

## ORGANIZATION OF LAW ENFORCEMENT IN DELAWARE

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THE ORGANIZATION of law enforcement facilities in American states has long been a subject of discussion among students of state government. Basically, law enforcement is concerned with (a) the prevention and detection of crime, (b) the prosecution of crimes, and (c) the correction of persons convicted of crime. In many jurisdictions the last is controlled by the welfare agencies of the state, but in Delaware, correction has continued to be outside the welfare program. One possible exception is in the treatment and incarceration of the criminally insane, which is done under the supervision of the mental health authorities.

Administrative organization of law enforcement might conceivably include not only the arrangement of the public facilities engaged—such as the police, the prosecuting officials, and the system of correction—but also the relationship between governmental enforcement agencies and the private groups interested in child welfare, juvenile delinquency, and domestic relations. This paper, however, is concerned only with the exposition and analysis of the public enforcement agencies, at both state and local levels, and with an evaluation of these facilities. The role of the judiciary in the enforcement of the law is also specifically excluded from the present discussion: (a) because it is necessary to keep the study limited in scope, and (b) because the courts can be treated more adequately within a discussion of the legal system.

Until recently the problems associated with law enforcement in Delaware were not overly pressing. The rural simplicity of the State had kept criminality comparatively low. But with the rise of a complex society, the relative freedom from crime began to disappear. In its place there gradually developed a pattern of delinquency, which has become of concern to thinking citizens. During the past ten years the rise of petty crimes has become noticeable. Larceny, both grand and petty (the distinction is often meaningless), has been on the increase. Auto theft has fluctuated,

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but has remained relatively high compared to the national figure. Homicides have tended to diminish in rate but not in actual numbers. (See Table.) It is to be noted that the population of Dela-

OFFENSES KNOWN TO POLICE IN URBAN COMMUNITIES  
DELAWARE AND THE UNITED STATES  
1942-1952  
PER 100,000 POPULATION

Year	Larceny		Auto Theft		Homicide	
	U. S.	Del.	U. S.	Del.	U. S.	Del.
1942	906.0	1261.5	167.6	219.6	5.54	6.86
1944	819.0	1256.9	203.0	262.2	4.92	8.57
1945	889.9	1236.9	241.5	244.3	5.49	4.81
1947	961.2	1441.8	182.1	239.6	6.12	4.97
1948	975.2	1187.2	165.5	203.5	5.99	4.81
1950	894.9	1013.9	153.4	213.9	5.11	5.18
1951	940.1	1369.9	173.8	267.7	4.88	4.93
1952	961.6	1374.0	187.0	209.4	5.05	3.29

ware rose from 184,735 in 1900 to 318,085 in 1950, an average decennial increase of close to 15 per cent. This constant populational growth and the urbanized character of that growth have been important factors in the increase in crime in the First State.

The situation with respect to larceny has been of concern to the police because it indicates a tendency toward an increase in acts of violence. Diverse social groups thrown into close contact in the metropolitan areas of the State apparently provide an opportunity for the spreading of this type of crime. Delaware enforcement officials are beginning to worry about assaults and cases of aggravated battery which often follow in the wake of thefts. Rumbblings can be heard urging greater use of the lash as a deterrent.<sup>1</sup> Juvenile delinquency is on the increase throughout the State, and youthful gangs bent on crime have begun to roam the outlying areas and some of the smaller towns in New Castle County. Part of this situation may be the result of general disturbance among the youth, brought on by insecure times,<sup>2</sup> but it may also be due to the in-

<sup>1</sup> Whipping is possible punishment for over a score of offenses. See *Wilmington Morning News*, May 23, 1952 and February 23, 1953. It should be noted, however, that there has recently been a movement, on the part of several leading citizens, to abolish capital and corporeal punishment in Delaware.

<sup>2</sup> The State Police reported an increase of 9 per cent in criminal cases investigated in 1952 over 1941 in the rural areas of the State. See *Morning News*, January 30, 1953. Crimes of all categories in 1953 totalled 6224 as against 5696 in 1952. See *Morning News*, February 13, 1954.

crease in the dislocation of a semi-rural existence by the advent of industrialization. It is in respect of problems of law enforcement that Delaware is beginning to feel the growing pains associated with the rise of a complex social pattern.

### I. PROSECUTION

The public facilities of law enforcement consist of the prosecuting officials, the police, and correctional institutions and programs.

As in all states the formal organizational pattern of law enforcement in Delaware has at its apex the governor. He is charged by the constitution with the faithful execution of the laws. He is commander-in-chief of the organized state militia, and as such may use them to enforce law and order. Although the governor is directed to execute the law, he is given little express power to accomplish this mission. The State Police are not subject to his direction, and the attorney-general, who is the chief law enforcement officer, is an elective, constitutional officer completely independent of the chief executive.

The attorney-general's term of office is four years. He is chosen in the off-year elections, and hence, is not on the ticket with the governor. Little relationship exists between his office and that of the chief executive. The governor may request opinions from him, and in the matter of requisition of fugitives the governor may require the attorney-general to make investigations and report to him. Otherwise the statutes make little mention of the relations between the two offices.

By custom the governor and other executives call upon the chief law officer for opinions as to the law and for advice in legal matters before them. In the great majority of cases this advice is freely and willingly given. Within recent years an increasing number of requests have come to him from executive directors of state agencies and from state commissions. The growth in administrative law has necessitated a constant search for the legal boundaries within which the administrative groups have the power to act. In many of these instances the attorney-general has had referred to him not only matters involving the interpretation of law but also questions relating generally to the law of officers.<sup>3</sup> At times his

<sup>3</sup> In certain cases, the statutes provide that he must act upon the request of an administrative officer to institute proceedings against a person or corporation. See

office has been so delayed in making a report or in giving an opinion that administrative action has had to be taken on its own. One of the prevailing difficulties in the granting of opinions is that no public record is kept of them so that ready reference is denied interested parties.

Criminal prosecutions in Delaware, except for cases brought before a justice of the peace or the Municipal Court of Wilmington, are conducted by the attorney-general's office. To aid him in prosecutions, he has deputies in each county and a chief deputy, all of whom he appoints. He also names a deputy attorney-general for the Tax Department, whose chief duty is to interpret the revenue laws for the tax officials. The chief law officer is also empowered to prevent county coroners from making investigation which he believes can be more effectively or more economically conducted by his office.

Assigned as special operatives working under the attorney-general are three state detectives. These men are appointed by the attorney-general, one from each county, and hold office for four years. They may be removed by this official at any time. Their task is to investigate all crimes committed in the State which the local police officials cannot handle.

Criminal trials which are held in Superior Court are usually presented by the attorney-general himself if the case is one involving a capital offense or if the issue is otherwise important. Usually his deputies present the State's case. Prosecutions for offenses committed by juveniles or for offenses involving domestic relations are conducted by the attorney-general's office in the Family Court for New Castle County and in the Juvenile Court for Kent and Sussex Counties. Such prosecutions are by information, and the trials are held without juries. The attorney-general may also have charge of cases tried in the Common Pleas Courts.

In the Municipal Court in Wilmington, cases are handled for the city by the city solicitor acting through his assistants. The attorney-general may try state offenses in this court if they are within its competency. In the towns and outlying sections, minor criminal cases come before the alderman or justice of the peace.

*Revised Code of Delaware* (1953), Title 5, sec. 130, with respect to proceeding against banking corporations upon request of the Bank Commissioner. He also serves as counsel for the State Board of Education (Title 14, sec. 109). At times he has given advice to the legislature.

Local prosecutions occur mostly without legal representation on the part of the municipality. Prosecutions are generally handled by the arresting officer, and the hearings are summary.

## II. THE POLICE

The police system in Delaware is divided into four parts: (a) the State Police; (b) the county police officials, including sheriffs, constables, coroners, the deputies appointed by these officers, and the county road patrol in New Castle County, (c) the municipal police departments, and (d) miscellaneous officials such as game and oyster wardens, fire marshals, and special peace officers.

The Delaware State Police consists of approximately 150 officers and men. In addition to determining the size of the force, the legislature has upon occasion directed where the sub-stations shall be located and how many men shall be assigned to each of them.<sup>4</sup> The State Police is nominally under the supervision of the State Highway Department.<sup>5</sup> Originally, the State Police were intended to serve only as a highway patrol, but gradually they were given the duties of a state constabulary. They have been designated as a "State Police" since 1931. Its organization is quasi-military under the command of a superintendent with the rank of colonel, who is appointed by and responsible to the State Highway Commission. There are five troops located strategically throughout the State.

Although the administrative control of the constabulary is in the hands of the highway commission, the legislature has on occasion intervened in its management to the point of effecting the removal of the superintendent and some of the rank and file.<sup>6</sup>

Functioning as a unit of the State Police is the Bureau of Identification. This organization cooperates with the Federal Bureau of Investigation in maintaining an accurate and up-to-date record of suspects and persons who have been apprehended. The State Police handle the bulk of criminal investigation outside the city of Wil-

<sup>4</sup> See *Morning News*, January 16, 1953.

<sup>5</sup> *Revised Code of Delaware* (1953), Title 11, sec. 8301.

<sup>6</sup> There was much discussion in the public press at the time as to whether such action constituted a bill of attainder and also as to whether the legislature actually had the power to remove. The chairman of the commission settled the controversy by stating that the highway group was a "duly constituted executive body of the legislature and subject to its direction." Under his ruling the superintendent was dismissed. See *Wilmington Journal-Evening*, April 11, 1947.



mington and assist the city detectives and state detectives in solving difficult cases.

Closely associated with the State Police is the Delaware River Memorial Bridge Police, an organization under the Delaware River Bridge Division appointed by the State Highway Department. Although these officers have general police authority they confine their efforts to patrol of the bridge and its approaches on the Delaware side.

In addition to their regular police work, the State Police are called upon to serve in many official ceremonies, to guard the governor, and to act as messengers for various state officials. By and large, the force has been able to attract capable men in spite of long duty and not too adequate pay. There is an *esprit de corps* among the troopers, and the force is held in high esteem by the general public.

Although much of the routine police work in the rural areas of the State is carried on by the State Police, the ancient offices of sheriff, and constable still provide the theoretical basis for the maintenance of the peace in all three counties. These officials, while no longer acting as practical guardians of the law, in the currently accepted sense of the term, retain many of the prerogatives of a peace officer, including the power of arrest. The bulk of their work, however, is associated with the courts in the role of process servers, and executors of judgments.

The sheriff is still considered the executive of the county, although the actual administration of county affairs is in the hands of the levy court. He is a constitutional officer, elected by the people of the county for a term of two years, and not immediately eligible for reelection. He has the power to appoint deputies, and in cases of emergency to raise a *posse comitatus*. The job carries no salary, but the fee system makes it a political plum. In case of vacancy during the term of an elected sheriff, the governor makes an appointment. In addition to their varied duties in respect of civil executions, the sheriffs serve in multifarious capacity. They administer oaths; act as treasurers of moneys brought into their office as a result of performance of duty; notify the judges of persons in their charge accused of capital crime or of manslaughter; keep lists of prisoners in their care; and act as game wardens. In Kent and Sussex the sheriff until recently acted as the executioner. The sheriffs of all the counties summon jurors and witnesses, and

they are under compulsion to carry out the regulatory orders of the State Board of Health. They make returns of moneys received by them to the state treasurer or to the levy court, depending upon the nature of the return. Civil executions may be issued to a sheriff by a justice of the peace, but the general practice is for matters of this nature to rest with a constable.

The office of sheriff is filled by a party politician who has received the approbation of the party hierarchy within his county. The filing fee for this office is enormous in comparison with those required for other "line" positions, which fact attests to the financial possibilities of the office.

Another ancient office of law enforcement in Delaware is that of coroner (although the coroner is not technically considered a peace officer). The state constitution provides for one of these officials in each of the three counties. The coroner is elected by the people of the county, and serves for a term of two years. He is commissioned by the governor. Coroners may employ deputies under provision of statute. The chief duty of the coroner has been to investigate deaths of a suspicious or unusual nature. To do this intelligently he needs medical knowledge. But until 1955 no coroner in Delaware was required to have a physician aid him in his work. The 118th General Assembly created the office of state medical examiner charged with the duty of investigating all deaths of suspicious nature. This officer will work directly with the attorney-general and the state police, but the office of coroner is not abolished. The new law is not clear concerning the continuing duties of the coroner. It appears, however, that he shall hold inquests and make his findings available to the proper authorities. To aid him in the holding of any inquest upon cause of death the coroner calls a jury of seven men. Examination of witnesses at an inquest is conducted by the coroner, although generally his knowledge of law is meager. The coroner has the right to arrest after an inquest and to commit for trial. In some instances persons so held may be admitted to bail. However, at any time during the process of an inquest or before it has begun, the attorney-general may intervene and assume control of the case. The coroner may substitute for the sheriff if that official is incapacitated. Process may issue to the coroner if the sheriff is incapable of action.

Perhaps the most ubiquitous peace officer in the State is the constable. Some constables are named by the governor, and they

serve for four years.<sup>7</sup> County constables serve for two years. They are appointed by the levy court, and they must reside in the hundred or district from which they are appointed. Constables are peace officers and may make arrests in cases of breach of the law done in their presence or within their cognizance. They may call upon the people to aid them in the pursuit of their duty. Constables are usually attached to the office of a justice of the peace and work out of his court in the handling of summons and in the execution of civil writs. They settle their accounts with the county treasurer in matters affecting the county. Two constables are selected in each county to act as bailiffs before the levy court. Several of the constables in Kent and Sussex Counties have the right to appoint deputies. In addition to other duties, the constables, like the sheriffs, are under compulsion to enforce the rules of the State Board of Health. The constables also enforce the rules of the local health authorities. In the rural counties, stock laws are enforced by constables; and the county receivers of taxes, county treasurers, and tax collectors use the constables as enforcement agents. The State Tax Commissioner may constitute his agents as special constables. Constables are enjoined to arrest tramps and vagrants upon sight.

In addition to the traditional peace officers in New Castle County there is also a rural police force known as the New Castle County Police. It numbers close to forty officers, who ride about in cars, patrolling local roads. They do not operate in the city of Wilmington. These police are subject to the very loose supervision of the county levy court, which is the appointing authority. There is serious question concerning their place in the general organization of law enforcement. Certainly their recruitment and training and performance leave much to be desired.

Municipal police still reflect the fact that Delaware, below Wilmington, was, until recent years, a rural area studded with small towns and villages. The City of Wilmington is the only municipality in the State that has what approximates a modern police department. The personnel is selected in a manner intended to bring some semblance of ability to the Force. The pay is not high,

<sup>7</sup> The governor is also authorized to appoint special constables for various public and private institutions such as the State Hospital, the juvenile homes, the railroads operating in the State, and for certain corporations. See *Revised Code of Delaware* (1953), Title 10, sec. 2701.



and there is constant argument between the municipal department of public safety and the policemen as to the conditions of employment.

The Wilmington police are under the supervision of three directors of public safety, who are appointed by the mayor. There is a superintendent in charge of both police and fire departments. The immediate direction of the police is placed in a chief serving under the superintendent. In addition to the city police, there are a score of park police charged with the protection of the municipal parks. These officers are under the direction of the city board of park commissioners. There is little liaison between the city and park police.

Wilmington is small enough in area and population to afford the complete administration of its police from a central headquarters. Here are the station, the jail, and the detective bureau, together with the officers of administration. Centralization has helped in keeping down supervisory overhead, but at the same time the growth in the need for public safety has tended to overload the central facilities.

At present there are approximately 250 employees in the city police system, including some thirty civilians. The internal administrative arrangements consist of the following divisions: detective, maintenance, personnel, records, traffic, and uniform. The general management of the Force is on the whole good. Greater attention needs to be given to the improvement of morale among the patrolmen. Increase in salaries would be an effort in this direction.

Most of the other incorporated towns and cities have their own police forces, consisting usually of a chief and several officers. These men are not fully trained in crime detection, even though, within recent years, the local police have worked with the State Police in an in-service training program from which much benefit has been derived. Many of the local chiefs belong to the Police Chiefs' Association and attend training courses under its auspices. None of the local town forces can afford specialization within its personnel, although the need for such is fast appearing.

Aside from the police mentioned above, Delaware enlists the help of a battery of miscellaneous security officials such as game and oyster wardens, fisheries investigators, and fire marshals. The chief game and fish warden and his assistants are empowered to make arrests in breaches of the game laws. The collector of oyster

revenue appoints a captain of a watch boat to enforce oyster laws. The captain has the power of arrest. All sheriffs, deputy sheriffs, constables, and state and local policemen are *ex-officio* game wardens.

With the increase in multi-unit dwellings, especially in rural New Castle County, and in view of the many new and diversified industries coming into the State during the past ten years, the legislature in 1953 created the office of state fire marshal. His duties are mostly investigative. Each organized volunteer fire company in the State is authorized to appoint three fire-policemen, who have the duty of protecting contents of a burning building, of establishing and maintaining fire lines, and of investigating the causes of all fires unless this is done by other properly constituted authority.

### III. CORRECTION

Until 1955 the organization of correctional facilities in Delaware reflected the prevailing local approach to the handling of criminals. While many states had long viewed correctional work as part of the State's responsibility, Delaware had kept to the time-worn theory that punishment was to be administered by local or county authorities.

The outstanding failure of correction in Delaware is that there has never been a state penitentiary. The intense influence of the county in the government of the State prevented the creation of a state prison.<sup>8</sup> Imprisonment for state offenses has taken place in one of the three county jails. The New Castle County institution, known as the New Castle County Workhouse, has served as both county jail and place of incarceration for those long-term prisoners from the down-state counties sent there by the Court. If a prisoner has been sent up from a lower county, a *per diem* has been exacted by the Workhouse from the levy court of that county.

The Workhouse has been under the direction of a warden, appointed by and directly responsible to a five-man county board of trustees. The board in turn has been appointed by the resident judges of the Superior Court in New Castle County. Fiscal administration of the jail has been handled by the board, which sets the budget. The levy court of New Castle County has made appro-

<sup>8</sup> See Report of the Federal Bureau of Prisons on the New Castle County Workhouse, November, 1949, Chap. I, as reported in *Morning News*, February 4, 1950.

priation for expenses; no money has ever been received from the State.

The reorientation of its society during the 1930's into what might be termed a series of quasi-industrial, suburbanized communities in the north superimposed upon a slowly diminishing rural setting, forced Delaware to take another look at its outmoded collection of county jails. With the change there arose the need for bringing the problems of correction under a comprehensive state-wide system. Penologists and public-spirited citizens had long advocated the elimination of the county jail as the sole means of incarceration for convicted felons. Strenuous effort was made to have political leaders of both parties throughout the State re-think the problem of correction and revise their attitudes toward correction and its institutional arrangements. The battle was long drawn, and often even the stout-hearted despaired of effecting change. In 1955, however, the General Assembly finally enacted a state correctional system, effective July, 1956, to be administered by a seven-membered Board of Corrections, appointed by the governor for terms of five years. The board is to have exclusive jurisdiction (a) over the care, custody, and supervision of all prisoners and prison labor, and (b) over all prisons, farms, workhouses, and jails to which prisoners are committed. The industrial schools for juveniles do not come under the authority of the board. The board may act as agent for the trustees of juvenile correctional institutions in accepting any minor properly committed to its care.

The Board will administer its duties through a director appointed by it. He will be responsible for the care, administration, regulation, and control of the State prisons and prison farms and any other facility placed by law under the authority of the Board. Although it is too early to assess fully the prospects of the new correctional system, it can be said to be a big step in the direction of establishing a state penal organization which will be able to meet the problems of modern penology. It is presently contemplated that the physical plants of the county jails will be retained. All prisoners will not necessarily be removed to the Workhouse upon their conviction for felony. It is probably that one of the county jails will serve as a first offender institution, another as a long-term maximum security lock-up, another for misdemeanants serving only short periods. There is opportunity under the new

system to arrange for a series of institutions fitted to meet the needs of practically every type of malefactor.

Apparently the New Castle County Workhouse plant will be maintained, at least for the present. It was the hope of some of those interested in penal reorganization that this antiquated, turn-of-the-century jumble of brick, with its sprawling battlements, surrounded by a concrete wall and a high steel fence topped by spirals of barbed wire, would give way to a modern up-to-date prison such as those found at Federal level throughout the Nation. This institution, by far the best in terms of management, among the three county jails, is anything but a model prison. Equipped to house approximately 300 inmates, it has had to accommodate as many as 400 from time to time.<sup>9</sup> The outstanding weakness in its management has been, without question, in inadequacy of its classification system and facilities for treatment of various types of prisoners.<sup>10</sup> It is hoped that the new correctional system will overcome these deficiencies.

The Workhouse has been the scene of hangings in New Castle County and of the application of the lash. The pillory was abandoned as early as 1907, but the whip can still be used in Delaware. Within recent years, the judges have been loath to send offenders to the whipping post, but this form of punishment has its advocates even among officials of law enforcement agencies.<sup>11</sup> Whippings are administered publicly only in Kent County, but no photographs of a whipping or of the post in any county are permitted.<sup>12</sup> Capital punishment obtains for treason, murder, kidnaping, and rape.

<sup>9</sup> These figures are based on persons sentenced by Superior Court. Many commitments are made to the Workhouse by municipal court and the local justices of the peace. These commitments are usually for a few days or a month and are usually in lieu of small fines. These prisoners, of course, add to the overcrowded conditions that exist from time to time.

<sup>10</sup> Report of Federal Bureau of Prisons, November, 1949. See *Morning News*, February 4, 1950.

<sup>11</sup> See statement by Superintendent of Public Safety in Wilmington, *Morning News*, May 23, 1952.

<sup>12</sup> There have been some choice tales concerning the use of the lash in Delaware. One story tells of a whipping in which the offender received one more lash than he was entitled to by his sentence. He brought suit against the sheriff, but the court, having no precedent to guide it, placed the extra lash to the man's credit, stating that he would probably be back for an additional whipping later. See J. T. Scharf, *History of Delaware, 1609-1888* (Philadelphia, 1888), I, 610. For a full account of the whipping post in Delaware see Robert G. Caldwell, *Red Hannah* (Philadelphia, 1947).



Up to now, condemned persons have been hanged in the counties in which the crimes have been committed.

The county jails in Kent and Sussex are not of the latest construction. In Kent, the lock-up consists of a few individual cells and a general detention pen. There is no classification other than to separate the sexes. Prisoners are permitted to leave the jail on work orders, and complaints have been lodged concerning the presence of the inmates in the streets of the county seat, Dover, which is also the state capital.<sup>13</sup> The jail in Sussex is newer and has a large farm attached to it. However, the conditions there have been subject to severe criticism on the part of many civic-minded persons. At times the administration of the Sussex jail has been made a political football. Both Kent and Sussex jails are supervised by wardens; these officials are named by the levy courts of the respective counties. In addition to housing long-term prisoners, all county jails are used also as detention pens for persons awaiting disposition of their cases and those who have been unable to raise bail. Material witnesses are also held in these lock-ups. Under the new board of corrections, the county jails as such will be abolished.

Institutions for juvenile offenders are maintained by the State. All of these are located in New Castle County. They are: the Ferris School for Boys, the Woods Haven School for white girls, the Kruse School for colored girls, and the Detention Home in Wilmington for juvenile offenders held for court. Recently plans have been under foot to abolish both the Kruse and Woods Haven Schools and to shift their inmates to the Governor Bacon Health Center.<sup>14</sup> Neither institution is heavily populated, the total number of charges being less than fifty as a monthly average. These schools also supervise court-committed girls who are permitted to live in private homes.<sup>15</sup>

The population of the Ferris School in 1954 was slightly over 100. Most of the youths are sent there from the Family Court of New Castle County and the Juvenile Court for Kent and Sussex. The Superior Court is also empowered to sentence juvenile criminals to the Ferris School. The board of trustees of the Ferris School has on occasion complained that the committing to their

<sup>13</sup> See article by W. P. Frank in the *Morning News*, December 22, 1952.

<sup>14</sup> See *Morning News*, March 4, 1955.

<sup>15</sup> See Report of the Kruse School, *Journal-Every Evening*, January 27, 1953.

care of young parole breakers makes it impossible to conduct this institution as an industrial training school.<sup>16</sup> One reason for this situation is that the authorities at the Workhouse have not wanted to keep young offenders, and the courts are apt to respect their wishes, and therefore make commitments to the Ferris School. Yet some of these boys are hardened criminals. This situation has pointed up the need for an adequate state-wide correctional system.

Both the Ferris School and the Kruse School were originally private corporations, but the boards of these institutions deeded them to the State. The Ferris School became a state-run agency in 1915, and the Kruse School in 1919. The Woods Haven School was begun as a state institution, but today there is some question whether it is not quasi-private. The governor appoints three members to its board of managers: the rest of the board is coöpted. The schools are financed through either the State treasury or the county treasury. Budgets are approved by the State Permanent Budget Commission, and settlement of accounts is through the State Auditor.

The Detention Home on West Street in Wilmington was created by act of legislature in 1921. It serves the State, but the bulk of its attention is given to the housing of delinquents and wayward youths picked up in Wilmington. The governor appointed a commission in 1953 to investigate the need for a new detention home.

With respect to those prisoners who are mentally ill, the law states that any person accused of crime who is acquitted by reason of insanity is to be placed in Delaware State Hospital by the court before whom he was tried. The court may order his release if it is satisfied that the public safety will not thereby be endangered. Whenever, in a capital case, it appears to the court that a prisoner has become insane after conviction, the court has the power to appoint a commission charged with inquiring into the mental condition of such prisoner. If the commission finds the prisoner insane, then the court remands him to the care of the sheriff of the county in which he was convicted. The sheriff delivers him to the State Hospital for safe-keeping, and at such time as the prisoner becomes sane, the sentence which he first received is executed. Prisoners kept at the Workhouse who become insane are removed to the State Hospital. Recently the trustees of the hospital have

<sup>16</sup> See *Morning News*, January 17, 1953.

acquired a tract of land on which has been erected the Governor Bacon Health Center. This is a modernly equipped institution and among its arrangements is a building for the care and treatment of the criminally insane.

In addition to incarceration, there are two other aspects of correction in Delaware: namely, probation and parole. Again, the general failure of the populace to take a decided interest in the problems of criminology has prevented vigorous assault upon outworn, outdated methods of probation and parole of offenders.

Probation, unlike parole, is in the hands of the court. The Delaware *Code* provides that the state judges may appoint a probation officer for each county, whose duty it is to investigate, at the direction of the court, the previous character, antecedents, and general reputation of any person under indictment before the court. The probation officer is also to furnish the court with a report as to the conduct, mode of living, and habits of any person convicted and placed on probation. This officer also has the power, during the vacation of the court, to end the probation and to deliver such a person to the sheriff of the county where the arrest was made. The probation officer in each county also has the duty to keep an accurate record of the persons on probation within his charge.

Any person who has pleaded guilty or has been convicted of an offense, other than capital, before the Superior Court, the Courts of Common Pleas, or the Municipal Court of the City of Wilmington, may be admitted to probation.<sup>17</sup> If the prisoner complies with the terms of the probation during the period in which he is released on his own recognizance, the plea or verdict of guilty entered against him is struck from the records.<sup>18</sup> Probation may also be granted by allowing a prisoner to withdraw his pleas of guilty to any offense not capital and to give his own recognizance. The court sets the period of the probation.

The judges of the Family Court of New Castle County and the Juvenile Court for Kent and Sussex Counties appoint probation officers to work with them in the performance of their tasks. The Juvenile Court for Kent and Sussex also has the power to appoint, with the consent of the levy courts, "a gentleman probation officer to work with alcoholics." In the Family Court of New Castle

<sup>17</sup> There is a separate probation officer attached to the Municipal Court.

<sup>18</sup> *Revised Code of Delaware* (1953), Title 11, sec. 4321.

County, this official is called the director. The work of the probation service in this court is of an extremely high caliber in spite of limited budgets. Some of the State's capable young people engaged in social work have found employment in the director's office. The present and former directors of the Family Court have done excellent work in connection with juvenile delinquency in the northern section of the State. The directorship is of much wider scope than the work of the probation officers in the Juvenile Court for Kent and Sussex.

The average monthly number of cases of those convicted but placed on probation by Superior Court in New Castle County is 125; the average in Kent and Sussex Counties is ten each. The average probationary period is somewhat less than two years. In addition to the full-time probation officer for New Castle County, there is one person on a part-time basis who works with female probationers for both Superior and Municipal Courts. In 1955, the legislature authorized the appointment of two assistant probation officers in New Castle County.

Parole in Delaware is under the authority of a Board of Parole appointed by the justices of the State Supreme Court. Three persons serve on this board, each for a term of three years, which terms are staggered. By custom there is an appointment from each county. The Board meets monthly for at least ten months of the year at the New Castle County Workhouse and at least once every three months at the Kent and Sussex County jails. The members receive a *per-diem*.

Every prisoner sentenced to one year or more, except for rape, incest, or sodomy, or the possession or use of certain drugs, may, upon serving one-half of the entire term for which he was sentenced, be released on parole. If a prisoner has been sentenced to life imprisonment, he is eligible for parole after fifteen years.

The warden or sheriff in charge of the jail usually makes a report to the Board when a prisoner is eligible for parole, and after a formal hearing by the Board of the prisoner's application, a decision is rendered. The board specifies the conditions under which a parole is granted.

The Board appoints one parole officer whose duty it is to aid prisoners released on parole to secure employment, to visit and exercise supervision over them while on parole, and to see that they fulfill the terms of the parole. If a violation of parole occurs, the



president of the parole board may issue a warrant for the arrest and return of the parolee to the jail from which he was released.

Little psychiatric work is done with parolees as no provision has been made for staff in this respect. Recently the State Hospital has helped somewhat in making available to the parole board the services it has at its disposal, but this activity has been on a most modest scale. Between 1942 and 1952 the average annual expenditure for the operation of the entire parole system in the State was \$4,500. This included the State's participation in the Uniform Out-of-State Parole Act.

#### IV. CONCLUSIONS

In judging the efficiency of any law enforcement program it is necessary to ask first whether it represses crime, and, secondly, whether the administrative arrangements of the program offer an intelligent approach to the tasks set before it. With respect to the general problem of repression of crime it might be well to point out that although some authorities veer from including prevention of crime in their concept of law enforcement, it is generally recognized that prevention is a most important aspect of law enforcement and vital to any program of crime control.

The importance of prevention to the process of law enforcement is pointed up by the fact that there is a growing field of police work which is concerned with this aspect of law enforcement. In this respect the association of the police with youth and juvenile welfare organizations, churches, recreation groups, and parents' clubs is thought to contribute to the retardation of juvenile delinquency.

Oddly enough, those who would exclude prevention from law enforcement tend to include correction as part of it, yet correction in its essence includes the prospect of prevention. It is unfruitful to attempt to draw fine distinctions between enforcement of law and prevention of crime. To place correction outside the concept of law enforcement is illogical. It serves little for the police to enforce the law rigidly only to have a weak prosecution or, upon conviction, to have the sentence invite recidivism.

In respect of repression of crime in Delaware it would appear from a comparison of statistics among the states, concerning crimes against property particularly, that this State is in an unfavorable position. In nearly all categories of theft, the Delaware rate ex-

ceeds the national rate. Homicides, however, are not relatively high. Yet figures alone tend to distort the picture. Much of the criminal activity is to be found in the metropolitan area of New Castle County. Slums, heterogeneous population, disparity in social position, and lack of uniformity in the prevailing mores all tend to cause social confusion, which often makes its imprint upon the police blotters. The fact that such a large portion of Delaware's population is found in a rather constricted urban setting probably is a factor in the rising number of crimes against property.

These changes in the social pattern have accentuated the problems of law enforcement. The one fact that worries police officials more than any other is that population changes are not being followed immediately by readjustment of police facilities. Today almost all northern New Castle County is metropolitan, and large areas in the middle and southern sections of the State are taking on an urban aspect. Increase in, and spread of, the population have tended to make the crime rate more applicable to the entire State than it has been heretofore. The older police arrangements which concentrated law enforcement officers in the northern area, no longer meet the needs of a more dispersed society. The following example may serve to point up the present discrepancies among various areas of the State with respect to population and police coverage: Wilmington, the first city of the State, has a population of 110,000; Newark, an industrialized college town some fourteen miles southwest of Wilmington, has a population of close to 15,000, an increase of over 100 per cent in the past decade. The total police immediately available to Wilmington consists of 230 city officers and some thirty State Police, stationed on the outskirts of the city. Newark has but a dozen men, and the nearest State Police unit is some ten miles away. Thus the smaller town has more than 50 per cent less police coverage on a basis of the ratio of police to population than does Wilmington. In addition it has few of the advantages of the larger metropolitan force such as civilian aid, staff coordination, a detective bureau, and laboratory facilities. Obviously, areas of 15,000 persons do not present the same police needs as a city of 100,000, but Newark is no longer a village. This is the fact that is challenging the present organization of law enforcement in the State. Dover, Seaford, and Milford, all in the down-state area, are

beginning to feel the same population pressures. Their police organizations, like that of Newark, resemble the rural-village type.

One immediate solution to this situation in the north presents itself. The relative proximity of northern Delaware towns and suburban areas to Wilmington provides the possibility of having a coordinated metropolitan police system, arranged somewhat along the lines of the London Metropolitan Police. Such a police system could be established as a thorough-going law enforcement organization capable of handling prevention and detection of crime as well as covering traffic control and ordinary patrol. There are, of course, many obstacles facing such a proposal. Taxation and recruitment and supervision of the force are but a few of the problems which would have to be confronted. Politicians in the local communities would very probably see nothing but evil in such a scheme, thinking of the disruption of their cherished prerogatives and favored position gained from close association with local law enforcement organizations. Yet it would seem that in a fast growing section such as that of the northern metropolitan area of Delaware something like such an arrangement is advisable. There is an excellent opportunity for developing an intelligent approach to regional arrangements which would result in more economical and vastly more efficient facilities than do the present haphazard, makeshift methods of municipal law enforcement in the communities outside Wilmington.

Another aspect of police administration in Delaware which needs serious reconsideration is the use of the State Police. The Delaware State Police, which started as a highway patrol, has been developed into one of the more efficient state constabularies. Yet this achievement has come in the face of many obstacles, the greatest of which has been the reluctance on the part of budgetary powers to provide the necessary funds for proper expansion of this unit. In 1940, the Force consisted of a total of 120 men and officers; today it numbers approximately 150. While higher salaries have been instituted over the decades since its origin, the State Police still does not receive as much total income as do its counterparts in neighboring states. Training facilities have been established, and more leisure time has been given the troopers, but even with these improvements the men are still overworked, both from a standpoint of time on the job and diversity of tasks. With the rise of the sprawling suburban communities the State troopers have been called upon for all sorts of non-criminal work: regulating

traffic, controlling crowds at suburban markets, operating safety programs, testing motor vehicle operators, and acting as messengers for state officials. In some of the outlying communities the State Police are the sole police force, acting in some instances as a local gendarmerie. Such employments prevent the full use of the State Police as a mobile force. Furthermore, the actual deployment of the Force is not always left to the sole decision of its command. At times the legislature has determined where the units shall be located and the strength of each troop. Such legislative direction of purely administrative problems should cease. The establishment of a metropolitan county police force in New Castle would obviate the use of the State Police as a suburban patrol.

Another problem facing law enforcement organization in Delaware is what to do about the anachronistic offices of sheriff and constable. Most of the work of the sheriffs and constables is in civil jurisdiction, the former being the chief officials in the execution of judgments issuing out of the Superior and Common Pleas Courts, and the latter the process servers working under the magistrates. The sheriff has been removed from practically all criminal work in New Castle County, and he is functioning less and less in this respect in the down-state counties. The civil work of the sheriff could be handled by a court-appointed officer and the few other criminal duties of the sheriff could be absorbed by the regular police.

Likewise the constable could be replaced in his criminal function by local police officers, and in respect of his civil jurisdiction, the levy courts could appoint full-time constables (either on a fee basis or on salary) and assign them to the magistrates' offices in accordance with the civil work-loads in those offices. Each official should be subject to the supervision of the magistrate to whom he is assigned.

In addition to the questions concerning police administration, Delaware is confronted with problems in the administration of prosecution and correction. The general criticism of the attorney-general's office is that it has not been placed on a full-time basis. The salaries of the chief law officer and his deputies are still far too modest to expect full and efficient service. The deputies, who prosecute all offenses occurring within the counties to which they have been assigned, are given no staff help nor are they furnished with the equipment usually deemed necessary for the proper function of a state's attorney. While the centralization of prosecution would



appear to have given Delaware the opportunity to establish specialized offices for the investigation of tax violations, surveillance of administrative law, and the handling of crimes by category, the lack of funds has vitiated this chance.

The administration of correction including incarceration, probation, and parole presents the one facet of law enforcement in Delaware which has called longest for careful re-thinking and re-organization. The lack of a state correctional system, appropriated for and operated by the State, has been the greatest obstacle in the way of efficient penal administration in Delaware. The failure of the State to assume responsibility for the care of prisoners has left its mark on law enforcement. The recent establishment of a state board of corrections is a step in the direction of intelligent correctional organization.

The present operation of juvenile reform schools is a reflection of the same unsystematic thinking that permitted the retention of the county jail. Four institutions, all located in New Castle County, function as separate, inarticulated units for the rehabilitation of youngsters caught in the toils of the law. In addition, these places also serve as means to protect the welfare of a non-delinquent child whose surroundings are thought to be inimical to proper upbringing. Yet here we see a conglomeration of administrative arrangements established under different assumptions as to main tasks, all without any general overall coordination or direction. While the State Code places the discussion of these institutions under the title of "Welfare," the Department of Public Welfare has no jurisdiction. Some very serious reconsideration needs to be given to the whole field of domestic relations and the treatment of juvenile delinquency in the First State. One of the first steps would be the placement of all juvenile corrective institutions under the Department of Public Welfare, with adequate state appropriations to cover such inclusion.

As integers in a general program of law enforcement, probation and parole present perhaps the most challenging aspects of penology in Delaware. Properly administered, probation and parole are the keys to rehabilitation. The present approach to both subjects leaves much to be desired. Again, budget allotments reflect a rather cavalier concept of the role of probation and parole in the prevention of crime. Meager appropriations make impossible the employment of adequate staff, and particularly so in the higher courts,

In spite of limited funds, the work of the probation service in the Family Court for New Castle County is of relatively high caliber. This is also the case in the Municipal Court in Wilmington, where the judges have devised their own probationary system. In the Superior Courts, however, the work in probation is greatly understaffed. The failure on the part of the legislature to establish a comprehensive system of probation has had serious effect upon the entire law enforcement program throughout the State. Little can be done in terms of pre-sentence investigation. The lack of proper classification and differential treatment programs in the jails has caused judges to place many younger first offenders on probation, yet this very action adds to the already overloaded work of the probation officers. The one real solution to this problem would be to overhaul the entire probation system and establish a central office working directly under an administrative office of the courts.

As in the case of probation, the State is also parsimonious with respect to parole. The total appropriation, including supervision of out-of-state parolees, in 1955, was \$6,130. Although this represents a palpable increase over the previous annual appropriations, it is still not enough to provide adequate surveillance of parolees. In dealing with paroled prisoners extreme care has to be taken to secure their prompt and proper employment. Such procedure necessitates highly trained personnel. Until recently, for example, little effort was made to provide psychiatric treatment for parolees. Often the return to crime by paroled persons can be traced to improper care and treatment in the period immediately following their release. The matter-of-fact follow-up by post-card and incidental visits (the best that can be expected under present limited arrangements) apparently is not enough to promise a reduction in recidivism. Much of the work of the parole officer is to act as counselor, guide, and adviser, acquainting the parolee with the problems he will face and giving some feasible plan for their solution. Parolees cannot be "dumped" back into society without disillusionment on their part and the possibility of their turning back to anti-social behavior. The administration of parole should be placed under a department of corrections.

Public apathy is at the base of the problems of penological reform in Delaware, and unless the public, through its articulate segments, insistently demands a re-thinking of the entire process

of prevention, detection, prosecution of, and treatment for crime and delinquency, there will be no adequate solution.

The reorganization of law enforcement administration in Delaware is imperative. New concepts respecting the causes of crime, its detection, and its treatment need formulation. Hard and constant attention is required in order to develop the best means available to intelligent men for adjusting police, prosecution, and correction to the fast changing social and economic pattern of the State. Steps in this direction have already been taken, but the work still to be done is tremendous. Delaware has a long way to go before pulling itself free from the traditional practices inherited from another day in which conditions differed from those of the present. People accustomed to a set way of action often find themselves following that pattern in spite of the fact that it has outlived its usefulness. New approaches to the implementation of criminal law are required. The blueprint of the future enforcement organization will have to take into account the experiences of the past, but its actual drafting cannot be much longer delayed. Reorganization of the system of law enforcement is among the pressing needs facing modern Delaware.