic supervision or Tactical Team training.
- ° In the past, specialty classes planned by the ITO have not been supported by management and supervisors, who advised him the officers were "too busy" to attend.

- ° The ITO rarely observes officers on duty or acts as an operations officer on a temporary basis. (This isolation probably is justified by the workload, but it severely limits the ITO's credibility with other officers.)

The Committee believes more effective use of training as a management tool is likely to take a considerable period of time to develop fully at MCC. The key will be to hold MCC managers and supervisors accountable for identifying deficiencies in the skills of individual employees and then taking appropriate action. This issue needs to be one of high priority at MCC, and perhaps at other institutions as well.

**D. TRAINING FOR OTHER CORRECTIONAL STAFF:**

**1. Background**

There are over 70 non-security employees at MCC. Some are individuals whose positions require advanced and specialized training; but most MCC non-security positions do not require such training.

However, a significant number of these employees--e.g., psychologists, counselors, nurses, and recreation supervisors--have frequent and direct contact with inmates, including inmates in the Phase Program, segregation, and isolation.

**2. Findings:**

As noted in Section C of Chapter 7 dealing with compensation for non-security employees, a large number of these employees experience job stress similar to that experienced by correctional officers and other security personnel. The nurses, psychologists, counselors and recreation supervisors who have frequent and

direct contact with inmates also face some of the same dangers faced by security personnel and need to have specialized training in how to deal with maximum security inmates, especially disruptive inmates. Committee discussions with non-security personnel indicated that at least one had asked, but was not permitted to attend the portion of the correctional officer basic course held at MCC. The request apparently was denied because of manpower shortages in that employee's area.

The Study Committee's charge did not include, and time did not permit, a review of either the basic qualifications and need for training of the MCC non-security staff or the extent such staff need specialized training in how to deal with maximum security inmates. Such a study should be completed by DOC as soon as practicable.

**E. RECOMMENDATIONS FOR TRAINING:**

The Committee believes that the overall DOC training program for correctional personnel is fundamentally sound and effective. The events at MCC have highlighted what may be system-wide deficiencies in the recruitment and promotion of correctional officers, rather than training inadequacies. Nevertheless, the Committee believes that increased attention to two training issues is necessary to prevent future "Mecklenburg-type" problems: (1) a reassessment of DOC's current training emphasis (i.e., its emphasis on general rather than institution-specific training, and the availability of supervisory training only to higher ranking supervisors); and (2) the development of a closer link between training and the evaluation of employee performance. The Study Committee



therefore recommends:

**Recommendation 49.** The Board of Corrections should direct DOC to conduct an assessment of training requirements for personnel at maximum security institutions. MCC should be a pilot institution for such an assessment, which would include:

- (a) an individual "skills inventory" of all supervisors at MCC, in conjunction with a more general survey of all MCC employees;
- (b) a specific training program tailored for each supervisor; and
- (c) the Institutional Training Officer as a full participant in the assessment.

**Recommendation 50.** The Criminal Justice Services Board should conduct an in-depth review of correctional officer and supervisor minimum training standards. This review should focus particular attention on:

- (a) increasing requirements for minimum in-service training of correctional officers and Corporals, with emphasis on use of Academy rather than institutional instructors;
- (b) determining whether Lieutenants and higher grade personnel require increased minimum training;
- (c) increasing minimum in-service training standards required for Sergeants;
- (d) making it clear to personnel that credit is given towards the in-service training requirement for completion of additional specialty courses, and making it easier for personnel to obtain certification of that training once it has been completed;
- (e) requiring specialized training for officers at maximum security prisons; and
- (f) requiring that credit for training be based upon a system for measuring the performance of correctional personnel, rather than, or in addition to, attendance at more training sessions for a prescribed number of hours.

**Recommendation 51.** If the previous training recommendations are adopted and minimum training standards are revised, DOC's staffing formula for correctional institutions should be amended to reflect the increased

time required for training.

**Recommendation 52.** The Board of Corrections should direct DOC to take the following steps:

- (a) initiate a system to link performance in training to recruitment, job retention, promotion, and the performance evaluation system. The Academy should institute a performance-based system for supervisors and for correctional officers in basic training and consider adding physical agility tests to its training requirements;
- (b) require that the criteria for promotion within security personnel classifications include successful completion of mandatory training courses;
- (c) expand opportunities for correctional officers and Corporals to participate in advanced and supervisory course offerings;
- (d) evaluate the performance of institutional management at least in part on their ability to train employees in a timely and effective manner;
- (e) assess the capabilities and training needs of Institutional Training Officers;
- (f) examine and redefine the role of Institutional Training Officers in terms specific to their institution, to the end that Institutional Training Officers become part of the managerial team at each institution;
- (g) require Institutional Training Officers to submit annual reports to their Warden and Regional Administrator and to the Academy assessing the training needs of their institutions and describing their plans for meeting those needs;
- (h) consider having Institutional Training Officers be responsible for specialty courses and assigning responsibility for general institutional orientation and training to Captains. Supervisors should be a part of the training team at each institution.

**Recommendation 53:** DOC and a subcommittee of the Board of Corrections should study all non-security positions at MCC to determine:

- (a) whether non-security staff at the institution possess the basic job qualifications and training necessary to perform their duties adequately; and

- (b) whether non-security staff at the institution need specialized training in how to deal with maximum security inmates, especially disruptive inmates.





**PART V**

**ISSUES INVOLVING THE SURROUNDING  
LOCAL COMMUNITIES**

## CHAPTER 9

### THE MECKLENBURG CORRECTIONAL CENTER AND THE SURROUNDING LOCAL COMMUNITIES

#### A. COMMUNICATION:

##### 1. Background:

MCC is located 85 miles southwest of Richmond in rural Mecklenburg County near the Virginia-North Carolina border. The population of the area is approximately 30,000. MCC, which is one of the few major employers in the area, has over 300 employees, most of whom live in the Mecklenburg County area. There is a relatively large number of elected officials representing various parts of the county--for example, there are nine members serving on the Mecklenburg County Board of Supervisors, seven on the Boynton Town Council, and seven on the South Hill Town Council.

Thus, MCC is located in a sparsely-populated, rural area of the Commonwealth where the citizens, especially a relatively large number of elected officials, have a keen interest in what occurs at the facility, both because it is one of the area's few major employers and because it is perceived as a dangerous institution.

##### 2. Findings and Recommendations:

As one of Mecklenburg County's major employers, and as a representative of the Commonwealth, MCC should endeavor to establish good communications and a good working relationship with elected

officials and other individuals in the area.

The Study Committee held an open meeting for elected officials from the Mecklenburg County area on the evening preceding its first visit to the facility. Those in attendance noted the economic benefits the facility brought to the County. Thus, no one advocated that the facility be moved. However, communication between officials at the facility and local elected officials was a major topic of conversation. There was disagreement over whether a lack of communication existed. Some local officials felt that communications with the former Warden had been fairly good; but a significant number noted a need for improved communication. It was the Committee's impression that most of what local residents know about the facility they learn from friends and neighbors who work there, in spite of recent efforts by the former Warden and the current Acting Warden to improve communications.

The incidents at the facility over the past several months, however, have demonstrated that heavy reliance on informal communication probably is not sufficient. The facility and the residential areas of the county are quite isolated from each other. The Committee believes that periodic meetings between officials at the facility and local elected officials and other individuals (e.g., civic groups, church groups, etc.) in the area would greatly enhance an understanding by both groups of the problems faced by the other. The Study Committee therefore recommends:

**Recommendation 54:** Officials at MCC should meet periodically with elected officials and other individuals from the surrounding local communities

in an effort to improve communications and enhance an understanding by local citizens of the purpose of, and problems faced by, the facility.

Although the Mecklenburg County Sheriff's Department was informed of the escape almost immediately after it was discovered, many elected officials in Boynton, which is the town nearest to the facility, and South Hill, which is the largest town in the area, did not know about the escape until 1-1/2 hours after it was discovered. The consultants who reviewed the escape at the request of the Secretary for Transportation and Public Safety recommended that a "hotline" be established between MCC and the Sheriff's Department. That recommendation is being implemented.

However, the escape which occurred on May 31 and the fear on the part of local citizens that such an escape might occur again--well-founded or not--makes it imperative that procedures be developed to alert the surrounding local communities, and especially local elected officials, of emergencies at the facility. Such an alert should, of course, be accomplished without causing undue fear. Shortly after the escape, some local citizens called for the installation of a siren which could be sounded in the event of an inmate escape. Upon reflection, local citizens apparently no longer want such a device. There was no sentiment expressed at the public meeting held by the Committee for its installation. However, there was sentiment for the establishment of a telephone network to inform local officials more quickly than this past spring about emergencies at the facility. Therefore, the Study Committee recommends:

**Recommendation 55:** MCC should work with elected officials in the surrounding local communities to establish a telephone network for alerting local



officials of emergencies at the facility which might have an impact on those communities.

B. TRANSPORTATION OF INMATES TO THE LOCAL COURTHOUSE:

1. Background:

The Mecklenburg County Courthouse is located in Boynton, Virginia, nine miles from MCC. There is also a courtroom at MCC itself which has a judge's bench, a jury box, tables for counsel, and room to accommodate members of the public who wish to observe the trial.

If an inmate is charged with a violation of State law for his conduct at MCC (a "street charge"), rather than merely being charged with a violation of MCC Institutional Operating Procedures (an "institutional infraction"), the Mecklenburg County Commonwealth's Attorney prosecutes the case. Until recently, it has been the practice of the Commonwealth's Attorney to try these cases at the County Courthouse. An inmate being tried for a "street charge" and any inmates who will serve as witnesses for or against him must therefore be transported from MCC to the Courthouse. The Committee received numerous complaints from citizens in the area about the conduct of inmates being transported to the courthouse who shout extremely profane and obscene language at local citizens.

The windows in the vehicle used to transport the inmates generally are open because of a concern that inmates will break the glass. When they arrive at the Courthouse, the inmates often are often required to wait in a group outside since there is no area inside the Courthouse to serve as a waiting room for them.

Because of these complaints, and to obtain easier access to inmate witnesses, the Commonwealth's Attorney recently decided to try several cases--in particular, several cases arising out of the August 4 hostage situation--in the courtroom at MCC.

2. Findings and Recommendation:

The Study Committee agrees that strong measures need to be taken to reduce the verbal abuse to which citizens in the local communities surrounding MCC, and in particular Boynton, have been subjected by inmates who are being transported to the local Courthouse to be tried for criminal offenses committed at the institution. There seem to be a number of alternatives: trying the cases at MCC; keeping the windows closed in the vehicle used to transport the inmates; constructing, at State expense, a room at the County Courthouse in which inmates can be held while awaiting trial; gagging inmates who verbally abuse local citizens; and moving the trials to some other court where the verbal abuse would not be as disruptive and where more elaborate security measures would be available.

The Study Committee conducted many of its interviews at MCC in the facility's courtroom. The courtroom is located on the second floor of the administration building. In the Committee's judgment, it would not be particularly intimidating for jurors to hear a case in that courtroom.

Other alternatives also may be available. At a minimum, MCC staff who transport inmates to the facility should make certain that the windows in the vehicle are closed. If there is a fear that inmates will break the glass in the windows, a

vehicle without windows should be used, or disruptive inmates should be handcuffed to their belt. In addition, a waiting area for inmates could be constructed adjacent to the County Courthouse. State funds should be provided for this construction since the problem is caused by State, not local, prisoners. Unless and until a vehicle without open windows and a waiting area for the inmates at the local Courthouse are provided, procedures should be developed which would permit a verbally abusive or otherwise disruptive inmate to be gagged or otherwise restrained after an appropriate warning.

The Study Committee believes strongly that verbal abuse of local citizens and other disruptive behavior by inmates being transported to the Mecklenburg County Courthouse must not be tolerated. The Committee therefore recommends:

**Recommendation 56.** DOC and MCC should explore various alternatives to prevent verbal abuse of local citizens and other disruptive conduct by MCC inmates being transported to the Mecklenburg County Courthouse for the trial of criminal offenses committed at the institution. Possible alternatives include:

- (a) conduct the trials in the courtroom at MCC;
- (b) use a vehicle without windows to transport the inmates to the Mecklenburg County Courthouse;
- (c) construct, with State funds, an inmate waiting area adjacent to the Mecklenburg County Courthouse;
- (d) restrain disruptive inmates by handcuffing them to their belt after fair and appropriate warning; and
- (e) gag verbally abusive inmates after fair and appropriate warning.

**FOOTNOTES**



## FOOTNOTES

1. M.J. Gilbert, "An Evaluation of Training in the Virginia Department of Corrections and the Mecklenburg Correctional Center" (First Technical Assistance Report, National Institute of Corrections Technical Assistance Grant #84-277) (undated); M.J. Gilbert, "An Evaluation of Personnel Hiring/Promotion Practices and Management Supervisory Training Program in the Virginia Department of Corrections and the Mecklenburg Correctional Center" (Second Technical Assistance Grant, NIC Grant #84-290) (July 5, 1984); J.D. Henderson (NIC Consultant) "Technical Assistance Visit, Virginia Department of Corrections Mecklenburg Correctional Center," (June 27, 1984); and, G.J. Hilton, "Escape from Mecklenburg Correctional Facility, May 31, 1984" (NIC Technical Assistance Grant #84-289) (undated; received July 17, 1984).

2. Section 53.1-5 of the Code of Virginia provides that:

"The Board shall have the following powers and duties:

"1. To develop and establish program and fiscal standards and goals governing the operation of state, local and community correctional facilities and community correctional services;

"2. To ensure the development of long-range programs and plans for corrections services provided at the state and local levels;

"3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

"4. To monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board;

"5. To advise the Governor, Director and General Assembly on matters relating to corrections;

"6. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department; and

"7. To ensure the development of programs to educate citizens and elicit public support for the activities of the Department."

3. Supra note 1.

4. Dr. Daniel F. Johnson and Dr. E. Scott Geller, Operations Manual--Contingency Management Program, Mecklenburg Pilot Program

Building 1 and Building 2, September 15, 1973, page 5.

5. Virginia Department of Corrections, The Mecklenburg Evaluation I, The Task Force Interviews, June 1977, page 3.

6. Mecklenburg Correctional Center, Assignment Criteria and Program Overview, (Draft), June 21, 1979, page 1.

7. Virginia Department of Corrections, Mecklenburg Treatment Program, December 1, 1981, page 3.

8. Brown v. Procunier, Civil Action No. 81-0853-R (U.S. District Court for the Eastern District of Virginia) (filed on September 21, 1981; settlement agreement signed by the parties on April 8, 1983).

9. Virginia Department of Corrections, Division of Adult Services Guideline 825, Inmate Institutional Reassignments/Transfers (1977; revised 1982), pages 9-12.

10. Ibid.

11. Supra note 4.

12. E. Scott Geller, et al., "Behavior Modification In a Prison--Issues, Problems, and Compromises," Criminal Justice and Behavior, Vol. 4, No. 1, March 1977, page 11.

13. Virginia Department of Corrections, The Mecklenburg Correctional Center Program Design--Maximum Adult Security and Intensified Treatment (MASIT), November 1976, page 1.

14. Ibid. at page 5.

15. Mecklenburg Correctional Center, Institutional Operating Procedure 892, "Operating and Administrative Procedures Governing Inmates Assigned to the Center."

16. Mecklenburg Correctional Center, Institutional Operating Procedure 831, "Programs for Inmates Assigned to the Center."

17. Mecklenburg Correctional Center, Institutional Operating Procedure 12, "Administration and Operating Policies and Procedures."

18. Ibid.

19. Ibid.

20. Supra note 9, at page 10.

21. Ibid.

22. Mecklenburg Correctional Center, Statistical Summary of Phase Program Inmates, 1983.

23. Virginia Department of Corrections, The Mecklenburg Evaluation IV, August, 1978.

24. David A. Ward and Annesley K. Schmidt, "Last-Resort Prisons for Habitual and Dangerous Offenders," in David A. Ward and Kenneth F. Schoen, Confinement in Maximum Custody, 1981, page 62.

25. Kenneth F. Schoen, "New Prison Construction in Minnesota: Why a New Prison for a State which is Near the Bottom of the Fifty States in Prisoners per 100,000 Population?" in David A. Ward and Kenneth F. Schoen, Confinement in Maximum Custody, 1981, page 117.

26. Ibid.

27. Supra note 9, at page 10.

28. Supra note 12, at page 14-15.

29. Supra note 13.

30. Supra note 12, at page 30-31.

31. Alvin J. Bronstein, "Legal and Constitutional Issues Related to Last-Resort Prisons," in David A. Ward and Kenneth F. Schoen, Confinement in Maximum Custody, 1981, p. 76.

32. Supra note 9, at page 9.

33. Ibid.

34. Ibid.

35. Ibid.

36. Ibid., at page 11.

37. Ibid.

38. Ibid., at page 12.

39. Ibid., at page 9.

40. Ibid., at page 11.

41. Ibid.

42. Supra note 1 (the two Gilbert reports).

43. Ibid.

44. Ibid.

45. Code of Virginia § 53.1-5.
46. Code of Virginia § 53.1-10.
47. Supra note 1.
48. Source: DOC Employee Relations Unit.
49. Source: DOC Adult Services Division.
50. Mecklenburg Correctional Center, Post Audits, May 1982, January, 1984, September 1984.
51. Ibid.
52. Ibid.
53. MCC Post Audit; Virginia State Penitentiary Post Audit, September, 1984.
54. Source: DOC Employee Relations Unit.
55. Supra note 1.
56. DOC Employee Relations Unit, Semi Annual Report of Grievances Filed and Completed, 1983-84.
57. Ibid., 1981-84.
58. Source: Office of Employee Relations Counselors.
59. Office of Employee Relations Counselors, Grievance Procedure Changes, July 1, 1984.
60. Supra note 57.
61. Source: DOC Employee Relations Unit.
62. Plaintiff's Complaint in Brown v. Procunier, supra note 8 at page 1.
63. Consent Decree in Cagle v. Hutto, Civil Action No. 79-0515-R (Decree entered Feb. 12, 1981).
64. Consent Decree in Cagle v. Hutto, Civil Action No. 79-0575-R (Decree entered June 14, 1983).
65. Supra note 8.
66. Ibid., at pages 1-16.
67. Plaintiff's Motion for Preliminary Injunction in Brown v. Landon, originally filed as Brown v. Procunier, supra note 8, at page 1.



68. Order on Plaintiff's Motion for Preliminary Injunction in Brown v. Landon, originally filed as Brown v. Procunier, supra note 8, at pages 1-2 (Order filed October 2, 1984).

69. Department of Corrections, Monthly Serious Incident Reports, 1983-84.

70. Department of Personnel and Training, Study of Correctional Officer Compensation, September, 1984.

71. Contact Corrections Compendium, December, 1983.

72. Supra note 70.

73. Contact Corrections Compendium, 1981.

74. Supra note 70.

75. Ibid.

76. Ibid.

77. Supra note 1 (the two Gilbert reports).

78. Department of Corrections, Academy for Staff Development, Academy Mission and Objectives, September, 1984.

79. Supra note 1.

80. Ibid.

81. Academy for Staff Development, Academy Charter (draft), September, 1984.

82. Academy for Staff Development, Annual Statistical Summary, July, 1984.

83. Supra note 1 (the two Gilbert reports).

84. Ibid.

85. Ibid.

**APPENDICES**

August 28, 1984

BOARD OF CORRECTIONS STUDY COMMITTEE

Proposed Study Work Plan

This proposed work plan is divided into four parts: background and objectives; suggested study approach; specific issues to be studied; and a tentative schedule.

I. BACKGROUND AND OBJECTIVES:

The Board of Corrections is charged by the State Code to "monitor the activities and effectiveness of the Department of Corrections." This Study Committee was appointed by the Chairman of the Board to study the incidents which have occurred at the Mecklenburg Correctional Center over the past three months and to make recommendations as to how such incidents can be avoided in the future. The Study Committee has been asked to identify the major problem areas, provide policy guidance to the Department of Corrections (DOC), and develop a research reference for those considering solutions to the problems identified.

In particular, the Study Committee has been charged to examine three specific issues, which are explained in greater detail in part III below. The issues are:

- (1) The Concept and Design of the Mecklenburg Corrections Center
- (2) Compensation of Correctional Officers
- (3) Training of Correctional Officers

Although the second and third issues are to be studied in general, particular emphasis is to be given to correctional officers who guard maximum security inmates.

II. SUGGESTED STUDY APPROACH:

The Study Committee should conduct its own research, including but not limited to:

- (1) interviews with appropriate DOC management officials, the warden, correctional officers and inmates at Mecklenburg, and officials of local governments located near the facility;
- (2) at least one public hearing;
- (3) a survey of officials who manage similar facilities in other states; and
- (4) a review of research documents prepared by national correctional agencies or associations.

The Committee should also review a number of recent studies completed for the Secretary of Transportation and Public Safety by outside consultants, Virginia State Police investigations of the incidents at Mecklenburg, and two studies currently being completed by state agencies--a DOC study begun earlier this summer on the concept and design of Mecklenburg, and a classification and salary study of correctional officers being completed by the State Department of Personnel and Training (DPT). These two studies are scheduled to be completed between now and October 1, but the preliminary conclusions probably can be made available to the Committee by early to mid September.

The final report of the Study Committee should:

- (1) identify specific problem areas;
- (2) review the available research and literature on both the state and national level concerning those problem areas;
- (3) indicate the various concerns raised and recommendations made by individuals during the site visit(s), interviews and public hearing(s), and the Committee's response to those concerns and recommendations;
- (4) indicate the concerns raised and recommendations made by those at the Department of Corrections responsible for administering the prison system and correcting the problems identified by the Committee; and
- (5) recommend steps to address and correct the problems identified.

### III. SPECIFIC ISSUES TO BE STUDIED:

The following are suggested areas of inquiry for each of the three specific issues included in the Study Committee's charge and a list of resources in each area which have been identified to date.

#### 1. Concept/Design of the Mecklenburg Correctional Center

The issue of physical security at the Mecklenburg Correctional Center has been covered in detail in reports prepared this summer by outside consultants for the Secretary of Transportation and Public Safety. Given the short period of time available for this study, if the Committee's reading of those reports confirms that an in depth review of the physical security problems at Mecklenburg has been conducted, the Committee should consider limiting its focus to the human resource issues which are critically related to security. This would include: institutional rules and guidelines; adherence to policies and procedures; adequacy of staffing; and inmate involvement in productive programs.



- ° Is the concept of housing a majority of the State's most serious, maximum security inmates at a single institution valid?
- ° Is the treatment and population management program design sound?
- ° Is the treatment and population management program being implemented appropriately and effectively?

b) Resources:

National Institute of Corrections Consultant Reports prepared for the Secretary of Transportation and Public Safety (1984).

Department of Corrections/American Civil Liberties Union Consent Decree (1983).

Department of Corrections Program Design and Implementation Discussion Papers (1973-1976).

Division of Justice and Crime Prevention grant files on the HWI/DOC Behavior Modification/Contingency Management Program (1971-1973).

Department of Corrections Mecklenburg Concept and Design Study Project (est. completion October 1, 1984).

National Criminal Justice Reference Services literature search (1984).

American Civil Liberties Union working files.

Additional national literature available through the National Institute of Corrections (including an August 1984 discussion paper on maximum security prison trends).

2) PERSONNEL COMPENSATION

a) Sub issues:

- ° How do the salary and benefits offered correctional officers in Virginia compare to neighboring states and other states in the nation?
- ° How do salary and benefits offered to correctional officers compare to their counterparts in other aspects of public safety in Virginia and nationally?
- ° Would pay differential, "hazardous duty pay," for maximum security personnel as compared to other correctional officers be justified?
- ° What would be the cost implications of a decision to increase in any way the level of compensation for correctional officers?

b) Resources:

Department of Personnel and Training Study Project on Compensation of Virginia Corrections Officers (est. completion Sept. 1, 1984)

Consultant report, An Evaluation of Personnel Hiring/Promotions Practices and Management Supervisory Training Programs in the Virginia Department of Corrections and the Mecklenburg Correctional Center (July, 1984).

National Criminal Justice Reference Services literature search (1984)

Public Safety Officers Compensation Study (February, 1983)

3) TRAINING PROGRAMS

a) Sub issues:

- ° Are the correctional officer training standards appropriate?
- ° Is the correctional officer training curriculum sound?
- ° Is the quality of training adequate?
- ° Is the funding budgeted for training adequate?
- ° Is the documentation of attendance/completion of training adequate?
- ° Are the personnel utilizing the skills developed through training?

b) Resources:

Criminal Justice Services Board Compulsory Minimum and In-Service Training Standards for Correctional Officers of the State Department of Corrections.

Consultant report, An Evaluation of Training in the Virginia Department of Corrections and the Mecklenburg Correctional Center (June, 1984)

Consultant report, An Evaluation of Personnel Hiring/Promotions Practices and Management Supervisory Training Programs in the Virginia Department of Corrections and the Mecklenburg Correctional Center (July, 1984)

Department of Corrections Basic Correctional Officer Training Manual

Department of Corrections In-Service Training Curriculum

National Criminal Justice Reference Service literature search (1984)

BOARD OF CORRECTIONS STUDY COMMITTEE

Study Work Plan - Addendum #1

Specific Issues

On August 28, 1984, the Committee approved a proposed study work plan (see attached document), but suggested several other sub-issues be studied within the context of the three major Objectives - Concept and Design of the Mecklenburg Correctional Center, Personnel Compensation, and Training. The sub-issues are listed below:

Concept/Design

- o Is there a clear and consistent basis for assigning inmates to Mecklenburg? (i.e. classification and assignment system)

Personnel Compensation

- o No additional issues

Training

- o Are correctional officers receiving the appropriate training prior to being assigned to a specific post? (Major interest - Do entry-level officers have opportunity to complete basic training prior to receiving assignment to a particularly dangerous post?)
- o Are correctional officers receiving adequate specialized training for operating within a maximum security facility? (i.e. dealing with specific types of inmates and handling more intense security situations).

Virginia Department of Corrections

October 15, 1977

Division of Adult Services

Departmental Guideline 825

Inmate Institutional  
Reassignments/Transfers

## I. Purpose

The purpose of this Division Guideline is to establish a uniform policy and procedure governing the institutional reassignment of offenders throughout the Division of Adult Services.

## II. Definition of Terms

Institutional Reassignment (Transfer): An institutional reassignment is defined as the physical transfer of a legal offender from the custody of one institution to the custody of another institution within the Division of Adult Services and local jail facilities.

Inter-Institutional Transfer: Inter-institutional transfer is the institutional reassignment of a prisoner from one major institution or field unit region to another.

Intra-Regional Field Unit Transfer: An Intra-regional field unit transfer is the institutional reassignment of a prisoner from one field unit institution to another within a given field unit region.

## III. Scope

This Division Guideline describes the method by which inmate transfers are determined, documented, and coordinated.

## IV. Authority

Except where otherwise specified in this Division Guideline, all inter-institutional transfers for any reason must be approved in advance by Classification and Records. The Associate Director in charge of Correctional Field Units and Regional Field Unit Superintendents are authorized to approve Intra-Regional Field Unit Transfers as described in this Guideline.

## V. Coordination

Except where otherwise specified in this Division Guideline, all institutional transfers, for any reason, must be coordinated where possible in advance through the Central Transportation Coordinator, Classification and Records.

## VI. Procedure

### A. Inmate Transfer Requests

#### 1. General



February 21, 1979

Division Guideline 825  
Change 2  
Page 2

- a. Inmates who meet the established eligibility standards for institutional transfer may request such during the first ten calendar days of a month only.
  - b. Under normal circumstances, inmates will be approved for transfer, only where such is considered a meaningful progression in the inmate's established program objective plan.
  - c. Transfers closer to the inmate's home of record are designed to foster the development of stronger family and community ties in preparation for the inmate's eventual return to society.
  - d. In all cases, inmate requests for transfer to preferred locations must give way to considerations of space, security and program objectives.
2. Eligibility Standards - The following standards must be met before an inmate may be considered for institutional transfer at his own request. The application of any or all of these standards may be waived by the Central Classification Board in those situations where such action is considered appropriate.
- a. Must be assigned "A" or "B" custody status.
  - b. Must have served a minimum period of twelve (12) months at assigned institution.  
NOTE: The propriety of this standard's application must be considered in relation to the inmate's proximity to release on parole or mandatory discharge.
  - c. Must have maintained an adequate institutional and work adjustment record without infraction of institutional rules for a minimum period of six (6) months.
  - d. Under normal circumstances, only those inmates who are assigned to institutions which are in excess of 100 miles from their home of record will be eligible to request transfer closer to home. Additionally, inmates requesting transfer closer to home of record must be within two years of parole eligibility. This requirement does not apply to transfer requests to facilitate a meaningful progression in the inmate's established program plan.
3. Method of Inmate Application for Transfer - An inmate may request transfer once he has met the above-stated standards by following the procedure outlined in DGL No. 821, "Institutional Classification Management," Section VIII, E-1, "Method of Referral to the Institutional Classification Committee," pp. 8-9.

B. Administrative Transfer Request.

1. An inmate may be referred administratively to an Institutional Classification Committee for transfer consideration in the manner described in DGL 821, "Institutional Classification Management." (See Section VIII, E-1, pp. 8-9)

C. Institutional Classification Committee Hearing Request.

The Institutional Classification Committee hearing requirements outlined in DGL No. 821 as they apply to institutional transfers will be observed. (See DGL 821, Section IX, pp. 14-16.

D. Temporary Emergency Transfers

1. During normal duty hours (8:00 a.m. to 5:00 p.m.) in emergency situations requiring the immediate transfer of an offender, except where otherwise specified in this Guideline, institution and regional superintendents are to contact the Assistant Director in charge of Classification and Records or his designee for advice and assistance.
2. During non-duty hours, weekends and holidays, in emergency situations, as per Division Guideline 400 "Emergency Situations," institution and regional superintendents are to take whatever immediate transfer action they deem necessary and appropriate to initially gain control of the situation, prior to initiating the reporting procedures indicated in Division Guideline 401 "Reporting Serious or Unusual Incidents."
3. On the first working day following the emergency situation, the institution or regional superintendent, will notify the Assistant Director in charge of Classification and Records or his designee of any transfer action taken. The Assistant Director in charge of Classification and Records or his designee will initiate a review of the prisoner's record at the Central Classification Board level and issue appropriate written transfer authorization which will remain in effect pending the final outcome of an Institutional Classification Committee hearing and subsequent Central Classification Board review where such is required.
4. Once a prisoner is received at an institution through temporary transfer action, he becomes the full responsibility of the receiving institution superintendent in the area of custody and care. However, it will remain incumbent upon the sending institution superintendent to assure that the necessary written forms and/or reports are completed and all Adjustment or Classification Committee hearings as required by Division Guideline are properly conducted and reported.
5. In an emergency situation, where possible, Adjustment and Classification Committee hearings, as required, will be conducted prior to initiating transfer action. Where such is not possible, the appropriate committee(s) will convene at the receiving institution.
6. Except where otherwise specified in this Guideline, all temporary emergency transfer actions will be subject to final review and approval by the Central Classification Board.

E. Intra-Regional Field Unit Transfers

1. The Associate Director in charge of Field Units and Regional Field Unit Superintendents may authorize the transfer of a prisoner from one field unit to another within each respective field unit region based on program and security considerations. Such transfers will not be subject to review and approval by the Central Classification Board.

2. Under normal circumstances, recommendations for transfer from one field unit to another within a field unit region will be submitted in writing via Form CL-20 through the institution superintendent to the respective regional superintendent. The regional superintendent's action will be recorded on Form CL-20 under the institution administration section. The original (white) copy only of the CL-20 will be forwarded for filing to the following address:

Classification and Records  
Central Criminal Records Section  
3122 West Marshall Street  
Richmond, Virginia 23230

Once dated and signed by the regional superintendent, the CL-20 in such cases is the housing institution superintendent's written authorization to effect the necessary transfer action through established procedures.

3. The Associate Director and regional superintendents may authorize the transfer of a prisoner from one field unit to another within a given region, administratively, in the absence of Institutional Classification Committee recommendations where such is not required by DGL 821, "Institutional Classification Management" based on program and security considerations. In such cases, the person authorizing the transfer action will issue an Intra-(Field Unit) Regional Reassignment Order Form (see Appendix A - form to be furnished by the Bureau of Correctional Field Units) indicating the inmate's custody and medical status, the institution to which he is being transferred, any special instructions and the specific reason(s) for the reassignment. Once dated and signed by the proper authority, the Intra-Regional Reassignment Order is the housing institution superintendent's written authorization to effect the necessary transfer action through the established procedures. In emergency situations requiring the transfer of a prisoner(s), the Associate Director or regional superintendents may effect temporary administrative transfer action using the "Intra-(Field Unit) Regional Reassignment Order" form provided a formal classification hearing is convened within an appropriate period of time thereafter where such is required by DGL No. 821.
4. Except in emergency situations, the Associate Director and regional superintendents will not authorize the intra-regional reassignment and transfer of prisoners to a given field unit institution over and above what that facility is authorized by the Director to house.
5. All established institution missions, assignment criteria, and transfer eligibility standards will be observed by the Associate Director and regional superintendents when determining intra-regional reassignments.
6. Except in emergency situation, all previous institutional reassignments to a given facility authorized by the Central Classification Board will take precedence over and be effected before intra-regional reassignments authorized by a regional superintendent to that same facility. The Central Transportation Coordinator will schedule and effect intra-regional transfers authorized by a regional superintendent accordingly.



February 21, 1979

Division Guideline 825  
Change 2  
Page 5

## VI. F. Medical Transfers

### General

1. Except in emergency situations and in the case of temporary transfers to medical facilities, e.g., routine trips to hospital, clinics, etc., all permanent transfers to medical facilities will be coordinated in advance through the Central Transportation Coordinator, Classification and Records.
2. Transfers of prisoners to the Penitentiary Hospital and other State hospital facilities for medical/psychiatric evaluation and treatment may be authorized by institution and unit superintendents in conjunction with the Chief Physician.
3. Medical transfer requests in the absence of a physician's written certification of need attached to the Form CL-20 will not be considered. In such cases, the CL-20 will be referred back and returned to the housing institution superintendent.

### Inmate Transfers Involving Non-Emergency Situations

1. At major institutions and field unit facilities, all requests for inmate medical transfers of a non-emergency nature will be initiated in writing by the institution or unit physician. The physician's written request must specify the nature of the inmate's physical condition and the reason(s) why the subject's medical treatment needs cannot be adequately addressed through medical resources at his present institution of assignment. All requests for medical transfer initiated in this manner will be referred automatically to the Institutional Classification Committee by the institution or unit superintendent or his designee.
2. The Institutional Classification Committee, in such cases, will convene an informal classification hearing within a reasonable period of time, review each case and submit appropriate assignment recommendations with supporting data through the institution or unit superintendent via Form CL-20 (all copies) to the Chief Physician's office through Classification and Records Services for final disposition. A copy of pertinent documents contained in the inmate's medical record, i.e., medical card, prescription records, medical history, etc., including the institution or unit physician's written request for medical transfer, will be attached to and accompany each such Form CL-20. Where possible, and advised by the attending physician, the inmate's permanent medical records are to be retained at the institution.
3. Upon receipt of recommendations from the unit or institution, Classification and Records Unit will log CL-20's through established Central Classification Board docketing procedures and forward the same with related attachments to the Chief Physician's office on a same day basis.
4. Upon receipt of the institution's recommendations from Classification and Records Unit, the Chief Physician will consider the merits in each case and approve or disapprove the Institutional Classification Committee's request. The Chief Physician will date and sign each CL-20 received,



February 21, 1979

Division Guideline 825  
Change 2  
Page 5a

noting the specific justification for any action taken and any recommendations which are appropriate in the manner prescribed in the attached sample CL-20. (See Appendix C).

5. In the case of those recommendations which are disapproved, the Chief Physician will indicate the same with supportive written justification in the manner prescribed in the attached sample CL-20 and return all Form CL-20's and related attachments to Classification and Records Unit, Attention: Central Classification Board. The Central Board will log the Chief Physician's action through established docketing procedure, detach and forward the white original copy of the CL-20 along with a copy of the unit or institution physician's written request to Central Criminal Records, File Maintenance and Storage Section. All multi-colored copies of the CL-20 along with related attachments will be returned to the sending unit or institution.
6. In the case of those recommendations which are approved by the Chief Physician's office, the Chief Physician will forward the respective CL-20's and related attachments with a recommended assignment and supportive justification written in the manner prescribed in Appendix "A" to Classification and Records Unit, Attention: Central Classification Board Docket Clerk, for appropriate handling by the Central Board.
7. In those cases where the Chief Physician's recommended assignment cannot be implemented due to space limitations or other considerations, Classification and Records will negotiate an alternate assignment through the Chief Physician's office. The respective institution or unit superintendent will be advised of the Chief Physician's and Central Board's disposition through normal channels. Any resulting inmate transfers will be effected observing established procedure.

#### Emergency Inmate Medical Transfers

1. In emergency situations requiring the immediate transfer of an offender due to his medical treatment needs, the institution superintendents will apply the steps outlined in Section VI-D, above.

#### G. Transfers to Facilitate Court Appearances.

1. Prisoners summoned to appear in a court of law by court order, where stipulated and possible will be housed in the jail of the court of jurisdiction. Prisoners who are transferred to local jail facilities for court purposes will be returned to the sending Division of Institutional Services institution upon completion of their involvement in court proceedings.
2. Where it is necessary to transfer a prisoner from one Division of Institutional Services institution to another on the basis of a written court order, the Supervisor of Central Criminal Records upon receipt of such an order will issue the necessary written notification to the sending institution authorizing the transfer.

3. Where it is necessary to transfer a prisoner from one Division of Adult Services institution to another in the absence of a court order to facilitate court appearance, the superintendent receiving verbal instructions from the court of jurisdiction will promptly notify the Assistant Director in charge of Classification and Records or his designee and indicate the date of the scheduled court appearance and the designated temporary housing facility. The Assistant Director in charge of Classification and Records or his designee will issue a written order authorizing the necessary transfer.

#### B. Transfer to Isolation Facilities for Punishment

1. Institution and field unit superintendents may authorize the transfer of a prisoner to another institution's isolation facility for punishment purposes following conviction and sentencing by an Institutional Adjustment Committee only in those cases where the housing institution is not capable of providing isolated confinement.
2. In such cases, the inmate will be returned to his institution of assignment upon completion of his isolation sentence.
3. Inmates who for security reasons cannot be returned to their institution of assignment will be reassigned temporarily by the Assistant Director in charge of Classification and Records or his designee or the respective regional field unit superintendent in the case of intra-regional transfers until such time as they may be reviewed by an Institutional Classification Committee.

#### I. Transfers for State-Wide Maintenance and Construction

1. All assignments to state-wide maintenance and construction crews will be made by the Central Classification Board generally based on written recommendations of an Institutional Classification Committee.
2. Written recommendations for assignment to state-wide maintenance will be submitted via Form CL-20 to the Associate Director in charge of Field Units. The Associate Director or his designee will record his recommendations on the CL-20 and submit the same to the Central Classification Board for final review and approval.
3. In the case of the Bureau of Correctional Field Units, once a prisoner is assigned to state-wide maintenance, his housing location within the field unit system and any subsequent changes in the same for as long as he is assigned to maintenance will be determined by the Associate Director in charge of Field Units or his designee. Changes in housing location where assigned state-wide maintenance prisoners are concerned will be annotated in the central criminal record via original copy of Form DOC - CA-4, "Interdepartmental Transfer Notice" (see Appendix B) signed and approved by the appropriate authority.

4. In the case of state-wide construction crews, the initial housing location and subsequent changes in the same for prisoners who are assigned to such crews by the Central Classification Board will be determined by the designated Department Construction Superintendent. Changes in housing location for construction purposes ordered by the Construction Superintendent will be annotated in the central criminal record via the original copy of Form DOC - CA-4, "Interdepartmental Transfer Notice" signed by the appropriate authority.
  5. All transfers of state-wide maintenance and construction crew prisoners will be coordinated in advance through Classification and Records, Central Transportation Coordinator.
  6. Prisoners who for one reason or another are removed from maintenance or construction crews will generally be reassigned to their originally assigned institution, space and security considerations permitting.
  7. All removals and reassignments from state-wide maintenance and construction crews will be authorized in advance by the Central Classification Board.
- J. Transfers During Scheduled Parole Hearing Quarters
1. No prisoner will be transferred from one institution to another prior to his scheduled parole hearing. Exceptions to this regulation may be made by proper authority as described in item 4, below only in emergency situations or where transfer is necessary to facilitate maintenance or construction work or entry into the Work/Study Release program.
  2. Prisoners who are transferred for one of the above stated reasons prior to their scheduled parole hearing will be rescheduled during their hearing quarter by the Central Criminal Records Section of Classification and Records in conjunction with the Executive Secretary of the Parole Board, time permitting. In such cases where it is not feasible due to an insufficient amount of time to reschedule a parole hearing, it will be incumbent upon the housing institution superintendent to return the prisoner(s) concerned to their originally assigned institution by the appointed date and hour for their scheduled parole hearing.
  3. Changes in the parole hearings itinerary resulting from institutional reassignments and transfers prior to scheduled parole hearings will be communicated in writing by the Central Criminal Records Section to the sending and housing institution superintendents. In the absence of such notification, it will be incumbent upon the housing institution superintendent to return the prisoner to his originally assigned institution by the appointed hour and date for his scheduled parole hearing.



Inmate Institutional  
Reassignments/Transfers

4. In all cases involving the reassignment and transfer of prisoners prior to their scheduled parole hearing, the person or group authorizing the reassignment will notify immediately the Supervisor of the Central Criminal Records Section of Classification and Records, who will notify the Executive Secretary of the Parole Board.
  - a. Specifically, in the case of reassignments ordered by the Central Classification Board based on security consideration or to facilitate entry into Work/Study Release, the Chief of Classification will notify the Supervisor of Central Criminal Records.
  - b. In the case of Intra-Regional transfers, the Regional Administrator authorizing the transfer will notify the Supervisor of the Central Criminal Records.
  - c. In the case of state-wide maintenance crew prisoner transfers, the Regional Administrator or his designee will notify the Supervisor of Central Criminal Records.
  - d. In the case of state construction crew prisoner transfers, the Construction Superintendent will notify the Supervisor of Central Criminal Records.
  - e. In the case of transfers to state hospital facilities, the superintendent authorizing the same will notify the Supervisor of Central Criminal Records.
5. Except in emergency situations or where transfer is necessary to facilitate maintenance or construction work or entry into the Work/Study Release Program, a general freeze on the transfer of prisoners who become eligible for parole review during the next hearing quarter will go into effect during the last month of the preceding hearing quarter. This freeze will remain in effect until the parole hearing itinerary and review lists for the next quarter are published.
6. For communication purposes, a copy of the parole hearing itinerary and review lists for each given parole hearing quarter including subsequent changes in the same once published will be sent to each major institution and field unit superintendent. Questions regarding the same are to be channeled to the Supervisor of Central Criminal Records.



K. Transfers to Mecklenburg Correctional Center

1. There will be three categories of assignment at Mecklenburg. These will be special purpose assignments, phase program unit assignments, and maximum security unit assignments.
2. Special Purpose Assignments would be determined by particular situational needs. These would include the following:
  - a. Administrative Transfers - there will be occasions where an inmate will have to be transferred immediately. Examples would include transfer for his own protection or the protection of others. In those cases authorization must be granted by the Director, the Deputy Director for Institutional Services, the Assistant Director for Classification and Parole Administration, the Manager for Classification Unit or Regional Administrator. ICC action will follow the transfer in accordance with the provisions of this guideline. When administrative transfers to Mecklenburg Correctional Center are made after working hours or on the weekend, the Regional Administrator will advise the Assistant Director when such action is taken.
  - b. Death sentence - inmates under the death sentence.
  - c. Investigative holds - inmates under active investigation by the Internal Investigation Unit, Department of State Police, or other law enforcement agencies for any alleged offense which poses a threat to the safety of persons or property.
  - d. Protective custody - inmates normally in "C" custody who have serious personal security needs as determined by the Central Classification Board, i.e., state witnesses, victims of inmate assaults, etc. These will be high security inmates who have a documented threatening situation and not merely weak passive inmates seeking a safe assignment. Any "A" or "B" protective custody case recommended for Mecklenburg must have the joint agreement of the Regional Administrator concerned and the Assistant Director for Classification and Parole Administration. Also, see Division Guideline 823 and 861 for processing protective custody segregation cases. Normally inmates placed at Mecklenburg Correctional Center in protective custody status will remain there for a minimum of six months unless extenuating circumstances warrant.

### 3. Phase Program Assignments

a. Any inmate confined at any correctional center of the Commonwealth may be assigned to the Phase Program at Mecklenburg Correctional Center for specialized treatment when adjudged guilty by a court or adjustment committee of one or more of the following infractions:

1. Assaulting or attempting to assault any person with or without a weapon, with the intent to inflict bodily harm.
2. Sexually assaulting or attempting to sexually assault any person by force or threat of force or bodily harm.
3. Rioting, inciting to riot, or attempting to commit either.
4. Taking or attempting to take a hostage for any purpose.
5. Escaping or attempting to escape by force or violence, or from a close custody institution.
6. Setting or attempting to set a fire with potential or actual serious damage or injury to persons or property.
7. Extorting, blackmailing, demanding or receiving money or anything of value for any purpose or attempting any of the foregoing.
8. Gathering around an employee in a threatening or intimidating manner, or participating in or encouraging others to participate in unauthorized group demonstrations.

Assignment to Mecklenburg should not be considered automatic upon conviction of one of the above; rather the ICC and the Central Classification Board must carefully consider all the facts surrounding the case to determine whether the conviction indicates the offender needs treatment at Mecklenburg and could benefit from the program.

b. In addition to the infractions noted above, a transfer of an inmate may warrant special consideration on a case-by-case basis whenever an inmate has been found guilty in court or by an Adjustment Committee of one or more of the representative offenses listed below, for which assignment to Mecklenburg would be considered appropriate and beneficial by the Central Classification Board:

1. Encouraging others to participate in a work stoppage.
  2. Possession of or transfer of forged documents, particularly where such offense is known to be part of an escape plot or elaborate attempt to defraud.
  3. Possession of stolen property, particularly where there is reason to believe such is associated with widespread or endemic stealing from other inmates.
  4. Destroying, altering or damaging state property, especially when such concerns locking devices or security equipment or when such is part of a campaign of deliberate, disruptive behavior.
  5. Engaging in sexual acts with others by consent when such behavior is disruptive to the institution and/or threatens the safety of any inmate.
  6. Repeated or habitual violations of major or minor rules when such becomes a major threat to the safety and welfare of other inmates or staff and no other suitable assignment is available.
4. Maximum Security (non-phase) assignments to Mecklenburg Correctional Center.
- a. Assignments to the Maximum Security (non-phase) section of Mecklenburg Correctional Center will be of an extended nature and will not involve any participation in the phase program.
  - b. General Criteria. Inmates selected for assignment to the Maximum Security (non-phase) will be those designated inmates who require assignment to a maximum-security setting in virtue of the danger they represent to the community and/or to persons (staff or other inmates) within the correctional system and who either cannot safely be assigned to another maximum security setting or require the maximum degree of security available within the correctional system.
  - c. Inmates who possess one or more of the following characteristics:
    1. Sentence in excess of 50 years for a crime(s) of violence.
    2. Potential escape or attempted escape from a correctional institution.
    3. Inmates completing the phase-program who cannot be returned to another maximum security setting for any reason.

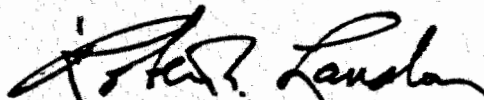


- d. Assignments will be made as a result of Institutional Classification Committee review and Central Classification Board approval. Insofar as the general criteria are met the inmate may be assigned to the Maximum Security (non-phase) at Mecklenburg Correctional Center.

The Institutional Classification Committee will indicate its rationale for concluding that the general criteria are met. The specific characteristics listed in (c) are intended only as representative of the type of factors to be considered and are not to be considered either exhaustive of the criteria to be employed or of such a nature as to automatically result in an assignment to Mecklenburg Correctional Center.

M. Transfer of Inmate Records

1. The official institutional inmate record, including personal property envelopes, medical records, and any prescribed medication orders, shall accompany the inmates to whatever institution he/she is transferred regardless of whether the transfer is permanent or temporary. This applies to transfers to prison hospital facilities, e.g., MCV, Penitentiary Infirmary, Powhatan Correctional Center Infirmary. This does not apply, however, to temporary transfers to local jail facilities to facilitate court appearances.
2. Superintendents of receiving institutions are directed not to accept custody of the inmate without the official record present.



Robert M. Landon, Deputy Director  
Division of Adult Services

/rmh



APPENDIX C

Sharp Staffing Formula (Revised Fall, 1982)\*

Method used in determining the number of days Security Staff will be available to work:

Rest days (2 days per week)	104 days
Vacation Days	15 days
Holidays	11 days
Sick Leave (estimate)	11 days
*Training (Average)	<u>7 days</u>

Total days not available 148 days

365 days - 148 days = 217 days available for work

Equated to man hours:

217 x 8 hrs. = 1736 hrs. per year

Method used to determine manpower needs for custodial posts:

(24 hr. post 7 days per week)

365 days x 24 hrs. = 8,760 hours

8760 hrs. ÷ 1736 = 5.05 officers

(16 hr. post 7 days per week)

365 days x 16 hrs. = 5,840 hrs.

5840 hrs. ÷ 1736 = 3.36 officers

(8 hour post 7 days per week)

365 days x 8 hrs. = 2,920 hours

2920 hrs. ÷ 1736 = 1.682 officers

(8 hour post 5 days per week)

261 days x 8 hrs. = 2,088 hours

2088 hrs. ÷ 1736 = 1.2 officers

\* 80% staff in-service training 2.5 days per year

20% staff basic training 25 days

i.e. VSP - 312 security positions

312 x 80% x 2.5 days = 624 days

312 x 20% x 25 days = 1560 days

Total 2184 days

2184 - 312 = 7 days average

\*Source: Virginia Department of Corrections,  
Division of Adult Services

APPENDIX D

Example of Post Audit and Application of Stamp Formula\*

Example Shift Assignment

	8/4	4/12	12/8
Post A	1	1	1
Post B	1	1	-
Post C	1	-	-
Post D	<u>1</u>	<u>-</u>	<u>-</u>
Totals	4	2	1
Total All Shifts	7		
Total Relief Officers	<u>4</u>		
Total	11		

Post A	24 hrs. 7 days per week	
	1 post x 5.05 =	5.05
Post B	16 hrs. 7 days per week	
	1 post x 3.36 =	3.36
Post C	8 hrs. 7 days per week	
	1 post x 1.68 =	1.68
Post D	8 hrs. 5 days per week	
	1 post x 1.20 =	<u>1.20</u>
Total		11.29

\*Source: Virginia Department of Corrections, Division of Adult Services.