

Probation

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Probation Guidelines: To Be or Not To Be *Chris W. Eskridge*

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The
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This Issue in Brief

Probation Officer Burnout: An Organizational Disease/An Organizational Cure.—In recent years, considerable attention has been given to burnout of public service personnel; however, little has been published on burnout of probation officers. Author Paul W. Brown looks at organizationally caused burnout and some approaches to moderate it. According to the author, most correctional agencies are based on a military-like structure, and probation departments seem to be no exception. This traditional structure may be responsible for burnout, and there is little a probation officer can do about it. Changes will have to be made by managers who are willing to accept and implement more democratic management styles.

The Privatization of Treatment: Prison Reform in the 1980's.—According to author Francis T. Cullen, a contributing factor to the swing in criminal justice policy to the right has been the failure of progressives to provide plausible policy alternatives. He argues that a viable avenue of prison reform is the privatization of correctional treatment programs—a reform that is politically feasible because it capitalizes upon both the continuing legitimacy of the rehabilitative ideal and the emerging popularity of private sector involvement in corrections. While a number of concerns about profit-making in prisons must be addressed, the author contends, the major advantage of privatizing treatment is that it severs the potentially corrupting link between custody and treatment and thus helps to structure interests within the prison in favor of effective correctional rehabilitation.

A Theoretical Examination of Home Incarceration.—Developing a theoretical rationale for the use of home incarceration as an alternative sentence, authors Richard A. Ball and J. Robert Lilly argue, based on a previously developed theoretical position as to the goals of sentencing generally, that “punishment” is ultimately directed at the restricted reprobation of an act in such a way as to provide for the reparation of that particular conception of social reality agreed upon in a given society. According to the authors, home incarceration has advan-

tages in that it is of easy communicability in terms of present conceptions of social reality, of limited complexity and fairly obvious potential impact, and of reasonable cost. Since it is also characterized by reversibility, divisibility, compatibility, and perceived relevance to organizational goals, it is considered to possess the theoretical advantages necessary to adoption.

Probation Supervision: Mission Impossible.—According to author John Rosecrance, there is a consensus that probation has failed to reduce recidivism and has lost credibility with the public and other criminal justice

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agencies. Probation supervision has proven ineffective, he contends, because of bureaucratic dynamics and the conflicting nature of officer-client relationships. Although there are calls for drastically overhauling probation services and revitalizing its mission, the prevailing alternatives—(1) service orientation, (2) differential supervision, and (3) intensive supervision—are incremental and fail to address fundamental problems. The author advocates eliminating probation supervision and allowing other agencies to assume these responsibilities. Probation would be left with a feasible and unambiguous mission—providing objective investigation services to the court.

The Dimensions of Crime.—Author Manuel Lopez-Rey discusses a subject addressed at the seventh United Nations Congress on the Prevention of Crime, Milan, 1985: What are the dimensions of crime? Contending that criminal justice policy is formulated without knowledge of the true scope of crime worldwide, the author holds that what is thought of as constituting crime is only common, conventional crime, and what is not taken into account is unconventional crime—such as terrorism, torture, and summary execution—prevalent in dictatorial regimes where crime often goes unreported. The author addresses how malfunctions in the criminal justice system affect the dimensions of crime, stressing the need to define what is crime by law and to broaden conceptions of crime to include less conventional crime. Influencing factors such as economic crime and criminal negligence are also discussed.

Security and Custody: Monitoring the Federal Bureau of Prisons' Classification System.—Authors Michael Janus, Jerome Mabli, and J. D. Williams report on the Federal Bureau of Prisons' system—implemented in 1979—for assigning inmates to institutions (Security Designation) and to various levels of supervision (Custody Classification) within institutions based on background and behavioral variables. This security and custody system replaced an informal one which relied heavily on individual discretion. The new method quantified the factors involved in decisionmaking and shifted the focus of classification procedures from the diagnostic-medical model to the humane control model. Since 1981, the Bureau of Prisons has monitored the system by recording monthly security and custody breakdowns as well as inmate misconduct and escape information for each of its approximately 50 institutions. This study will report analysis of these data both cross-sectionally and longitudinally at the institution level.

Repeating the Cycle of Hard Living and Crime: Wives' Accommodations to Husbands' Parole Performance.—Author Laura T. Fishman examines the social ac-

commodations made by prisoners' wives to their husbands' post-prison performance. To construct an ethnographic account of the social worlds of 30 women married to men incarcerated in two prisons, the author employed a combination of methods—indepth interviews with wives, examination of prison records, summaries of women's "rap sessions," and a variety of other sources of data. She found that of the 30 women, 15 welcomed their husbands home from prison, and the wives used a variety of accommodative strategies to support their husbands' settling down and to deter them from resuming hard living patterns and criminal activities. The author concluded that none of these strategies were as effective as wives anticipated; wives do not appear to have much influence on whether or not their paroled husbands resume criminal activities, get rearrested, and return to jail.

Community Service Sentencing in New Zealand: A Survey of Users.—Beginning in 1981, New Zealand law authorized sentencing offenders to perform from 8 to 200 hours of unpaid service to a charitable or governmental organization. Authors Julie Leibrich, Burt Galaway, and Yvonne Underhill conducted structured interviews with samples of probation officers, community service sponsors, offenders sentenced to community service, and judges to determine the extent of agreement on the purpose of the sentence, ways in which the sentence was being implemented, benefits thought to flow from the sentence, and the extent of satisfaction with the sentence. According to the authors, the New Zealand experience suggests that community service is a feasible and practical sentencing option. They caution, however, that consistency of administration requires reaching agreement as to the purpose of the sentence and its relationship with other sentences. A number of implementation decisions also need to be resolved, including the role of the offender in selecting a community service sponsor, the role of the judge and probation officer in determining a specific placement, development of working relationships between probation officer and community service sponsor, and the need for a backup sanction.

Assessment Centers as a Management Promotion Tool.—An assessment center or the multiple assessment approach is the careful analysis and programmed assessment of management ability using a variety of job-related criteria. This approach has been used for decades in companies such as IBM, General Electric, American Telephone and Telegraph, and numerous government agencies. The variables or dimensions used to test an applicant's attributes vary from organization to organization, as do the techniques used to test these dimensions. Author William V. Pelfrey reviews the typical techniques

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The Privatization of Treatment: Prison Reform in the 1980's

BY FRANCIS T. CULLEN

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OVER THE course of the past decade, the idea that progressive reform is possible within the criminal justice arena has been under sustained attack. Conservatives dismiss such continued efforts at making the world better as secular ventures that at best cause us to "lose ground" in the attempt to solve social problems and at worst lead to the tragic victimization of innocent citizens (Murray, 1984; Wilson, 1975). More instructive, however, is the extent to which those on the left have embraced this vision of reform as a prescription for failure. Indeed, the hard lessons that benevolence can be corrupted has resulted not merely in caution before undertaking reform but in a pessimism that labels do-gooders as naive and paternalistic carriers of social harm (Rothman, 1978, 1980). Indeed, the cynicism runs so deep that it is popular to argue that progressives should endorse a "shift in perspective from a commitment to do good to a commitment to do as little mischief as possible" (Gaylin and Rothman, 1976:xxxiv) and that they should consider the wisdom of simply refraining from criminal justice intervention altogether. "That we should leave the system alone, intervening as little as possible and only when necessary," Doleschal (1982:151) has observed, "is an idea whose time has come, and an increasing number of authors are expressing it" (cf. Travis and Cullen, 1984; Sieber, 1981).

But this pessimism on the left—its inability to sustain its "endurance of ideals" (Bayer, 1981) in the face of documented failures (Rothman, 1980)—has had its costs. It has led to something of a paralysis on policy issues, an inability to define meaningful avenues of progressive reform (Cullen and Wozniak, 1982). To be sure, some agendas have been suggested. The "justice model" placed its faith in the cold rigidity of law to minimize the damage done to deviant populations under the discretionary control of the state (Fogel, 1979; von Hirsch, 1976). Yet the returns on this reform are not promising. No new era of humanity has been forthcoming; indeed, if anything, this reform has been co-opted to serve conservative crime control ends (Cullen and Gilbert, 1982; Cullen, Gilbert, and Cullen, 1983; Greenberg and Humphries, 1980). And there remains the more radical call to create criminal justice through social justice. In light of existing political realities, however, this call rings hollow to all but a few in the field.

The void created by the pessimism among progressives has not been left unfilled. Much like Ronald Reagan reacted to Jimmy Carter's diagnosis of malaise, conservatives have shown little reluctance to reject the idea that nothing works and instead have offered a positive solution to crime control: getting tough on crime (Gross, 1982; Cullen and Wozniak, 1982). Within academia, this agenda has combined realism and the legitimacy of science to justify an increasingly popular policy: selective incapacitation. The logic is persuasive. While progressives were correct in showing that institutions do not have the power to transform evil into good, they ignored that institutions do accomplish one thing—they remove people from society. Equipped with regression tables, all that is left is to establish the profile of the habitual criminal and then to remove those with such criminogenic traits from society (Wilson, 1975). Such policy analysis, it is claimed, avoids idealism and promises crime control at the most cost-effective rate available.

Of course, those advocating the *theory* of selective incapacitation have yet to demonstrate that they have the technology to select the habitually criminal or that this "reform" would not be resisted and undermined by the participants in the justice system (Cohen, 1983; Clarke, 1974; van Dine, Conrad, and Dinitz, 1979). But this is not the point. The issue is that conservatives have an agenda that they offer not with doubt but with enthusiasm; one which promises—even if this is a false or questionable promise—to reap considerable utilitarian rewards.

In this context, progressives have yet to make an effective counter-response. In particular, within the difficult area of prison reform, few fresh and "realistic" ideas have been forthcoming. Where, then, should progressives turn?

My attempt to address this question begins with the proposition that those on the left made a fundamental mistake when they moved forcefully to discredit rehabilitation as a viable correctional ideology (cf. Allen, 1981). While my colleagues and I have developed this point in more detail previously (Cullen and Gilbert, 1982; Cullen and Wozniak, 1982; Travis and Cullen, 1984), the essence of the argument can be summarized in two contentions that undergird the proposition offered above. First, in unmasking the often pernicious practices justified by state enforced therapy (Fogel, 1979; Kittrie, 1973),

progressives failed to consider the benefits of a strong rehabilitative ideology (Cullen and Gilbert, 1982:246-263). Thus, informed by science and consistent with a cultural belief that problems can be solved, treatment ideology posed a powerful rationale for correctional reform and a difficult philosophy for conservatives to discredit (Rothman, 1980). It gave progressives a legitimate platform on which to make a stand.

Second, those on the left failed to consider carefully what they would offer in place of rehabilitation as their guide to criminal justice reform. As mentioned above, many progressives had little concrete idea of where next to turn; debunking rehabilitation was the extent of their contribution. Others, more schooled in criminal justice, did a better job of furnishing a seemingly plausible reform agenda. Seeking to limit state intervention and insulate offenders against excessive coercion, they popularized the "justice model." Indeed, they enjoyed success in convincing many on the left that due process and determinate sentencing would enhance the quality of justice dispensed by the state by curbing the abuses inherent in the positivist model of individualized treatment and indeterminate prison terms. This strategy rejected the "heady optimism and confidence of reformers in the past, and their belief that they could solve the problem of crime," and instead was informed by "a determination to do less rather than more—an insistence on not doing harm" (Gaylin and Rothman, 1976:xxxiv). But again, there is scant evidence that this agenda should have been so enrapturing to progressives. At best, the justice model has been implemented in piecemeal fashion and has not made conditions much different (Goodstein and Hepburn, 1985). At worst, it has been co-opted by crime control interests and has proven to be, in Sieber's (1981) terms, a "fatal remedy" (Cullen, Gilbert, and Cullen, 1983).

Apart from the unfavorable results of the evaluation studies, however, the justice model advocates have unwittingly given legitimacy to a range of conservative assumptions about crime and its control (cf. Paternoster and Bynum, 1982). First, they agree that correctional rehabilitation does not work. Despite empirical evidence to the contrary (Binder and Geis, 1984; Gendreau, 1981; Gendreau and Ross, 1979, 1980; Martinson, 1979; Palmer, 1983, 1984), treatment interventions and other do-gooder responses are defined as irrational. Second, in rejecting the positivist model of crime, they embrace a volunteerism that denies—reluctantly and implicitly perhaps—the social roots of crime. Much like James Q. Wilson (1975), they do not see causal analysis as a feasible strategy for making criminal justice policy. Third, in decontextualizing offenders, they assume that the only obligation of the state is to punish those who violate the law equally. No consideration of the state's role in

perpetuating the criminogenic conditions that fostered a person's criminal act should enter into the calculus used to determine the price to be paid. And fourth, while they prefer the cleaner terminology of "just deserts," they advocate retribution as the guiding standard of criminal sentencing. This is a critical point since it leaves progressives in the position of concurring with the political right that exacting a just measure of pain should be the overriding function of corrections. Thus, the discussion is changed from one which questions *if* punishment is legitimate—as those in the rehabilitation camp had done—to one which merely asks *how much* punishment should occur. Notably, this is a losing debate for progressives to undertake. Apart from cost savings, the appeal of short sentences is not widespread. By contrast, long sentences not only reap political benefits for legislators who jump on the get tough bandwagon but also are ostensibly utilitarian: they promise to reduce crime by locking people up.

My contention, then, is that progressives have played into the hands of the conservatives. They have abandoned a powerful ideology—rehabilitation—that has justified and energized criminal justice reform; they have fostered a pessimism that portrays all past campaigns to do good as failures and warns that all future efforts are likely to suffer a similar fate; and they have embraced assumptions that undercut the traditional positivist stance that getting tough is not a sensible solution to, much less a panacea for, the crime problem. It would be unwarranted, of course, to suggest that these actions are fully to blame for the rapid swing in criminal justice policy to the right. The conservatives' growing political clout and the changing structural circumstances which have nourished their influence are clearly more responsible. Regardless, it is clear that these actions have attenuated the left's ability to offer a plausible agenda that has sufficient appeal to contain, or at least to slow down, the push to the right.

Progressive reform in the 1980's and beyond must confront the reality that progressive ideological impotence has helped to create a fertile soil in which conservative agenda have flourished. In turn, this demands that progressives think seriously about what ideology or correctional philosophy can gain sufficient support to permit the opportunity for reform to emerge and be realized. Below, I argue that rehabilitation is the most feasible ideology available and, thus, that it should be reaffirmed rather than be rejected. This discussion sets the context for the recommendation of a specific reform proposal: the privatization of treatment in prisons.

The Tenacity of Rehabilitation

In light of the repeated attacks on correctional treat-

ment not only by conservatives but also from those who previously would have been its staunchest defenders, it is not surprising that there is much talk of the "decline of the rehabilitative ideal" (Allen, 1981) and much questioning about whether "rehabilitation is dead" (Halleck and Witte, 1977; Serrill, 1975; cf. Cullen, Cullen, and Wozniak, 1985; Cullen, Golden, and Cullen, 1983). Yet contrary to the prevailing wisdom in the field, empirical data indicate that treatment is alive and well as a correctional ideology. The requiem for rehabilitation should not yet be sung.

To be sure, changes have occurred and should not be dismissed lightly. There was a time when the dominance of rehabilitation as the ideal correctional philosophy was not in dispute. In the 1960's, Menninger's *Crime of Punishment* could become a celebrated title, and Toby (1964:332) could comment that textbooks conveyed the message that "punishment is a vestigial carryover of a barbaric past and will disappear as humanitarianism and rationality spread." And a 1968 Harris poll reported that nearly three-fourths of all Americans felt that "rehabilitation should be the purpose of prisons." By the 1980's, however, the attacks on rehabilitation had taken a toll. A replication in 1982 of the earlier Harris survey revealed that support for treatment as the primary goal of incarceration had slipped to 44 percent (Flanagan and Caulfield, 1984:42). Moreover, other attitudinal shifts buttressed anti-treatment sentiments. As Flanagan (1984) has observed, during the last decade the public's tendency to see crime predominantly as a social phenomenon caused by disorganized family and community life has diminished, while their tendency to blame high crime rates on lenient sentences which make lawlessness profitable has intensified. That is, popular explanations or theories of crime are increasingly providing the logic for punitive policies: we need to get tough with offenders so that crime does not pay (Cullen, Clark, Cullen, and Mathers, 1985).

But this line of reasoning should not be carried too far. By focusing on the losses rehabilitation has suffered, there is the risk of missing the degree to which it remains a legitimate and vital perspective among both the public and criminal justice participants. Indeed, in the face of considerable adversity, the rehabilitative ideal has displayed an amazing tenacity.

A growing number of empirical studies lend credence to this contention. Despite some erosion of support, national surveys still indicate that it is a myth that the public is now exclusively punitive in its approach to corrections. The Harris polls cited above reported that advocacy of rehabilitation as the purpose of imprisonment fell from a high of 72 percent in 1968 to 44 percent in 1982. However, this 44 percent figure remained higher than that accorded "punishment" (19 percent) or "protect society" (32 percent); 5 percent answered "not sure." Similarly,

a 1971 Associated Press-NBC poll indicated that rehabilitation was favored by 37 percent versus 31 percent for punishment and 25 percent for protect society (7 percent answered not sure). And a 1982 Gallup poll which pitted rehabilitation against punishment found that 59 percent felt that it was more important to "get men in prison started on the right road" while only 30 percent agreed that it was "more important to punish them for their crimes" (11 percent not sure) (Cullen, Cullen, and Wozniak, 1985).

Data from state and community studies reinforce the general pattern indicated by the national polls. On the one hand, this research suggests no willingness on the part of the public to be soft on crime. Citizens believe that offenders deserve to be punished and that imprisonment is an effective deterrent and incapacitative strategy. On the other hand, however, the research is equally clear in showing that the public has not lost faith in rehabilitation. Treatment is defined as a desirable goal of corrections and is viewed as having the capacity to reduce an offender's criminogenic tendencies. Unlike many progressive academics, a majority of citizens (a) believe that a system which punishes *and rehabilitates* is preferable to one which only seeks to punish and (b) still have a measure of optimism that efforts to help offenders, particularly younger ones, can work (Austin, 1982; Cullen, Clark, and Wozniak, 1985; Cullen, Cullen, and Wozniak, 1985; Cullen, Golden, and Cullen, 1983; Gottfredson and Taylor, 1980; Thomson and Regona, 1984; Warr and Stafford, 1984:102).

Notably, available data suggest that support for rehabilitation is holding firm among criminal justice policy-makers. While legislators and other state elites are prone to overestimate the punitiveness of the public, their own attitudes are surprisingly reformist and favorable to treatment (Berk and Rossi, 1977; Cullen, Bynum, Garrett, and Greene, 1985; Cullen, Gilbert, and Cullen, 1983; Gottfredson and Taylor, 1983; Riley and Rose, 1980). As Gottfredson and Taylor (1983:14) reported in their study conducted in Maryland, "the attitudes of both the public and the policy group can be characterized as rather liberal, non-punitive, utilitarian, and reform-oriented."

Research on those within the field of corrections reaches a similar conclusion. While empirical data are limited, existing evidence indicates that correctional administrators have yet to fully abandon the goal of offender treatment (Cullen and Gilbert, 1982:259; Cullen, Golden, and Cullen, 1983; Serrill, 1975). There is also a growing body of literature showing that correctional officers not only endorse punishment and custody as central goals of imprisonment but also manifest a healthy support for rehabilitation (Cullen, Gilbert, and Cullen, 1983; Jacobs, 1978:192; Toch and Klofas, 1982; Shamir and Drory, 1981). Finally, while prison inmates dislike

the uncertainty of indeterminate sentences (Goodstein and Hepburn, 1985:174), they reject the idea that rehabilitation programs do not work (Cullen, Gilbert, and Cullen, 1983:6-7), and they strongly advocate the provision of "services that facilitate self-advancement and self-improvement" (Toch, 1977:4; cf. Erez, 1984). It is equally instructive that lists of demands presented during inmate disturbances invariably include calls for increasing rather than dismantling rehabilitative programs (Hawkins, 1976:77).

In short, the empirical evidence is persuasive in suggesting that treating offenders remains a popular, if somewhat tarnished, correctional philosophy. This finding forces the question of what alternative, progressive justification for reform can match the rehabilitative ideal's ongoing legitimacy and toughness in the face of attack. At first glance, "doing justice" seems a likely candidate. After all, most Americans believe in equality before the law and buy the idea that punishments should be roughly commensurate with the seriousness of the crime committed. But the fallacy for progressives here is to assume that citizens see doing justice as a way of limiting state intervention and blunting the harm done to offenders. Survey data indicate the opposite. Thus, the public believes that offenders enjoy too many rights, that the sentences meted out by the nation's courts are too lenient, and that prison conditions are not sufficiently harsh (*Public Opinion*, 1982:36; *St. Louis Globe-Democrat*, 1981). Doing justice, then, are code words that trigger thoughts of restricting rights that allow the guilty to go free, mandating longer prison terms so that serious crimes will get the punishment that is due, and making sure that evil offenders are not rewarded with an easy life within the society of captives. This, of course, is hardly a prescription for progressive reform.

Another rationale for reform is to assert that abuses in the correctional system should be eradicated because it is the right thing to do. In cases of obvious neglect and excessive coercion, particularly those that earn media attention, this appeal can be potent. Yet on an everyday basis and as a guiding philosophy of corrections, it is doubtful that "humanity for humanity's sake" could be sustained. While citizens may be moved by disquieting, extreme cases of injustice, their charity extends only so far. "After all," the argument goes, "how humane were criminals to the people they robbed, raped, and murdered?" Moreover, being humane promises no tangible payoff. By contrast, rehabilitation has a utilitarian side: the bargain in treating offenders decently is that this will make them less criminogenic (Cressey, 1982:xxii-xxiii).

In the last analysis, there is always the stance that true criminal justice reform is contingent on achieving wider

social justice. However true this observation may ultimately prove to be, it does not address the interim question of what specifically should be done now to effect change within the correctional system. Further, a concern for achieving wider social justice is not inconsistent with support for treatment. Indeed, the positivist origins of the rehabilitative ideal demand a thorough causal analysis of why offenders violate the law. Since behavior is seen as emanating from a context, the chances are that the structural sources of illegality will be illuminated. Alternatively, a justice model which proposes to process everyone equally regardless of their unequal social backgrounds risks reinforcing the fiction that criminal activity is merely a matter of individual choice and in turn risks deflecting attention from the root causes of such behavior.

One caveat should be noted here. In arguing that rehabilitation remains a viable correctional perspective, it must be understood that the survey data cited indicate support for a general ideology and not necessarily for specific policy proposals. It is problematic, for instance, whether the level of backing accorded treatment would be maintained if citizens were asked to increase taxes to improve programs or if they were asked whether dangerous offenders, once "cured" by prison therapists, should be released into their communities. This insight leads to two further observations.

First, the value of rehabilitation—at least as it is conceived here—is that it provides a vocabulary, a way of talking about crime and its correction, that remains legitimate and understandable to people. As such, it can supply progressives with a credible language in which to present a reform and keep them from being easily dismissed. Second, simply because a policy proposal is couched in rehabilitative terms does not, of course, insure its acceptance. The successful implementation of any reform depends on the extent to which it addresses prevailing political and bureaucratic realities.

In sum, reaffirming rehabilitation as a correctional ideology is not being offered as a panacea. However, I have tried to demonstrate that it has advantages over other options available to progressives and that it retains sufficient support among the public and criminal justice participants so that it can be used to justify correctional reform. The challenge for progressives is to specify proposals that draw on the legitimacy that now inheres in the rehabilitative ideal while at the same time being sensitive, as noted above, to how existing sociopolitical circumstances preclude certain avenues of reform but not others. In this light, the section below presents one possible strategy for criminal justice reform in the 1980's and beyond: the privatization of prison treatment programs.

*Privatization in Corrections: Opportunity
for Reform?*

As Spitzer and Scull (1977:283) have noted, social control over the past century has been "increasingly organized and carried out as a public effort—coordinated, financed, and implemented by the state." Yet the growth of governmental surveillance and supervision of criminal populations has not meant that privately financed control systems have been fully eliminated or that new forms of private justice have not emerged and flourished (Henry, 1983; Shearing and Stenning, 1981). Indeed, in light of recent attempts to intensify social control measures despite diminishing fiscal resources, talk of relying on the private sector to help resolve this crisis is now becoming especially ubiquitous.

In the area of corrections, the private sector already provides a number of services, and a variety of recommendations for expanding this involvement has been made (Lindquist, 1980). Today, however, the most controversial and frequent proposal is to privatize prisons; that is, to allow business to build and manage facilities in hopes of turning a profit. Under the best of circumstances, everybody wins. The state is permitted to expand its control system at no cost, and corporations are allowed into a new and potentially lucrative market. The attractiveness of this exchange is such that politicians across the nation are entertaining proposals. As a recent *Chicago Tribune* front-page headline read, "Prisons-for-Profit Trend Breaking Out" (Wiedrich and Rowley, 1985:1). Moreover, the executive director of the American Correctional Association has gone on record in support of the idea. "We ought," Anthony Trivisono commented, "to give business a try" (Mullen, 1984:1).

The current discussion regarding the involvement of the private sector in corrections is an occurrence that should not escape the attention of progressives. To be sure, the initial reaction of most on the left is one of suspicion, pessimism, and opposition. Michael Walzer of *The New Republic* (1985:10) captured this response in his article titled, "At McPrison and Burglar King, It's... Hold the Justice" (cf. *Institutions Etc.*, 1984). While not disputing that privatization bears close scrutiny—after all, the pursuit of profits is not often consistent with the pursuit of doing good for others—it would be a mistake, I believe, to dismiss privatization out of hand. Instead, it is important to assess how this movement may create the opportunity for correctional reform. In particular, privatization offers a potent rationale for having policymakers rethink current practices and consider new and more effective ways of managing prisons.

Lacking a fair range of tests, it is difficult to know whether the private sector would run more or less humane institutions. Nonetheless, there are a number of factors

which make the state's relinquishing of its *custodial* function—housing and watching inmates—to private interests both unlikely and, from a progressive standpoint, troublesome (cf. Mullen, 1984; *Criminal Justice Newsletter*, 1985:5). One set of problems surrounds the enforcement of institutional security and discipline. For instance, would corporations be given the right to conduct searches, revoke good time, place disruptive offenders in solitary confinement, and invoke deadly force during prison breaks? Further, if offenders did escape, who would be accountable? And if there was an abuse of authority in seeking to effect control, who would be legally liable?

Another concern is what would occur if a corporation had cost overruns or went bankrupt. Or, if a business was running low on funds, would the executives be tempted to cut back the workforce to unacceptable levels or to depress wages and hire poor quality staff? And how would they provide inmates with adequate living conditions when profits dwindled?

Lastly, the political opposition to handing over prisons to corporations is likely to be intense. The correctional bureaucracy will fight the deep infringement on its control, and it is likely to find enough support among political allies to make widescale privatization difficult.

Thus, there are a variety of hard questions to be answered and political barriers to be overcome before private interests will be granted the right to fulfill the custodial function now performed by the state. However, housing, feeding, and supervising inmates is only part of the traditional role played by the state; there is also the matter of rehabilitation. What remains to be considered, therefore, is the extent to which the *treatment as opposed to the custodial* function is amenable to privatization. That is, should progressives support the privatization of correctional treatment as an avenue of progressive reform? Below, I first outline a proposal for such reform and then consider the benefits and dangers of pursuing this agenda.

A Proposal

My proposal for the privatization of treatment involves five broad components. The phrasing should be as follows.

First, rehabilitation is a legitimate function of imprisonment and one which continues to win widespread support among citizens. The goal is to see that offender treatment should be done as effectively as possible.

Second, the private sector can often accomplish tasks more effectively than the public sector. This is one reason why current consideration is being given to the privatization issue in the field of corrections. Consequently, it makes sense to explore whether private vendors could run

rehabilitation programs more effectively than they are now run.

Third, such vendors would be paid to provide either a broad range of services or a specific service. This could involve psychological counseling, educational programs, work-related training, and/or prison industries.¹

Fourth, and most importantly, the contract with private vendors should specify performance or outcome standards. As in the private sector, the amount of payment and contract renewal should be contingent on satisfactory levels of service delivery. Measuring program effectiveness involves applying criteria such as the percentage of inmate participation in programs, the degree of success in post-release job placement, and/or recidivism rates.

Fifth, since the real cost saving from treatment programs is linked to their ability to return offenders to society so that they occupy productive rather than criminal roles, privatizing treatment programs should not be seen as a way of substantially cutting treatment budgets. Instead, existing levels of budgetary support should be maintained and the effectiveness of private versus current programs evaluated. Private treatment programs should be made more effective using existing levels of funding.

Benefits and Dangers of Privatizing Prison Treatment

Benefits

There are at least five reasons why privately run treatment programs would potentially serve as a progressively oriented prison reform—that is, as a strategy that tends to humanize the prison environment and foster opportunities for inmate growth.

First, the most frequent criticism of prison rehabilitation is that it invariably is corrupted by custodial and control considerations (Rothman, 1980). Breaking the treatment-custody link is thus a critical challenge for those favoring correctional rehabilitation. One of the hidden benefits of privatization of treatment—given that profits are tied to effectiveness—is that it introduces a set of people who have strong incentives to make rehabilitation work and much weaker incentives to fulfill custodial ends.

¹A number of authors have suggested that treatment programs operate on a "voucher system" (Greenberg, 1973; cf. Lindquist, 1980:63). This involves furnishing inmates with a certain number of vouchers with which they can purchase private rehabilitative services. While this has the advantages of privatizing treatment and allowing offenders to determine what programs they wish to contract, the major disadvantage is that it depends on the willingness of correctional officials to sacrifice control over both the programs that are implemented and the rate of inmate participation. Officials are thus likely to oppose a voucher system because it would be a potential administrative headache and a perceived threat to order. By contrast, the proposed system would give officials the power to regulate the length and type of services contracted with private vendors. This control, I suspect, would lessen their resistance to privatizing treatment. In sum, while I have no opposition in principle to a voucher system, it does not seem to be as politically feasible as the reform suggested here.

To be sure, private vendors would have to reach an accommodation with the custodial staff; otherwise they could be rendered ineffectual. However, since their profits and livelihood would be contingent on program performance, they could not afford to allow the integrity of their programs to suffer corruption. As such, the structure of interests within the prison would be tilted away from control and more toward treatment (cf. Greenberg, 1973:215).

Second, apart from institutions that undertake evaluation studies and use results to allocate resources, there is little accountability when prison rehabilitation programs fail. It is always easier to blame a lack of success on intractable inmates than on a lack of program integrity. By contrast, a system that links payment or contract renewal to the quality and effectiveness of the services provided assumes that private vendors are accountable if treatment interventions fail (cf. Jeffrey, 1978:166). Further, this approach conveys an expectation that prison rehabilitation should be effective and thus fights the dual images that "nothing works" in corrections and that offenders are incapable of personal growth.

Third, the infusion of private interests into the prison environment creates the potential that new ideas and approaches to offender therapy will be forthcoming. With profits on the line, vendors will have clear incentives to develop more effective treatment modalities. One possible outcome is that companies will sponsor sustained academic research on rehabilitation. This will be a refreshing change to current trends in which government monies are frequently allocated to studying crime control measures such as selective incapacitation and deterrence.

Fourth, the introduction of business into the realm of rehabilitation also may enhance the political viability of correctional treatment. In budgetary debates, it gives the rehabilitation camp a potentially powerful lobby that can lend legitimacy to the idea that treatment works and deserves greater financial support. It also fosters the possibility of an alliance between progressives concerned with the expansion of services for inmates and more conservative business interests who stand to profit from such a "reform" movement.

Finally, our prisons exist within a capitalist society. Those on the left often cite this fact as the reason why true humanity in prisons cannot be achieved. However accurate this observation may be, it should not blind progressives to the reality that reforms have little chance of making things better if they are incompatible with capitalist thinking and interests. As Shadish (1984:715) has warned, "policies are implemented to the extent that they are consistent with extant social structures and ideologies." In this light, the proposal to privatize treatment would seem to have real chances of being im-

plemented and of working. It taps the capitalist notion that private enterprise can deal effectively with any problem, and it offers businesses the chance to make money. As such, it is a reform which "makes sense" in capitalistic terms and relies on concrete incentives rather than on good intentions to motivate its implementation. Most importantly, however, privatization accomplishes something that only infrequently occurs within American corrections today: it begins to structure potentially powerful interests in favor of the idea that offenders are reformable and that the prison environment should be oriented toward this task. Under these circumstances, chances of reducing custodial influences and of improving the quality and effectiveness of rehabilitative services seem realistic.

Dangers

In light of the uneven history of past reforms (c.f. Rothman, 1980, with Eriksson, 1976), few progressives can be unaware that good intentions do not always have the desired results. In recommending reforms, it becomes difficult not to have doubts creep in and make one pause before proceeding. This caution is healthy in the sense that it demands the dangers of a proposal be weighed. However, as mentioned previously, if the doubt becomes too great, it fosters a pessimism that can lead to a paralysis in policy matters that does not burden those of a different ideology who are fully prepared to offer the solution to the problem of crime.

With these thoughts in mind, I try to identify what I believe are the major obstacles to the successful implementation of the privatization of prison treatment. While there are no easy prescriptions for overcoming these potential difficulties, awareness of their potential effects and conscious efforts to build in safeguards can protect the integrity of the reform.

First, resistance to privatizing treatment understandably will come from existing correctional employees (Lindquist, 1980:58). There are two possible ways to protect workers while simultaneously creating opportunities for privatization to take hold. One would involve limiting privatized treatment to new facilities. Another would be allowing private vendors to supply only rehabilitative services in addition to those currently being offered. For instance, vendors could be allowed to start prison industry programs that train inmates in work skills, pay salaries at near the going market rate, and possibly guarantee employment upon release (cf. Cullen and Travis, 1984).

Second, some measure of resistance can be expected from correctional officers who see outsiders as eroding their influence and threatening security. To an extent, this conflict is a price that will have to be paid if treatment is to earn equal footing with custodial goals. However, three suggestions for mitigating resistance and facilitating

accommodation can be made. One involves hiring a respected correctional figure (former guard?) to serve as an ombudsman for officer complaints about the program being implemented. A second is to attempt to actively involve the officers in the correctional process. They should be viewed as resources that have the potential to enhance treatment effectiveness (Lombardo, 1982, 1985). Stereotyping officers as exclusively punitive and ignoring their positive sentiments about rehabilitation (Cullen, Gilbert, and Cullen, 1983; Jacobs, 1978) would be an erroneous approach. Lastly, it would be possible to create a limited number of positions in the private correctional firm into which existing members of the guard force who evidence a talent for human services work could move. By offering a genuine opportunity for career advancement, a degree of necessary co-optation may be achieved.

Third, if privately financed treatment programs were to prove ineffective, there is the danger that rehabilitation would be further discredited and inmate services cut. While this risk is real, three circumstances would seem to check how far the attack on treatment could extend. To begin with, the strength of rehabilitative ideology, as argued earlier, must not be dismissed. Rehabilitation has withstood repeated attacks and is likely to weather others. Second, rehabilitation programs are functional for prison order. They provide hope and reduce idleness. Correctional officials do not want the difficult job of running warehouses. As such, they would oppose the elimination of services. Finally, it is likely that private treatment initially would be implemented on a limited basis. If it proved unsuccessful, the damage to the idea of rehabilitation would be equally limited.

Fourth, there is also the danger that the push for profits could result in a decline in the quality of services now provided to offenders. The protection against this occurring is that profits must be linked to program effectiveness. This insures accountability and incentives for vendors to implement services of sufficient quality so that acceptable results will be achieved. Progressives should oppose privatization if profits are not contingent upon levels of performance.

Fifth, there is a risk that the push for success and profits will be so great that vendors will employ coercion or unethical therapies (e.g., extensive prescription of drugs). One way to guard against this is to have contracts stipulate the powers of the vendors and the range of appropriate treatment modalities. Another potential protection against abusive practices is the fear of lawsuits from inmates.

And finally, there is the danger that states will turn to private vendors not to enhance the quality of treatment services but to supply such services more cheaply. It is critical, therefore, that privatization should be sold

not as a money-saver (as progressives do with community corrections) but on the basis of effectiveness. The position should be that the investment in rehabilitation, by its very nature, is long-term; it is better to pay now than to pay later. A reasonable compromise might be that private vendors supply services within the same budget normally accorded to rehabilitative services, with perhaps some sliding scale of profits tied to success levels. The test, then, would be to see if they can do the job more effectively than it is now done. Another way of constraining the tendency to save money is to impose minimum standards for wages and qualifications for treatment personnel (e.g., psychologists, educators). Finally, it should be realized that some programs—such as privately financed prison industries—would not fall prey to the problem of decreased services because they typically are add-ons to existing services and because they promise to extend new economic opportunities to inmates (Cullen and Travis, 1984).

Choosing the Future: Entering the Marketplace of Ideas

Sherman and Hawkins (1981) have offered two useful observations regarding correctional policy. First, they argue that the future of corrections can be chosen. Too often, it is assumed that prevailing pressures and structural circumstances fully constrain policy decisions and leave no room for shaping the direction corrections takes. Second, based on historical analysis, they emphasize that ideology—what people think is possible and should be done in corrections—has clearly influenced the course policy has followed. In their words (1981:73), "It may be that the 'power of doctrine over reality,' which some determinists have dismissed as 'imaginary,' is not present or not easy to discern in many fields of human activity. But in the sphere of penal practice it is clearly manifest."

To the extent that Sherman and Hawkins are correct, they present a challenge for progressives to confront: Correctional policy in the 1980's and beyond can be chosen, and what progressives have to say can make a difference. In a sense, the challenge is for progressives to enter the marketplace of ideas and to compete to influence future policy choices. As argued, over the past decade, conservatives have achieved a near monopoly in this "marketplace." They appear confident and propose what seem to be realistic policies for addressing the crime problem.

The immediate tasks for progressives, then, is to formulate a product that can compete with that offered by conservatives. I have argued that this could best be accomplished by combining two ideological resources to specify an agenda that is humanistic in orientation and capable of being implemented. First, on a broad level,

rehabilitation should be reaffirmed as a progressive approach to corrections. It has the merits of earning widespread support among the public and criminal justice officials, and it is the only philosophy that directly rejects and does not lend legitimacy to punitive thinking about crime. Second, it may be opportune for progressives to capitalize on the current privatization trend and to explore ways in which this movement can be used to help humanize prison environments. In particular, I have suggested that progressives consider linking rehabilitation to the ideology of private enterprise and weigh the potential benefits of the privatization of prison treatment programs.

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