

GOVERNOR'S ADVISORY COMMITTEE ON ANNEX FOR DEFECTIVE DELINQUENTS

February 22, 1962

Committee Members Present: Senator W. J. Franz, Chairman
Judge Morris Wahlstrand
Professor Maynard Pirsig
Allan C. Hubanks
Gerald F. Walsh

Others Present: Morris Hursh
Will C. Turnbladh
Dr. Richard Bartman
Miss Frances Cookley

The meeting was called to order by Senator Franz at 9:30 a.m. He said the Governor had felt the need for a small committee to make a study of the Annex for Defective Delinquents. He said that Commissioner of Welfare Hursh and Commissioner of Corrections Turnbladh have different views on this particular subject. He said the Governor felt that this probably did not require a long range study. Professor Pirsig said he feels that there is a legal question involved that the retarded go before a probate judge, which is a civil proceeding, and then may be sent directly to the Annex for Defective Delinquents or are transferred there from other institutions. He cited a case which he considered similar where a juvenile delinquent, not criminal, was put into an institution for the younger criminal element. This was judged illegal and unconstitutional because there had been no jury trial.

It was pointed out that the 1965 act provides that a portion of the St. Cloud Reformatory be set apart and known as the Annex for Defective Delinquents.

The retarded at St. Cloud are assigned to tasks within the Reformatory; they work in the kitchen and other locations. Their sleeping facilities are in a separate dormitory.

Francess Cookley said that an army system of discipline and training was used. The young men start out on K.P. and then, as they can respond to supervision and are able to take on more responsibility and learn to control themselves, they move on to more responsible jobs with less supervision. If a young man gets into difficulty, he goes back to K.P. and starts over. She said there is a Board, which meets every three months, to review individual progress.

~~Senator~~ Walsh pointed out that he felt there were four distinct areas which could be at the root of this problem: (1) Legal, and this should be settled by the Attorney General; (2) Effectiveness of this program--there appeared to be no question about its effectiveness; (3) Department responsibility--which Department should do this job; (4) Community and parent attitude--there had been no questions in 16 years as to appropriateness.

Professor Pirsig raised a fifth point—that of civil rights.

Commissioner Hursh then stated that if they were going to discuss civil rights, certainly we should consider the 30 girls at the Shakopee Women's Prison, ages 4 to 12. These girls have committed no crimes but, nevertheless, are retained in a prison situation and taken care of by prisoners. He said the cost of keeping the girls there is double that of anywhere else; however, that the Department of Corrections felt that that this program is important to their training and correction program at the Shakopee Women's Prison. Hursh also said that St. Peter is a penal institution in many ways; that there is a maximum security section with 250 people in it. Many have been placed there without jury trial merely because this is the kind of care they need.

Professor Pirsig said he feels that the state has a responsibility to protect people against confinement except by law and trial by a jury. He said the state has a responsibility to protect civil rights, even though no one is complaining about them being usurped.

Judge Wahlstrand raised the question as follows: "What if one of the A.D.D. men went over the wall and the guard shot him? Wouldn't this create a difficulty and could the guard even tell the A.D.D. person from one of the prisoners who had been convicted and sent to St. Cloud?" The answer was that there would be no way of telling them apart.

Dr. Bartsan stated that there were men from the Annex who had come before courts but the judge had preferred to send them to the Annex rather than to a prison.

Frances Coakley stated that in some cases they had been brought before district court and convicted before going to the Annex.

Commissioner Turnbladh was present and gave his reasons why the question was being raised. He also referred to a study made by Brother Aquinas Thomas in August of 1961. The following quote is from that study:

"The Department of Corrections should take immediate action to rid itself of the mental defectives held in protective custody in St. Cloud. These are medical subjects. The Department of Mental Hygiene should assume immediate responsibility for them. It is understood by the writer that the containment of mental defectives at St. Cloud is supported by full legal binders. This is not relevant. The argument in support of such a situation is a non sequitor. The existence of containment legislation does not make the situation right. The situation wherein mental defectives are held in penal security departed with the closing of the Bellevue Penitentiary and the Philadelphia Alms House. This is a situation that Minnesota has held under wraps and away from Public scrutiny. It would be most embarrassing to the State if the fact became known to the busy probings of a knowledgeable reporter. If the Legislature will not act, at least the Department of Corrections can go on record in its annual report as objecting to an untenable situation."

Commissioner Turnbladh listed the following questions:

- (1) It is fundamentally wrong for the retarded to find their way into the Reformatory by the back door.
- (2) He has grave questions about the right to hold them in this situation.
- (3) These men committed as mentally retarded should be dealt with through the Mental Health program, not the Correctional program.
- (4) Prisons have tried to get away from taking everything. They have moved away from this trend all over the country.
- (5) This summer, a Brother at Manhattan College, New York, felt the program was a disgrace when he saw it and, in a report, recommended that this be discontinued.
- (6) The language of legislature refers to an Annex; the men in this case only sleep in a separate dormitory.

Commissioner Turnbladh also raised the question as to whether or not the mental hospitals should not have a specialized industrial program.

There are 59 men in the Annex at this time; it has a capacity of 75 or 80. It was asked by Mr. Rubanks whether the Annex men had an undesirable effect on the institution or the other inmates. Commissioner Turnbladh said that the other inmates do not take advantage of them. He said that they have 5 or 6 correctional officers assigned to this group so that no problems arise, due to this adequate staffing. Turnbladh said he is not objecting to staff time but he is objecting to the defectives being there.

Professor Pirsig said he felt there were ways of solving this if we want them in this institution.

Frances Coakley stated that 283 men had gone through the Annex since it started in 1945. A study she made in 1952 showed that there was a high rate of success on the part of men who had been released from this facility. Commissioner Turnbladh stated that all population predictions point to the fact that the reformatory population will rise markedly in the future and that they will need the space now occupied by the Annex.

Commissioner Turnbladh said that this matter was now before a sub-committee of the State Bar Association. He said Frank Claybourne of St. Paul was chairman. On the committee is Professor Pirsig, Judge Clifford James and Judge Connolly. He said they would make a recommendation to the State Bar Association. It was suggested that the committee visit the facility so that members who have not been there can view it personally. It was also suggested that the Attorney General be asked for an opinion on the legality of the law establishing this Annex.

Professor Pirsig moved that Commissioner Turnbladh request an opinion as to the constitutionality of confinement of the mentally retarded at

St. Cloud and also that the Commissioner be asked, separate from his opinion, for indications of possible adaptations which could be made in the program if it is not legal at the present time. Commissioner Herah said that he will ask the Attorney General a similar question about the Shakopee children's facility in connection with the Shakopee Women's Prison.

The Department of Welfare was asked to furnish detailed information on the kind of offenses the men at the Annex have committed. Frances Coakley will submit a summary statement of the remarks she made at today's meeting. Ralph Rosenberger, who heads the Annex, will speak to the committee when they meet at St. Cloud. Commissioner Turnbladh said that he wanted to be sure that everyone understood that he is not unhappy about the program of helping these people but that it is a question of where the help should be given and under what auspices.

The next meeting of the committee was set for Wednesday, March 22, 9:30 a.m. at the St. Cloud Reformatory.

Respectfully submitted,

Gerald F. Walsh

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GOVERNOR'S ADVISORY COMMITTEE ON ANNEX FOR DEFECTIVE DELINQUENTS

March 22, 1962

The Governor's Advisory Committee on the Annex for Defective Delinquents met on March 22, 1962, at the St. Cloud Reformatory. Present were:

Committee Members: Judge Morris Wahlstrand
Professor Maynard Pirzig,
Allen C. Hubbard
Paul W. Kovo
Gerald F. Walsh

Others: Carl J. Jackson, Superintendent, Reformatory for Men
Will C. Turabladt, Commissioner of Corrections
Wayne Olson, Attorney General's Office
Merris Hursh, Commissioner of Welfare
Miss Frances Costley, Department of Public Welfare
Ralph Rosenberger, Education Director, Reformatory for Men
Edward J. Costello, Deputy Commissioner of Corrections

Mr. Rosenberger said that the Annex started in July, 1945, when the St. Cloud Reformatory population was at 600. The 50 inmates of the Annex were direct transfers from the Fairbault State School and Hospital. He said that the Reformatory resented the transfer of these inmates at that time because they didn't know what to do with the group. They had no idea of programming. He said that during the first six months, the Annex inmates were kept in the dormitory as they felt they were supposed to be kept separate from the Reformatory inmates. Mr. Rosenberger asked to work out a program for these people and examined programs of other states which had similar groups. Special attention was given to the New York City school curriculum for the mentally retarded. He said that there were advantages in starting from scratch with this program because they had no ideas on what should be done, except that they believed the inmates should be adjusted to live in a community, thus it was necessary for them to make some personality adjustment. He said that changes have come through new thoughts and new ideas, work experiences, and respect from other people. He said that the A.B.D. boys and young men are put in opportunities where they can make choices and learn to know right from wrong. He said they have a need to achieve, have status, and be respected.

Mr. Rosenberger feels that one of his jobs is to help them see their own problems.

When a new inmate is admitted, he follows a pattern of indoctrination, beginning with discussion of the rules and regulations and why he is in St. Cloud. He is then placed in the dormitory; however, no idleness is allowed and all work. At first he is placed on a closely supervised crew, usually in the kitchen's vegetable room. The inmates have one hour of classroom work each morning and must go through an adjustment course at least once. The boys learn to realize that they must earn promotions and better jobs with more responsibility.

The central office staff of the Department of Public Welfare visits St. Cloud at regular intervals to discuss each case and in particular those that are ready for release to the community. The inmates can be brought back to the institution if placement doesn't work out the first time.

The Department of Welfare decides who needs the St. Cloud placement in cooperation with the county probate judges. In case of some of the inmates, they are sentenced and the sentence is stayed on condition that they are placed in St. Cloud. A social history is worked up on each person before he appears for probate court proceedings.

Commissioner Turubladh told the Committee that the Welfare Department and Corrections Department are conducting a research project on the A.D.D. comparing 33 boys who have been released from the A.D.D. with 33 boys in the regular Reformatory program who have the same I.Q.'s and other similarities.

Present placement of the A.D.D. boys within the institution is as follows:

- 1 Cellhouse, janitor
- 14 Kitchen
- 2 Mattress Shop
- 1 Shoe Shop
- 2 Print Shop
- 1 School Hall
- 4 Sash and Door Shop
- 3 Garage
- 1 License
- 1 Upholstering
- 1 Bake Shop
- 3 Tailor Shop
- 1 Park
- 4 Coal Crew

The program for the inmates who are in the A.D.D. program is planned by the institution personnel. Both Mr. Rosenberger and Mr. Jackson stated that they had no problems regarding programming for this group.

The St. Cloud Reformatory now has 966 inmates; however, it is not overcrowded...capacity is about 1,025.

Professor Pirsig raised the question whether the confinement of the inmates under this program could be defended constitutionally. He pointed out that the work and disciplinary program appeared to be the same for the members of the Annex as for the regular inmates of the Reformatory. He noted also that in their work at least they mix intimately with the regular inmates.

He pointed out that the members of the Annex had not been convicted of a criminal offense, were not entitled to a jury trial but had been committed for their mental condition. In a number of instances at least he felt that a conviction would not be possible and that they were at the

Annex in complete violation of their civil rights. He urged, therefore, that serious consideration should be given to the constitutional validity of the program, and to the removal from the Annex of those committed there under it.

Judge Wahlstrand expressed his concurrence with Professor Parraig's views.

Mr. Olson from the Attorney General's Office was asked to comment regarding the constitutionality of the law providing for the A.D.D. He said that ordinarily the Attorney General does not write opinions on the validity of existing laws and when opinions are given, they are not necessarily binding on the administration. Mr. Turnbladh said that he had had four or five letters from inmates asking for permission to get a lawyer and had sent these letters over to the State Bar Association for consultation. Mr. Turnbladh reiterated his deep concern over the situation and stated that he would abide by the conclusions of the Committee until the matter is considered by the next legislature. The Committee agreed the program should be continued.

Morris Hurch said that if space is needed for regular Reformatory inmates certainly consideration might have to be given to transferring these boys elsewhere.

The group discussed the constitutionality of this program and also civil rights; however, they did not arrive at any decisions.

The Committee will meet in April on the 25th at 10:00 a.m. at the Faribault State School and Hospital. Frances Coakley will make arrangements.

Respectfully submitted,

Gerald F. Walsh

Year
1960

GOVERNOR'S COMMITTEE ON THE ANNEX FOR DEFECTIVE DELINQUENTS

MEETING OF APRIL 24, 1962

MINUTES

The Governor's Committee on the Annex for Defective Delinquents met on Tuesday, April 24, 1962, 10:00 a.m., at the Faribault State School and Hospital. Present were:

Sen. Walter Franz, chairman	Allan Hubanks
Judge Morris Wahlstrand	Paul Keve
Maynard Pirsig	Gerald Walsh

Also present were non-committee members Dr. Thorsten Smith and Dr. E. J. Engberg of the Faribault State School and Hospital staff; Commissioner of Welfare Morris Marsh; Frances Coakley and Dr. Richard Bartsan, Dept. of Welfare; Commissioner of Corrections Will Turnbladh and his assistant, Howard Costello.

There was discussion regarding the handling of the Committee's minutes. It was suggested that the secretary mail minutes as he writes them to the Committee and that they be corrected at the next meeting, if necessary. The next meeting of the Committee will be held at the State Capitol on July 12, 1962, at 10:00 a.m.

Dr. Engberg spoke to the Committee. He said that the program at Faribault dates back to 1879; at that time, it was experimental in nature and was set up to determine the need for institutional care of the mentally retarded. He said that in 1920, epileptic patients were sent to a new institution at Cambridge. In 1945, the first efforts were made to get a new institution for the retarded because of the present overcrowding and waiting list; also in 1945, the Owatonna State School was converted to an institution for the educable mentally retarded and 250 patients were transferred from Faribault to Owatonna.

In 1945, the Annex for Defective Delinquents was established at St. Cloud, with 50 or 60 transferees from Faribault. These were boys who had been cared for in West building at Faribault and had been a tremendous problem to the institution. They had a terrible time and little program for them was available. Also, they were pretty much limited to one building, which also contained a shoe repair shop. They had a lot of idle time. The building was fenced with an extension of barbed wire above the regular chain fence and as many as 16 of these boys had gone over the fence at one time. Some had escaped by sawing bars to get out. The saw had been passed onto them by boys in the neighboring building. They had had some patients break windows and use part of the frame as a weapon to attack the night aide. The same building is now an open building. They still get patients of this type but they are transferred to St. Cloud, if necessary. Of the original group of boys transferred from Faribault, many have been returned to the community, where they are getting along very well. It was felt that if the facility still existed as it was before, few would ever have returned to the community.

Dr. Engberg said that admissions now to Cambridge, Faribault, and Brainerd institutions are by district. Owatonna State School serves on a state-wide basis. In the last six years, less than one-half dozen boys have been transferred from Faribault to the Annex for Defective Delinquents. Most have come right from the community. Dr. Engberg said they have transferred three to four hundred adult patients to Brainerd and have accepted mostly young patients less than 10 years old, many of whom are physically handicapped. These children require a great deal more personal care. Working patients have been reduced in number. Dr. Engberg explained, in answer to a question from Mr. Turnbladh, that there is no maximum or minimum age for admission to Faribault, the capacity of which is now over 3,200. 2,490 is the correct housing space, according to the standards of the Department of Health. The Cambridge institution is overcrowded

by about 300. Brainerd is being built for 2,000 patients. There are now 750 patients on the waiting list. There is, however, no waiting list for the Owatonna State School. They expect that there will be 976 patients at the Brainerd institution by this July and there will be no more building at that institution until amendment #2 is passed.

Dr. Bartman pointed out that there are about 800 patients in our state institutions who, he feels, could be returned to the community if there were proper community facilities available for them.

Dr. Bartman also said that there is a severe staff shortage and the institution is 40-50% understaffed. Dr. Engberg pointed out that they have one person who devotes full time to patient work placement within the institution. Morris Hursh asked if there would be more work opportunity now than at the time the patients were transferred to the Annex for Defective Delinquents. Dr. Engberg replied that they have a cabinet shop, where they repair chairs, and other shops. However, they cannot give careful supervision. The supervision is given by the maintenance staff employed to keep the institution in repair. Judge Wahlstrand asked if the primary concern at the time of the transfer of patients to the A.D.D. was to give them more help or whether it was done just to get rid of the troublemakers. Dr. Engberg replied that they were anxious to see that these people had more help and that this could not be given to them at the Faribault institution.

Mr. Pirsig asked if it was necessary to get approval from the Section on Mental Deficiency for commitment. Miss Coakley said that there is a requirement that there be a ten day notice to the Commissioner before a hearing for guardianship is held. The social history is prepared for the benefit of the Judge. She said the decision as to where patients should go is made after commitment. The procedure for commitment to guardianship was discussed and explained. It was felt that some of the people at the A.D.D. might have been sent there if convicted for a crime, but not for as long a period of time and that some commitments may be made with the A.D.D. in mind or with other institutionalization in general in mind.

Miss Coakley pointed out that they have been making a special effort to keep the waiting list to a minimum. There are about 300 retarded in private group care facilities and another 300 in foster homes. Some of these people are in such private care and group care facilities because it is the best place for them. At the present time, almost all admissions to Faribault are on an emergency basis because of the lack of space.

Commissioner Turnbladh asked what is done with the aggressive female patients. Dr. Engberg said that, as a group, they are not as aggressive as the males, either in the community or in an institution, and that they have not been too much of a problem. Girls who become delinquent primarily get in trouble because they are chronic runaways or because they get into sex difficulties.

The following is a list of patient work assignments:

Male:	2 Hospital	2 Carpenter shop	24 Dairy
	43 Laundry	1 Tin shop	31 Garbage
	48 Kitchen & Bakery	2 Plumbers helpers	15 Cribbary
	4 Butcher shop	2 Electricians helpers	2 Barber trainees
	5 Warehouse	22 Trucks and on grounds	4 Custodial
	5 Mattress shop	96 Dietary	2 Miss.
	5 Cabinet shop	97 Patient care	
	5 Paint shop	15 Farm	432 Total

Female: 19 Tailor shop	9 Custodial
21 Hospital	3 Staff residences
64 Laundry	---
37 Vegetable room	
92 Dining rooms	370 Total
125 Patient care	

Total, Male and Female - 802

Mr. Pirsig asked how long patients stayed at the institution. It was pointed out that they have 40-50 who die at the institution each year and 20-30 who go back to the community as a result of planning. He said some go home on vacation and stay. There is a total release of 60-70 a year. For the mildly retarded, two years is the average length of stay. A certain percentage of the patients are placed there for training and then placed back in the community. Dr. Bartzan pointed out that for 20-30 years, many conceived of the institutions as colonies for life-long care. Many were admitted who were quite able to have worked in the community. Now changes in some community attitudes find the institutions with large numbers of patients that the institutions depend on for the existence of the institution.

Females who are troublesome are placed into open buildings to give them the best opportunity for adjustment. If they do not conform, they are put into a closed building. The closed building is used as a teaching process to help correct runaways and other problems. About half a dozen assaultive females are kept in Poppy building...this is primarily a building for hyper-active low-grade girls. Similarly, in the boys building they have a few runaways; however, there are 114 in this building. It is primarily for the hyper-active severely retarded.

It was pointed out that the institution is divided into four divisions with a graduate nurse in charge of each division. There is also an assistant to each regular nurse. Decisions are made in conference as to which patients should go to school or in which buildings they should be placed. Patients are grouped pretty much in the following age levels: 6-12, 13-16, 17-20, and adults.

There was a discussion of the New York facilities for handling the defective delinquents. It was pointed out that in New York there are about 1,000 males and 200 females in such facilities. They are committed under a dual commitment plan, both to the Commissioner of Corrections and the Commissioner of Mental Hygiene. Mr. Pirsig pointed out that he felt that the real problem here in Minnesota is commitment to a reformatory without the benefit of a court trial. He gave an example of a situation in Michigan where a person was not convicted of a crime but was committed to the Dept. of Welfare for care, and the example that the court found this was illegal. Mr. Pirsig will furnish the secretary with material regarding this situation.

The committee visited various work facilities in the institution, including the carpenter shop, cabinet shop, tin shop, and laundry. They also visited West Cottage, where the A.D.D. patients were formerly housed, and several other institution buildings.

Respectfully submitted,

Gerald F. Walsh

EXCERPT FROM THE REPORT OF COMMITTEE ON
YOUTH CONSERVATION AND ADULT CORRECTIONS

TO: THE MINNESOTA STATE BAR ASSOCIATION

PERSONS COMMITTED AS MENTALLY DEFICIENT CONFINED AT ST. CLOUD REFORMATORY

Approximately fifty to sixty young men who are committed to the custody of the Commissioner of Public Welfare as mentally deficient are presently housed in a third floor annex of the St. Cloud Reformatory. Because they are being confined as a result of commitment rather than a conviction, the Committee appointed a subcommittee to investigate the propriety of keeping them in a penal institution.

This practice has been followed for many years and was first authorized by a statute enacted in 1945.

On the basis of case decisions on the subject, we believe that it is violative of due process to confine such persons to a penal institution when they are not under criminal sentence and that the statute authorizing such practice is unconstitutional. The concern of the present administration in this problem is evidenced by the fact that, upon the recommendation of the Commissioner of Corrections, the Governor has appointed a group to study and investigate this problem.

It is the view of the Committee that the Governor should be urged to prevent the further placement of such persons in the St. Cloud Reformatory, and that he should be asked to accomplish the removal of those presently confined there with deliberate speed, consistent with their mental health and welfare, and that the statute authorizing this practice should be repealed.