

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Attorney General

Thomas L. Fabel
Assistant Attorney General

March 14, 1977

Michael B. Miller
Special Assistant
Attorney General

296-4692

Department of Corrections Rules No. 1-12

Tom,

As we discussed, I am forwarding these rules to you for examination and possible certification as to compliance with rulemaking procedures.

MBM:mb

Enclosure

299

Thomas L. Fabel
Deputy Attorney

June 8, 1977

- Implementation and operation of the Community Corrections Act CORR 1 through CORR 12.

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MICHAEL MILLER
Special Assistant
Attorney General
Department of Administration

DATE: May 18, 1977

FROM : THOMAS L. FABEL
Deputy Attorney General

PHONE: 296-7579

SUBJECT:

Attached at long last for your consideration and approval are Department of Corrections Rules 1-12.

I have done a substantial amount of work on these rules since they were first submitted to you and I can now certify that the procedural requirements of Chapter 15 have been complied with and that the documents are in the form prescribed by the Attorney General's Rules, except that the Department failed to retain a copy of the Secretary of State's mailing list. You may recall that we discussed this deficiency, and that you told me that it would not be fatal.

I recommend approval of these rules so that the Department of Corrections may attain some level of compliance with the requirements of the Community Corrections Act, Minn. Stat. §§ 401.01 et seq. (1976).

Thank you for your consideration and assistance.

TLF:dml
Attach.

cc: Donald E. Selger
Department of Corrections

RULES

FOR IMPLEMENTATION AND OPERATION

OF THE

COMMUNITY CORRECTIONS ACT

CORR 1 THROUGH CORR 12

RULES AS ADOPTED

CORR. 1

INTRODUCTION

A. The Community Corrections Act of 1973 (M.S. 401.01 - 401.16) provides that the Commissioner of Corrections promulgate rules and standards relative to the implementation and operation of the Act. The rules which follow are intended to fulfill that requirement.

B. The purpose of these rules is to facilitate the implementation of the Act and to provide a framework within which services will be delivered and coordinated in the various areas of the state where the Act becomes operational.

C. The Community Corrections Act places a great deal of the responsibility for correctional planning and implementation at the local level. These rules are not intended to interfere with that process but rather to insure that the various planning efforts are compatible with one another and with the basic requirements of all segments of the state's correctional system.

CORR. 2

DEFINITIONS

A. For the purposes of these rules:

1. The "Commissioner" shall mean the Commissioner of Corrections or his designee.

2. The "comprehensive plan" shall mean the working document developed by the local corrections advisory board for the implementation and operation of community based correctional programs pursuant to M.S. 401.01, Subdivision 1 and providing for the central administration of the services and programs outlined in the document.

3. The "Community Corrections System" shall mean the organizational structure or network which exists or is proposed to exist within the county which will enable the local criminal justice system and other elements of the community to utilize the correctional programs and services outlined in the comprehensive plan.

4. "Planning county" shall mean one or more contiguous counties subject to the provisions of M.S. 401.02, Subdivision 1 and 401.02, Subdivision 2, which has established a local corrections advisory board for the purpose of developing a comprehensive plan.

5. A "participating county" shall mean one or more contiguous counties subject to the provisions of M.S. 401.01, Subdivision 1 which has been designated by the Commissioner to receive funds under M.S. 401.01 to 401.16 through the approval of the comprehensive plan.

6. A "unit of service" shall mean each project, program or activity outlined in the comprehensive plan including, but not limited to, probation/ parole services, court service activities, jail programs, evaluation services, training and residential programs.

CORR. 3 APPLICATION FOR PARTICIPATION

A. Application for participation by a county or group of counties pursuant to M.S. 401.02, Subdivision 1 shall consist of a resolution expressing intent to participate under the provisions of the Community Corrections Act, (hereafter called the Act) provided subsidy funds are available.

B. Approval of the application by the Commissioner shall designate the county as a planning county pursuant to 401.02, Subdivision 2 and shall establish that calendar year as the basis for determining the current level of spending referred to in M.S. 401.12.

CORR. 4 DEVELOPMENT OF A COMPREHENSIVE PLAN

A. The Commissioner shall ensure that the local corrections advisory board and administrative (correctional) staff of the county are provided with all necessary and available technical assistance and resources of the State Department of Corrections in the development of a comprehensive plan.

CORR. 5 CHANGES IN THE COMPREHENSIVE PLAN AND BUDGET

A. When a county wishes to change the comprehensive plan during the calendar year, it may do so by either amendment or transfer.

1. AMENDMENTS

Amendments shall be required when:

a. Units of service are being added or deleted from a comprehensive plan.

b. Subsidy funds which exceed $5,000 or 5% of the total annual subsidy, whichever is less, are being reallocated within or between units of service identified in the comprehensive plan.

c. Amendments to the comprehensive plan shall be processed and submitted in the same manner as the comprehensive plan, and shall be submitted at the end of any calendar quarter on forms provided by the Commissioner.

2. TRANSFERS

Any reallocation of subsidy funds within or between units of service identified in the comprehensive plan, which will not exceed $5,000 or 5% of the total annual subsidy, whichever is less, shall be accomplished by transfer on forms

provided by the Commissioner. The transfer process requires only the approval of the administrator or director of the local community corrections system. All transfers of subsidy funds must be attached to the quarterly financial report for the period in which the transfer was made.

CORR. 6 INFORMATION SYSTEMS AND EVALUATION

A. Each Community Corrections System shall develop and implement an Information System which shall be in compliance with applicable security and privacy regulations; shall be an offender based tracking system, including minimum data elements required for State and National reporting; and shall, on a quarterly basis, provide such data as may reasonably be required by the Department of Corrections.

B. Each Community Corrections System shall develop and implement evaluation/research designs and processes. All Research and Information Systems designs must be approved by the Commissioner prior to implementation.

C. A sum no less than the equivalent of 5% of the total subsidy amount made available according to the provision of the Act shall be used to develop and implement the Information System and Evaluation/Research.

CORR. 7. TRAINING/EDUCATION

A. Each county or group of counties participating in the Act shall implement training/education programs necessary to meet the appropriate needs of line staff, administrative staff, the local corrections advisory board or major components of the local criminal justice system and the community at large.

B. A sum no less than the equivalent of 5% of the total subsidy amount made available through the provisions of the Act shall be used to develop and implement this component of the comprehensive plan.

CORR. 8

FISCAL MANAGEMENT

A. A county shall designate one (1) person responsible for the supervision of all fiscal matters related to the subsidy received under the provisions of M.S. 401.01 to 401.16. Said person shall comply with State and county rules governing the management of county funds and shall provide information to the Corrections advisory board and the Commissioner at least quarterly on forms provided by the Commissioner.

CORR. 9 COUNTY ASSUMPTION OF STATE PROBATION AND PAROLE CASES

A. Each county participating under the Act shall provide service to all interstate and intrastate probation and parole clients.

B. The Commissioner will provide necessary orientation training for counties to assume probation and parole services previously provided by the State.

CORR. 10 USE OF EXISTING COMMUNITY RESOURCES

A. Each Community Corrections System shall utilize whenever possible agencies and organizations established in the community to deliver medical and mental health care, education, counseling and rehabilitative services, employment services and other similar social services. The local Community Corrections System shall, in planning its total range of correctional programs and projects, establish a presumption in favor of resources already existing in the community.

B. If the Community Corrections System intends to initiate services or programs which duplicate those already existing in the community, clear evidence must be presented in the comprehensive plan to demonstrate that such existing services are either inappropriate or unavailable to meet identified correctional needs.

C. Each Community Corrections System shall take steps to ensure that all clients of programs or projects under its jurisdiction have access to the same services, activities and opportunities available to citizens generally, provided that this access is consistent with the demonstrated needs of the program or project and the necessity to protect the public safety.

CORR. 11 PROGRAM RELEVANT TO CORRECTIONAL OBJECTIVES

A. Each program specified in the comprehensive plan or designated to receive Community Corrections Act funds shall have a clear relationship to correctional objectives. Programs for which no direct relationship can be demonstrated between its activities and the protection of public safety or the prevention or reduction of criminal or delinquent behavior shall not be eligible for funds under the Community Corrections Act.

CORR. 12

LOCAL PROGRAMS AND SERVICES

A. Each Community Corrections System shall develop and make available to the directors of all programs utilized by the system, written rules, policies and procedures which will provide for at least the following:

1. INTAKE CRITERIA

That all program (other than conventional probation and parole supervision) shall develop and make available to appropriate referral sources a written policy establishing client eligibility criteria. The Community Corrections System shall regularly advise courts and sentencing judges of the extent and availability of services and programs within its system to permit proper sentencing decisions and realistic evaluation of alternatives.

2. CLIENT CASE REPORTING

That a single case record for each individual admitted to a program or served by an agency be maintained by the agency or program director so as to contain clear, concise and accurate case information. Individual case records shall be maintained on a current basis and updated at least quarterly. Each client shall have access to all material in his/her file, with the

exception of that information determined to be confidential by law.

3. RIGHTS OF OFFENDERS

That the rights of offenders placed in, or receiving service from, any program included in the comprehensive plan shall be adequately protected.

4. COMPLIANCE WITH RULES

That all programs included in the comprehensive plan are in compliance with the applicable provisions of these rules as well as relevant local, State and Federal laws.

B. The above-mentioned rules, policies and procedures shall be included in the first comprehensive plan submitted to the Commissioner following the formal promulgation of these present rules. Modifications shall be noted in subsequent comprehensive plans.

APPROVED AS TO FORM AND LEGALITY
JUN 3 1977
19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael R. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 3 - 1977 - 4:25 pm
Joan Anderson Growe
Secretary of State

CORR-77-001

RECEIVED
SEP 30 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE IMPLEMENTATION AND OPERATION OF THE COMMUNITY CORRECTIONS ACT.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the State Office Building, Room 57, on November 17, 1976 commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Peter Erickson, Room number 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would facilitate the implementation of the Community Corrections Act and provide a framework within which services will be delivered and coordinated in the various areas of the State where this Act becomes operational. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Information Officer, Department of Corrections, Suite 430, Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minnesota Statutes 401.01 - 401.16. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minnesota Statute 10A.01, Subdivision 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Patrick D. McManus

Patrick D. McManus, Assistant Commissioner
Minnesota Department of Corrections

Date: September 27, 1976

E #3

RECEIVED
OCT 22 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE IMPLEMENTATION AND OPERATION OF THE COMMUNITY CORRECTIONS ACT.	))))	AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Donald E. Selger, being duly sworn on oath deposes and says:

1) That he is an employee of the Corrections Division of the State of Minnesota.

2) That on the 24th day of September, he went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 28th day of September, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Donald E. Selger

Subscribed and sworn to before me this

28th day of September, 1976.

Notary Public,

Ramsey County, Minnesota

My Commission expires May 3 1981

Linda K. Anderson

LINDA K. ANDERSON
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Comm. Expires May 3, 1981

E #4

RECEIVED

OCT 22 1976

OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE IMPLEMENTATION AND OPERATION OF THE COMMUNITY CORRECTIONS ACT.	CERTIFICATE OF DELIVERY SECRETARY OF STATE LIST

I hereby certify that the attached 506 labels & one sheets constitute the complete list of persons, associations, and other interested groups who as of 8:30 o'clock A M., this 28th day of September, 1976, have requested pursuant to M.S. 1974, Sec. 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By Gail Dion

E #5

RECEIVED
OCT 22 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE IMPLEMENTATION AND OPERATION OF THE COMMUNITY CORRECTIONS ACT.

AFFIDAVIT OF MAILING

Donald E. Selger, being first duly sworn, deposes and says:
That on the 28th day of September, 1976, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Donald E. Selger

Oct 1 day of October, 1976.

Subscribed and sworn to before me this

1st day of October, 1976.

Linda K. Anderson Notary Public

Ramsey County County, Minnesota

My Commission Expires May 3, 1981

LINDA K. ANDERSON
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Comm. Expires May 3, 1981

CRR-77-001

RECEIVED
SEP 30 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF CORRECTIONS)
GOVERNING THE IMPLEMENTATION AND OPERATION) NOTICE OF HEARING
OF THE COMMUNITY CORRECTIONS ACT.)

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the State Office Building, Room 57, on November 17, 1976 commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Peter Erickson, Room number 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would facilitate the implementation of the Community Corrections Act and provide a framework within which services will be delivered and coordinated in the various areas of the State where this Act becomes operational. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Information Officer, Department of Corrections, Suite 430, Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minnesota Statutes 401.01 - 401.16. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minnesota Statute 10A.01, Subdivision 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Patrick D. McManus

Patrick D. McManus, Assistant Commissioner
Minnesota Department of Corrections

Date: September 27, 1976

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE IMPLEMENTATION AND OPERATION OF THE COMMUNITY CORRECTIONS ACT.	))))	ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the State Office Building, Room 57, on November 17, 1976 commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Patrick D McManus

Patrick D. McManus, Assistant Commissioner
Minnesota Department of Corrections

Date: Sept 27 1976 DEL

E #6

RECEIVED
OCT 22 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF CORRECTIONS)
GOVERNING THE IMPLEMENTATION AND OPERATION) STATEMENT OF NEED
OF THE COMMUNITY CORRECTIONS ACT.)

The above captioned rules are not amendments to existing rules of the Department of Corrections.

The need to adopt these rules arises becauses of: Legislative mandate M.S. 401.03 contained in the Community Corrections Act, M.S. 401.01 through 401.16.

The Community Corrections Act allows the Commissioner of Corrections to make subsidy grants to counties electing to provide a wide range of corrections services locally.

Basic to this Act is the requirement that participating counties establish a corrections advisory board which is given the task of defining correctional needs and identifying programs and services designed to meet those needs and putting the results of this needs/service analysis into the form of a comprehensive plan.

Because the Community Corrections Act emphasizes the importance of the corrections advisory board responding to local needs and because local needs differ from county to county, these rules must allow counties flexibility in determining the form and amount of corrections services to be delivered to identified target groups.

These rules are intended to insure that the quality of services being provided prior to the implementation of the Community Corrections Act will continue as a minimum level of service. Further, these rules are intended to insure that the quality of service being provided prior to the implementation of the Community Corrections Act shall be raised through the development of a county planning function, a local evaluation capability, training for both staff and citizens and constant vigilance relative to client rights and correctional objectives of both the State and county and programs therein.

Patrick D. McManus

Patrick D. McManus, Assistant Commissioner
Minnesota Department of Corrections

Date: 10/22/76

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

January 12, 1977

Mr. Patrick McManus
Assistant Commissioner
430 Metro Square Building
St.Paul, MN 55101

Re: IN THE MATTER OF THE PROPOSED
ADOPTION OF THE RULES OF THE
DEPARTMENT OF CORRECTIONS GOVERNING
THE IMPLEMENTATION AND OPERATION
OF THE COMMUNITY CORRECTIONS ACT.
Our file no. is CORR-77-001-PE

Dear Mr. McManus:

I enclose herewith and serve upon you by mail the report of the Hearing Examiner in the above-entitled matter, together with the official record, and I am enclosing your file in this case. I am also certifing the original of the transcript to your office.

Yours very truly,

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

PCE:amc

cc: Mr. James Bradford
Assistant Attorney General

Enclosure

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Anne Ciardelli, being first duly sworn, deposes and says that on the 12th day of January, 1977, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached REPORT OF HEARING EXAMINER

CORR-77-001-PE

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat., § 16.54 (1974), a true and correct copy thereof on all persons at the addresses shown on the attached mailing list.

Anne Ciardelli

Subscribed and sworn to before me
this 12th day of January, 1977.

Eileen A. Gunnink

Notary Public, Ramsey Co., Minn.
MY COMMISSION EXPIRES
December 14, 1980

STATE OF MINNESOTA
OFFICE OF HEARINGS EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED
ADOPTION OF THE RULES OF THE
DEPARTMENT OF CORRECTIONS GOVERNING
THE IMPLEMENTATION AND OPERATION
OF THE COMMUNITY CORRECTIONS ACT.

REPORT OF HEARING EXAMINER

The above-entitled matter came for hearing before Hearing Examiner Peter C. Erickson of the Minnesota Office of Hearing Examiners at 10:00 a.m. on Wednesday, November 17, 1976 in Room 57 of the State Office Building, St. Paul, Minnesota.

James Bradford, Assistant Attorney General, 430 Metro Square Building, appeared as counsel for the Department of Corrections. Patrick McManus, Assistant Commissioner for Community Services, testified on behalf of the Department. The hearing continued until all interested groups or persons had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.052, subd. 3 (1975 Supp.), this Report will include Findings of Fact, Conclusions and Recommendations. The Department shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record to the Chief Hearing Examiner no earlier than ten days subsequent to the receipt of this Report. It shall include the rules as originally proposed, and the rules as proposed for adoption in final form.

The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issue of substantial changes in the rule within ten calendar days. The Department shall be responsible for filing the rules with the Attorney General.

Based upon the proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On September 27, 1976, the Department filed the following documents with the Chief Hearing Examiner:

(a) A Proposed Order for Hearing;
(b) A Proposed Notice of Hearing with the Proposed Rules attached; and
(c) A statement of the number of persons expected to attend and estimated length of hearing.

2. On October 1, 1976, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the Purpose of receiving such notice, to all persons and associations on a list maintained by the Department of Corrections, and to all members of the Legislature. The Examiner takes administrative notice of the publication of the proposed rules in the State Register on October 12, 1976.

3. On October 22, 1976, the Department filed with the Office of Hearings Examiners the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The affidavit of receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Statement of Need;
(f) The affidavit of mailing of a notice pursuant to Minn. Stat. § 15.0412, subd. 6, a copy of the Notice and material received pursuant to the Notice;
(g) The names of Department personnel who will represent the agency;
(h) A summary of evidence.

The documents were available for inspection at the Office of Hearings Examiners from the date of filing to the date of the hearing.

4. The record was closed after allowing 20 days for submission of written comments at the end of the day on December 7, 1976.

5. Statutory authority to promulgate the proposed rules is found in Minn. Stat. § 401.03 (1974). This section states that the Commissioner shall promulgate rules pursuant to Chapter 15 for the inplementation of the Community Corrections Act. The proposed rules are needed to satisfy that mandate and to further the successful operation of the Act.

6. Prior to the November 17 hearing, the Examiner advised the Department of Corrections that the incorporation by reference of guidlines in CORR 4, CORR 6, CORR 7, and CORR 9 would in his

opinion, be in violation of the requirements of Chapter 15. Consequently, the Department proposed amendments to the proposed rules which eliminated references to guidelines.

7. Proposed CORR 1 is necessary to clarify the statutory basis for the rules and set out the purpose for their promulgation

8. Proposed CORR 2 is needed to define the terms used in the rules.

(a) The Ramsey County Community Corrections Department (hereafter RCCCD) proposed that the definition of "comprehensive plan" be amended to read:

> "The Comprehensive Plan" shall mean the working document developed through the participation of the County local correctional administration, and with the approval of the County Board for the implementation and operation of community based correctional programs pursuant to M. S. 401.01, Subdivision I and providing for the central administration of the services and programs outlined in the document.

They contend that the Community Corrections Act states that the corrections advisory board shall "actively participate" in the preparation of the comprehensive plan. The rule as proposed uses the words "developed by the corrections advisory board" and does not specify participation with any other groups or bodies.

The Department stated that the Act does not specify which other bodies are to participate in the formulation of the plan. It merely makes provision for a corrections advisory board. In order to keep the rules flexible for each county, the Department opposes the proposed amendment to the definition.

(b) The RCCCD also proposed that the definition of "community corrections system" be amended to read:

> The "Community Corrections System" shall mean the organizational structure or network under the direction of the local correctional administration which exists within the County which will enable the local criminal justice system and other elements of the community to utilize the correctional program and services outlined in the Comprehensive Plan.

They contend that the role of the county corrections administration should be made clear in the definition.

9. Proposed CORR 3 is necessary to establish a procedure

for application to participate in the Community Corrections Act program. It also provides that the year in which application is made and approved as the year in which the current level of spending is determined as required by Minn. Stat. § 401.12 (1974).

10. As proposed, CORR 4 stated that comprehensive plans shall be developed according to the "Guidelines for the Preparation of Comprehensive Plans" prepared and made available by the Commissioner. It also specified that the counties shall receive "all necessary and available assistance, guidelines, and resources" from the Department pursuant to Minn. Stat. § 401.03 (1974).

(a) The Department proposed to amend CORR 4 to read as follows:

> CORR. 4 DEVELOPMENT OF A COMPREHENSIVE PLAN
>
> A. The Commissioner shall ensure that the local corrections advisory board and administrative (correctional) staff of the county are provided with all necessary and available technical assistance and recources of the State Department of Corrections in the development of a comprehensive plan.

This amendment eliminates the "guideline" language and retains the assurance of state assistance for the counties.

11. Proposed CORR 5 is necessary to set our procedures by which counties may change their comprehensive plan during the year. The rule states that changes may be made either by an amendment to the plan or by a transfer of subsidy funds.

(a) The Department proposed to amend CORR 5 A.1.b. and 5 A.2. to clarify what the real intent of the rule is. The amendments read:

> 5 A.1.b. Subsidy funds ~~in amount of~~ which exceed $5,000 for 5% of the total annual subsidy, whichever is ~~greater~~ less, are being reallocated within or between units of service identified in the comprehenisve plan.
>
> 5 A.2. Any reallocation of subsidy funds within or between units of service identified in the comprehensive plan, ~~less than~~ which will not exceed $5,000 or 5% of the total annual subsidy, whichever is ~~greater~~ less, shall be accomplished by transfer on forms provided by the Commissioner. The transfer process requires only the approval of the . . .

(b) Arrowhead Regional Corrections opposes the amendments to CORR 5 proposed by the Department. Arrowhead states

that five percent of their subsidy budget is $71,407, which is substantially more than $5,000. They contend that if all transfers over $5,000 need the approval of the county boards, it would involve six boards in their case and be very time consuming. That the size of their total subsidy makes $5,000 too small a total to require approval of all the local boards.

(c) Anoka County feels that the provisions of CORR 5 specifying the amendment process are excessively brief and should be specified in greater detail.

12. Proposed CORR 6 is necessary to insure that adequate statewide data is available on the various Community Corrections programs while allowing each local system latitude in determining how to best meet its own informational needs.

(a) The Department proposed an amendment to CORR 6 B. to eliminate the reference to "Evaluation/Research Guidelines prepared by the Commissioner." The amendment reads:

> B. Each Community Corrections System shall develop and implement evaluation/research designs and processes. All Research and Information Systems designs must be approved by the Commissioner prior to implementation.

(b) The RCCCD proposed that CORR 6 C. be amended by deleting the word "total" and substituting in place thereof the word net. They contend that:

> "The County does not receive the total subsidy. The amount of money projected to pay for the cost of offenders committed to the State (institutional costs) are taken off the top of the gross subsidy. For example, in Ramsey County, the gross subsidy per year is approximately 2.4 million dollars. If the projected institutional costs are $8,000,000 this means that the County receives a net subsidy of $1.6 million dollars. This is the amount over which the County has descretion in its planning and allocation. Therefore, we contend that that the minimum of 5% for information system and exaluation/research should be based on the net subsidy or the amount made available for discretionary use by the County."

The Department feels that five percent of the total subsidy amount is needed for the development of the information systems and evaluation design.

13. Proposed CORR 7 is needed to provide for continuing education and training for corrections personnel. This is necessary to maintain a high level of competence and staff awareness of current correction philosophies and methodologies.

(a) The Department proposed to amend CORR 7 A. by

eliminating the reference to "guidelines" provided by the Commissioner. The amendment reads:

> A. Each county or group of counties participating in the Act shall implement training/education programs necessary to meet the appropriate needs of line staff, the local corrections advisory board or major components of the local criminal justice system and the community at large.

(b) The RCCCD proposed that CORR 7 A. be amended to read:

> A. "Each county or group of counties . . . the appropriate needs of the local Correctional Administration and Advisory Board."

They contend that:

> "the phrase 'major components of the local criminal justice system' is far too general and vague and when applied that training funds could be used outside of the correctional system. We have similar strong feelings towards the 'the community at large'. We believe this is not the intention of the Community Corrections Act in its provision for funds for training and education."

The Department stated that the language as proposed is the most appropriate. They do "not want to limit creative or efficient and effective uses of training dollars by restricting them to a particular segment of the system."

(c) The RCCCD also proposed that CORR 7 B. be amended by deleting the word "total" and substituting in place thereof the word net. This change was proposed for the same reason that the identical amendment was proposed in CORR 6 C. (see Finding 12 (b)).

The Department opposes this proposal as they feel five percent of the total subsidy amount is necessary.

14. Proposed CORR 8 is necessary to provide for a designated person in each county to be responsible for the supervision of the subsidy funds and provide fiscal information to the Commissioner.

15. Proposed CORR 9 is needed to establish a minimum level of service for parole and probation offenders. Orientation and training are also provided for counties to enable them to take over the state services.

(a) The Department proposed to amend CORR 9 A. and B. to eliminate references to "guidelines". The amendments read:

> A. Each county participating under the Act shall provice a level of service to all interstate and intrastate probation and parole clients no less than that previously provided by the Commissioner.

B. The Minnesota Corrections Board - Policies and Procedures, shall serve as guidelines.

The Department contends that because the guidelines set out in amended paragraph B. were exempted from the APA in Chapter 68 (Laws 1976), they can be referenced in the proposed rules.

16. Proposed CORR 10 is necessary to encourage inter-agency coqperation in meeting client needs and sets limits for Community Corrections Act counties relative to programs operating as alternatives to state institutions.

(a) Anoka County feels that several terms used in CORR 10, e.g. community, presumption and clear evidence, and all of paragraph C. are so unclear that the rule is largely unworkable.

17. Proposed CORR 11 is needed to assure that the subsidies provided under the Act are used only for programs which are correctional in nature.

(a) The RCCCD proposed that the word "reasonable" in the fourth line of CORR 11 be deleted and that the word direct be substituted in place thereof. They "feel that the word direct is a more exact word specifying a clear relationship rather than the word reasonable which is much more subject to interpretation."

The Department did not oppose this proposal.

18. Proposed CORR 12 is necessary to direct each Community Corrections System to establish written policies and procedures designed to regulate activities in several key areas. This rule allows each System to respond to its own unique needs.

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Corrections. All other substantive and procedural requirements of statute or rule have been complied with.

2. The thrust of the Community Corrections Act is to centralize corrections programs through a single or multi-county corrections advisory board. The amendments proposed by the RCCCD to CORR 2 are contrary to that intent. CORR 2, as proposed, provides a flexible framework for the body of rules.

3. The Examiner concludes that CORR 4 should be amended as set out in Finding 10 (a) for the reasons stated therein. However,

Minn, Stat. § 401.11 (1975 Supp.) states that, "The comprehensive plan submitted to the commissioner for his approval shall include those items prescribed by regulation of the commissioner. . . " Neither CORR 4 or any other of the proposed rules set out the items to be included in the comprehensive plan. This void should be corrected by the Department to lend specific direction to the corrections advisory boards. To fill this void at the present time would, in the Examiners opinion, result in a substantial change in the rules as proposed.

4. Transfers of more than $5,000 figures may be found to be inappropriate for some systems. If that is the case, the rules can be amended at a later time. Now, however, the proposed amendment does seem to be reasonable for state-wide application. The Examiner concludes that CORR 5 should be amended as set out in Finding 11 (a).

5. Again, in CORR 6, five percent of the "total" subsidy may be found to be inappropriate. Until that is shown, the Examiner feels CORR 6 as proposed to be amended by the Department is reasonable. The Examiner concludes that CORR 6 should be amended as set out in Finding 12 (a).

6. The Examiner concludes that CORR 7 should be amended as set out in Finding 13 (a) for the reasons stated therein. The RCCCD proposal narrows the scope of the rule too greatly.

7. The Examiner concludes that CORR 9 A. should be amended as set out in Finding 15 (a) but that CORR 9 B. should be eliminated in its entirety. Even if the Corrections Board Policies are exempt from the APA, they can not now be referenced in a Chapter 15 rule as being generally applicable guidelines without first being carefully defined and allowing public testimony on them.

8. The Examiner concludes that CORR 11 should be amended as set out in Finding 17 (a) for the reasons stated therein.

9. Minnesota Stat. §401.03 (1974) reads:

> 401.03 PROMULGATION OF RULES; TECHNICAL ASSISTANCE. The commissioner shall, as provided in sections 15.0411 to 15.0422, promulgate rules for the implementation of sections 401.01 to 401.16, and shall provide consultation and technical assistance to counties to aid them in the development of comprehensive plans.

Minnesota Stat. § 401.06 (1974) reads:

> 401.06 COMPREHENSIVE PLAN; STANDARDS OF ELIGIBILITY;

COMPLIANCE. No county or group of counties electing to provide correctional services pursuant to sections 401.01 to 401.16 shall be eligible for the subsidy herein provided unless and until its comprehensive plan shall have been approved by the commissioner. The commissioner shall, pursuant to the administrative procedures act, promulgate rules establishing standards of eligibility for counties to receive funds under sections 401.01 to 401.16. . . .

Minnesota Stat. § 401.11 (1974) reads:

401.11 ITEMS INCLUDED IN PLAN PURSUANT TO REGULATION. The comprehensive plan submitted to the commissioner for his approval shall include those items prescribed by regulation of the commissioner, which may require the inclusion of the following: . . .

The Commissioner has a mandate to promulgate rules as well as provide technical assistance. He has chosen to provide that assistance, at least in part, by the dissemination of guidelines, which may or may not be appropriate. However, those guidelines may not form a substantive part of rules without going through the rule making process themselves. The Department should bear in mind the rule making provisions of the Community Corrections Act and the requirements imposed by the Administrative Procedures Act.

10. The Examiner concludes that the Department has documented its statutory authority to promulgate the proposed rules.

11. The Examiner concludes that the Department has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts.

12. The Examiner concludes that none of the amendments he is recommending constitute a substantial change in the rules as proposed.

RECOMMENDATION

That the Department of Corrections adopt the rules as proposed and recommended to be amended in this Report.

Dated this 11th day of January, 1977.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED)
ADOPTION OF THE RULES OF THE)
DEPARTMENT OF CORRECTIONS GOVERNING)
THE IMPLEMENTATION AND OPERATION)
OF THE COMMUNITY CORRECTIONS ACT.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on November 17, 1976, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. §15.052, Subd. 3, was issued to the Department of Corrections on January 11, 1977; and

WHEREAS, the Department of Corrections has now determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Department of Corrections has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Corrections has met all requirements of Minn. Stat. §15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Corrections has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 24th day
of February, 1977.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE KENNETH F. SCHOEN

COMMISSIONER OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules of the Department of Corrections Governing the Implementation and Operation of the Community Corrections Act

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Corrections Commissioner of the State of Minnesota on the 17th day of November, 1977 at 10:00 a.m. in Room 57, State Office Building, St. Paul, Minnesota, after proper notice required by M.S. 1976, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules for Implementation and Operation of the Community Corrections Act, CORR. 1 through CORR. 12, are adopted this 10th day of May, 1977 pursuant to authority vested in me by M.S. 401.01-401.16.

KENNETH F. SCHOEN
Commissioner of Corrections
State of Minnesota

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE KENNETH F. SCHOEN

COMMISSIONER OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules of the Department of Corrections Governing the Implementation and Operation of the Community Corrections Act

FINDINGS OF FACT

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the Minnesota Office of Hearing Examiners at 10:00 a.m. on Wednesday, November 17, 1976, in Room 57 of the State Office Building, St. Paul, Minnesota, after proper notice required by Minn. Stat. § 15.0412 (1976) was served upon all persons, associations and other groups registered with the Secretary of State for that purpose. The matter was then submitted to the undersigned for consideration on January 12, 1977, by Hearing Examiner Erickson.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having considered all of the testimony and evidence, and having considered the Report Of Hearing Examiner Peter C. Erickson dated January 11, 1977, now upon all records, files and proceedings herein, I adopt as my Findings of Fact the FINDINGS OF FACT and CONCLUSIONS entered by said Hearing Examiner in said report.

Dated: May 10, 1977

KENNETH F. SCHOEN
Commissioner of Corrections
State of Minnesota