

Federal Probation

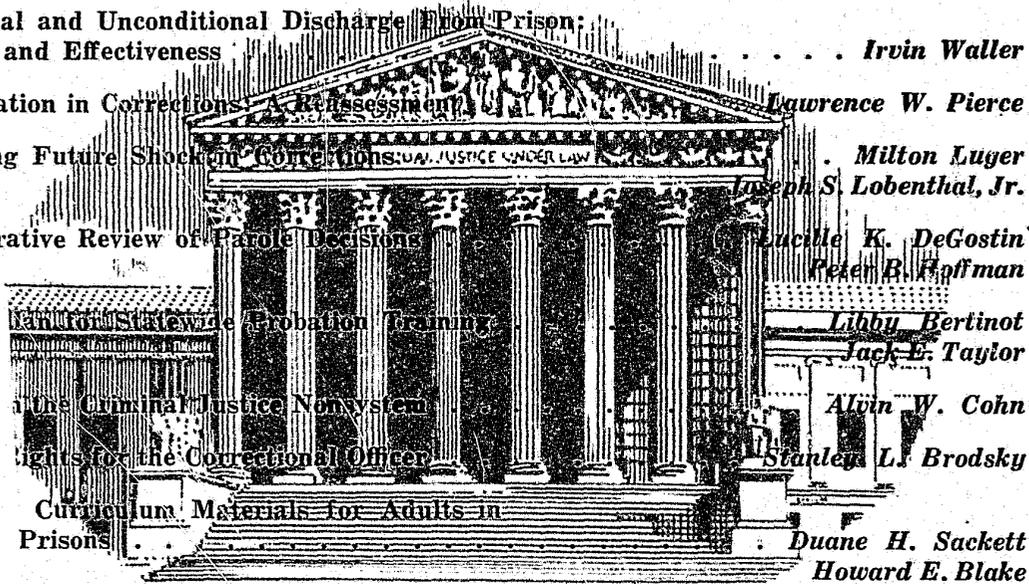
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released on parole and rearrested for a technical as opposed to a criminal violation, he would serve longer in total than if he was released at expiration of sentence. This finding was particularly interesting. Other authors have suggested that judges, parole board members or clinicians cannot predict better than systematic prediction equations. This finding agreed, but showed that the inmate can improve on the prediction score.

Findings on prisons and parole are also important to the decision making of sentencing, allocation to prisons of different security levels, forms of temporary parole such as gradual release, work

furlough or temporary absence; and to the variety of parole decisions to defer, to grant, to revoke or to discharge. At the present time these measures do not have any major rehabilitative effect; they cannot be justified as means to "protect the public through the rehabilitation of the offender." This means that other factors become more important such as retribution, cost, humanitarian treatment of the offender, control of institutional populations, and above all judicial consistency.

If our monitoring resulted in findings that everything was all right, we might be prepared to abandon it, but the reverse is true.

Rehabilitation in Corrections: A Reassessment*

BY LAWRENCE W. PIERCE

U.S. District Judge, Southern District of New York

IT IS CLEAR that change in corrections is necessary and inevitable. But, I believe that it is a change in perspective which offers the greatest chance of achieving results on a broad scale which are both more effective and more acceptable to the public. In all likelihood, correctional funding practices, especially in State systems, are not going to change significantly in the foreseeable future. Accepting that assumption as correct, the major challenge facing us is to find ways to reorder the existing elements; to devise more effective combinations with what we have.

In the interest of achieving this, I propose that we consider shorter prison sentences for offenders who are convicted of crimes which do not involve violence or acts of moral turpitude; I propose that we consider yet another use for the isolated rural prisons that dot the landscape in most of our states; and I propose that we consider an implementation of the community-based center concept structured on a truly noncoercive basis.

There can be little disagreement that whatever notable achievements may have occurred within correctional systems heretofore, the image of corrections has been severely tarnished by the ex-

treme events which have occurred in prisons across this country in the recent past.

I do not mean to disdain the many achievements or proposals for improvements in corrections which abound across the country. Most are unquestionably meritorious. They include construction of new and smaller facilities closer to metropolitan areas, better trained and ethnically representative correction personnel, improved health care, better educational and vocational training programs, decent diets, liberalized furlough and visiting privileges, work/study release programs, and many more.

These ideas represent improvements within the existing concepts which govern corrections. Like many of you, I would urge that we should examine the underlying precepts of both sentencing and corrections in an effort to create new sentencing alternatives and new correctional program approaches or, if that is not feasible, at least to rearrange our existing resources in order to achieve our goals of controlling crime and reclaiming offenders.

Let me be more explicit. Few would deny the fundamental principle that freedom and individual liberty befit man's nature and, further, as we define them in the United States, they are among our most precious possessions. In fact, the devel-

opment and refinement of concepts of freedom and liberty in the United States, as reflected in our Constitution, our Bill of Rights, our statutory and case law rank this country high among the nations of the world which purport to place a premium upon the protection and enjoyment of individual freedom. Indeed, we like to think that we are unique in this respect when measured against most other nations. With these few observations of the seemingly obvious, let me relate this to our practices of imprisonment.

In a land which values freedom and liberty highly, we would reasonably expect the length of prison sentences given to criminal offenders here to be shorter than prison sentences meted out in some other country where the concept of individual liberty is viewed differently. In other words, a shorter deprivation of liberty here might well be deemed the equivalent of a longer deprivation elsewhere.

Following this reasoning to its logical conclusion, if we were to study the length of sentences in most other lands and compare them with the length of sentences in the United States for similar crimes, we should find prison sentences here to be considerably shorter in duration.

And yet my colleague, Judge Marvin Frankel, in his recent book, *Criminal Sentences*, states that the United States probably has the longest sentences by a wide margin of any industrialized nation in the world, and he cites a 1967 American Bar Association report which states that "[s]entences in excess of five years are rare in most European countries."¹ That report gives as an example Sweden where in 1964, out of a total of 11,227 commitments to prison, only 38 persons—less than one-half of one percent—were committed to terms of more than 4 years.

Sentence statistics are perhaps unavoidably difficult to compare because of inevitable variables, but the available United States statistics, in general, bear Judge Frankel out. For instance, a recent report from the Administrative Office of the United States Courts indicates that in the Federal

system in 1971 out of a total of approximately 15,500 commitments to prison, about 4,000 persons—or 26 percent—were committed to terms of 5 years or more.² The same report indicates that the average prison sentence meted out in the Federal courts in 1971 was nearly 4 years.³ In the State systems in the United States, one report says that in 1960 more than 50 percent of the adult felony offenders sentenced to State prisons were committed for maximum terms of 5 years or more.⁴

Obviously, these general statistics lump together violent and nonviolent offenders. But, it is well to point out that in the United States even nonviolent offenders are subjected to relatively long prison sentences. The report from the Administrative Office of the United States Courts indicates that in 1971, for instance, the average sentence for persons convicted and sent to prison for auto theft was 3 years; the average sentence for postal theft was 2½ years.⁵ Data furnished by the American Bar Association Commission on Correctional Facilities and Services show that reports compiled in 1970 from 33 states revealed that 63 percent of the persons sentenced to prison for more than a year, were sentenced for nonviolent crimes. In the Federal system, 90 percent of the persons sent to prison each year are nonviolent offenders. And in 1972, more than 5,000 offenders of the 21,000 in the Federal prison population were persons convicted of nonviolent crimes who had no prior prison commitment.⁶

Given this general picture of our sentencing practices, I agree with Judge Frankel's observation that "we in this country send far too many people to prison for terms that are far too long," particularly to the extent that he is referring to offenders who are not recidivists and who have not been convicted of crimes involving violence or acts of moral turpitude. Although, I might add that to the extent that a conviction is seen as an early warning sign of a developing pattern of criminal behavior—and to the extent that we believe we can arrest that development through the use of some form of imprisonment, it might very well be argued that we might consider sending more people to prisons for far shorter periods of time.

This leads me to discussion of the role of corrections in the criminal justice scheme. To ask a rhetorical question, how did corrections get into the position of assuming responsibility for rehabilitating offenders, so many of whom are so-

¹ M. Frankel, *Criminal Sentences*, p. 58-59 (Hill & Wang, 1972-73), quoting A.B.A. Project on Minimum Standards for Criminal Justice, Standards Relating to Sentencing Alternatives and Procedures, approved by the A.B.A. House of Delegates in August 1968 (New York, Office of Criminal Justice Project, 1968), p. 57.

² Federal Offender Datagraphs, p. A-18 (Administrative Office of the United States Courts, May 1972).

³ *Id.* See also, Bureau of Prisons Annual Report 1972, U.S. Department of Justice, p. 2.

⁴ The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Courts*, 17 (1967).

⁵ Federal Offender Datagraphs, p. A-18, *supra*, n. 3.

⁶ Letter from the Resource Center on Correctional Law and Legal Services, A Project of the American Bar Association Commission on Correctional Facilities and Services, June 8, 1973.

* Adapted from the keynote address delivered August 12, 1973, at the Annual Meeting of the American Correctional Association, Seattle, Washington.

called "behavior disorder types," while those in the professions of psychiatry and psychology have wisely and successfully managed to avoid making such a commitment? It is not uncommon for the psychiatrist and the psychologist to define their roles as "arresting this or that condition" or "helping the individual reach a state of remission," or "improving the individual's level of functioning in the community." Yet, it is corrections which finds itself committed to the flat-out role of rehabilitating the most difficult, intractable, unmotivated, seemingly indifferent individuals in our society.

I join the chorus of those who are suggesting that this commitment be reassessed. At a minimum, the definition of rehabilitation should be broadened beyond the simplistic notion that the effectiveness of corrections should be measured by how many convicted offenders it converts into model citizens.

Unless we are talking about first offenders, I submit that a more sensible measure of effectiveness would be to determine first whether we have succeeded in causing the offender to commit fewer crimes.

While attaining such a goal is hardly the achievement of the millenium, it nevertheless may very well represent an important net social gain to society.

There are other measures to apply as well. For example, if the individual hardly did an honest day's work in his life—never held a steady job—yet under probation or parole supervision manages to keep a job for, say, 4 months or for half a year or longer, this may represent an important net social gain to society.

Since rehabilitation is essentially a treatment concept, as used by corrections, it should embrace the idea of "arrested condition" and of "remission" and of "improved functioning in the community." Thereby, at the least, corrections would find itself credited for those periods of remission when no new conviction occurs as well as being charged with the "relapses" of offenders when new convictions do occur.

In any event, the least ideal setting for the achievement of any notion of rehabilitation is an isolated setting of punitive confinement wherein are housed mainly unmotivated persons whose principal concern is to get out as soon as possible

⁷ Report of the Special Civilian Committee for the Study of the United States Army Confinement System (U.S. Government Printing Office, 1970).

and return to their home communities. It is a grossly incomplete statement to say, as some have claimed, that prison is a microcosm of society. The fact is that prison is the retributive and incapacitative underpinning necessary to sustain the enforcement of society's criminal laws. However, when a just judicial determination is made that a convicted offender be sentenced to prison, that person should find himself imprisoned in a humane setting with a "rehabilitative climate." To speak of a "rehabilitative climate" is not to impose upon the prisons the responsibility of rehabilitation as such. It is to contend that it suffices to provide modest program inputs during the short prison portion of a sentence, i.e., program components which can be said to be normally conducive to human development and well-being. This would include but obviously not be limited to: providing counseling and group discussion, promoting literacy and language training, providing library materials, offering adequate opportunities for physical exercise and recreation, requiring performance of simple work tasks designed to develop regular work habits, and providing spiritual guidance for those who desire it. Perhaps a good example of what I have in mind would be one of the better-run Army stockades as described by the MacCormick Committee in its 1970 report on army confinement facilities.⁷

Given a humane setting with a rehabilitative climate, I suggest that many of the types of offenders I have described could be and should be sentenced to shorter terms and such prison terms should be seen as principally retributive and incapacitative with only modest program inputs. I would add a significant appendage: *Following his prison term, the offender would be assigned for a period of time to a noncoercive program of assistance in the community.* It could work something like this:

Suppose that a person convicted of a nonviolent crime was sentenced to 3 years. And let's assume that the 3-year sentence was split at the time of sentencing into 6 months imprisonment and 2½ years of assignment to a correctional community services center. Let's assume further that the 6 months imprisonment is intended to serve three specific purposes: (1) the exacting of retribution for the particular crime committed; (2) specific deterrence coupled with incapacitation for that limited period; and (3) diagnostic assessment to identify whatever educational, vocational, legal,

social, psychological, and other needs the particular offender has, if any. Let's assume that upon the completion of the 6 months imprisonment and upon his return to the community he is referred to a nearby correctional community services center which is structured and staffed to speak to his identified needs either directly or on a contract referral basis. For the 2½-year balance of his term of sentence the offender would be entitled to draw upon the helping services offered by the center if he so chose to do so. If he did not choose to do so, and was not a recidivist, since society would have already exacted its retribution from him, if he wasn't seen or heard from for the entire 2½-year balance of his sentence he would be in *no violation* of probation, parole, or aftercare status. The option of taking advantage of the services available to him for that period would be solely his. He could avail himself of these services or he could reject them. This community services concept would represent society's acknowledgement that more often than not there is a relationship between lack of marketable skills, lack of an education, personal, legal, social, mental health and other problems, and the commission of crime. It would represent society's attempt to compensate for whatever might be the offender's or society's failures in this regard. Further, in allowing the offender the option of using or rejecting the services of the center, we would simply be acknowledging that "you can lead a horse to water, but you can't make him drink."

The one insistence would be that the offender not be convicted of a new crime. If he was, he would be sentenced to prison for the new crime, and a decision could be made thereafter as to his likely assignment to conventional parole status.

For recidivists, another colleague of mine, Judge Constance Baker Motley, has suggested a system of graduated sentences in a recent lecture series at the Northwestern University School of Law. She urges that no prison term be imposed on most first offenders, but that there should be ever increasing mandatory minimum prison sentences imposed on repeaters, keyed solely to the number of prior convictions.⁸

To summarize the approach I have described, it would envision short, flat, prison sentences, possibly ranging between 4 and 8 months, for nonviolent offenders, followed by noncoercive sup-

⁸ C. B. Motley, "The Criminal Justice System and 'Law and Order,'" Rosenthal Foundation Lecture Series, Northwestern University School of Law (Excerpts reprinted in N.Y.L.J., July 12, 13, 16, 1973).

port and help in the community. The prison portion of the sentence would address itself to the retribution and incapacitation exacted of the offender by society, and the community support phase would address itself to the reality that so many offenders are persons with identifiable problems which can be ameliorated if help is made available in the community to those who are willing to seek help. The short prison term, since it would be principally retributive, would require only modest program inputs, while the much longer periods of helping services in the community would represent the major rehabilitative input.

As to these offenders, there would be no utilization of our limited parole resources for purposes of supervision, no commitment of valuable staff time to overseeing reporting, no tracking down of the offender to determine whether he's working, or living with a paramour, or has left the jurisdiction, or is associating with questionable companions. These valuable resources would be reserved for more intensive supervision of the violent offender and the inveterate recidivist. And as to those who did call upon the correctional community services center for help, we would have the assurance that the resources expended would be focused on those most likely to be responsive to such help.

Before turning loose this rearrangement of concepts for your critical scrutiny, let me list some of the likely consequences of such an approach:

(1) Although providing modest program inputs during the offender's stay in prison, it separates out the major share of supportive help and resources and offers it in the community where it is apt to be most effective since that is where the offender's personal needs are greatest and where he is expected to meet the acid test of conforming to society's laws.

(2) In removing the major share of supportive services from the prisons and offering them in the community, the almost inevitable conflict between "treaters" and "keepers" so often found in prisons would be drastically reduced.

(3) It could result in the transfer of authorized appropriations and selected personnel lines for professional services from prison budgets to correctional community services center budgets, thereby meeting the initial startup costs for the correctional centers.

(4) It lends itself to the inauguration of an

affiliation system for professional services, i.e., specific center staff could be affiliated with a particular prison with the likelihood of regularly scheduled visits to the prison particularly for diagnostic purposes.

(5) It allows for the recruitment at the correctional community services center of personnel who reflect the ethnic mix of those served by the center—an easier task by far since the centers would be located in or near the urban areas in which the majority of offenders tend to live.

(6) It enables the present rural prison facilities to be utilized for the limited purposes of custody and diagnosis—and though usually distant from metropolitan areas, the use of such facilities could be more easily tolerated since the offenders' prison stay would be much shorter.

(7) It enables rural prison facilities to continue to draw its custodial staff from the surrounding communities whose economies are dependent upon such institutions—although an intensive effort to attract minority staff for these distant institutions should be initiated, or continued if already underway.

(8) Awareness of the short sentence would tend to alleviate the pressures on offenders and decrease tensions in our prisons.

(9) The brisk changeover in prison population at a fairly constant rate should effectively prevent an entrenched prisoner political system from developing thereby easing the pressure on custodial staff and hopefully enabling them to willingly assist in the creation of a humane and civilized atmosphere.

(10) The short sentence with the expectation of returning soon to the community should help promote family stability and should decrease the prospect of creating whole families of long-term public wards.

(11) Although the offender will have been incapacitated from the commission of additional crime in the community for a shorter period, the likelihood is that many more offenders would be committed and thus the overall period of general incapacitation would probably be about the same in terms of potential criminal hours or days or months spent in prison.

(12) The constant struggle to obtain the resources to keep vocational equipment modern and up to date would diminish, since the correctional community services centers could make use of local vocational training programs possibly on a contract basis, thereby also reducing the problem

of first recruiting and then retaining qualified vocational training instructors. The same could be said for most academic programs as well.

(13) Since the community services center would be based on a demand for help theory, the resources of the center would be concentrated on persons who need and wish to use them, not on tracking down and attempting to control recalcitrants. This, combined with the flexibility provided by the contract services, should make for maximum use of all resources at all times directed to people who have evidenced a desire for them.

(14) From my own perspective as a judge, and of concern to those of you who are correctional administrators, such an approach should result in a dramatic decrease in prisoners' civil rights suits and in petitions for habeas corpus. Not only because conditions in prisons would presumably improve, but a flat 4- to 8-month prison sentence for this category of offenders would eliminate all the present esoteric computations of good time and conditional releases, plus the litigation engendered by parole denials and revocations.

(15) From the point of view of prosecutors and the courts, no doubt this kind of program approach would produce many more guilty pleas without the hazards and indignities of plea bargaining.

(16) Furthermore, and finally, with such a program approach corrections could drop its defensiveness about the inability to Rehabilitate, with a capital "R," every individual offender who passes through the criminal justice process. A program such as I have suggested recognizes the fundamental fact that there are limits to what we are able to accomplish. It seeks not to undertake the impossible task of remaking the offender in the subjective image of ourselves, but to identify the critical crime causing factors in his life and to attempt to assist him in overcoming them, without necessarily attempting to change his life style or mores. To the extent that he commits no more or, at the least, fewer crimes, we will have achieved important societal gains.

Now, clearly there are serious questions to be raised with respect to such an approach.

(1) The most glaring problem is the dangerous offender. Any person who has demonstrated through his prior acts that he is a danger to others has to be incapacitated. Accurate identification of such persons is the core of the problem and this is a subject for another time. Suffice it to say

as I have indicated that the greater number of persons sentenced to prison in a given year are convicted of nonviolent crimes—as many as 90 percent of our Federal offenders sent to prison and 63 percent of those sent to State prison. It is from among these offenders that one would expect to find prime candidates for this approach.

(2) A major problem would be gaining community acceptance of community-based centers. This will not come easily. I am one of a handful of administrators who can make that statement from firsthand knowledge, having presided over the setting up of one of the first major community-based center networks in the country. A great deal will depend upon a judicious selection of sites, skillful community organization work to promote understanding of the purposes of the centers, and careful screening out of those offenders who would be likely to fulfill the dire predictions which are certain to be made. And it must be acknowledged that even with the best of screening, mere assignment to such a program is certainly in and of itself not going to convert convicted offenders into model citizens any more than present correctional efforts do.

(3) Consideration would have to be given to the fact that honest, hardworking, law-abiding

citizens also need and might well demand the same kind of assistance provided to the offenders. Will we deny such assistance to them while granting it to offenders? The answer, which looks more to the future than to now, would be to consider how such services might be offered in terms of crime prevention as against criminal correction.

I can think of no greater sentencing need facing me personally as a judge than the need to have available consolidated, coordinated, and diversified services to speak to the needs of sentenced offenders upon their return to the community. Through such means, the public may well be able to realize its expectation that persons such as I have described can move from a cycle of criminal behavior onto a broad boulevard of legal and, possibly, social conformity.

What I have sought to outline here is a concept directed at seeking ways to use our totality of funds, personnel, facilities, and energies so as to achieve maximum impact on the broadest group of offenders. It is an effort designed to promote consideration and discussion of practical, feasible, realistic and hopefully promising approaches to the problem of crime which seems presently to overwhelm us.

Cushioning Future Shock in Corrections

BY MILTON LUGER AND JOSEPH S. LOBENTHAL, JR.*

"COMMUNITY-BASED" PROGRAMMING, a current cry in corrections, stems from the idea that offenders must learn to cope with and adjust to the real world, not the artificial milieu of an isolated institution. The criminal justice system alone cannot control the antisocial and illegal activities of acting-out individuals who will pass through the "correctional" phase of their lives and then return, without benefit of intervening community concern, to settings and consequences of multiple deficits—such as irrelevant education, slum housing, crippling racial and job discrimination—which affect many who end up before the courts and in public institutions.

But total reliance upon community-based pro-

gramming is naive. It leaves administrators with a one-stringed banjo—to deliver a well-orchestrated, diversified set of services. Some offenders have demonstrated enough volatile and uncontrollable behavior to indicate that removal from the community is required.

There will, of course, come a time when enthusiasts for community-based programs will temper their enthusiasm with reality. This is likely to occur when the necessity for overselling is a thing of the past. *Appropriate* community programs can then co-exist peacefully with upgraded institutional operations. As this occurs, there will eventually be a reciprocal gathering-into-the-fold of some of the skeptics so that programs which now seem far-out and radical can be viewed in a calmer perspective as offering beleaguered administrators options that are both natural and helpful.

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This article points out that many community-oriented programs which we in corrections are now advocating will, to the extent that they are achieved, trigger off special situations and create new problems. These ramifications will, in turn, feed back into the reformed correctional system. The authors suggest that the appropriate time to consider these consequences is upon us and that responsive means of action can be developed if professionals will now debate the issues and take a long-range and full-dimensional view of their own proposals.

Some issues pertinent to community-based programs are therefore explored even though they seem in the Buck Rogers category. Apparently not of immediate concern, they ought nonetheless to receive our present consideration. If they do not, circumstances may make it improbable that we shall later on be able to have an impact upon their resolution.

The present discussion also seeks to illustrate how the capabilities of community-based corrections are and will continue to be tied directly to conditions in society other than the functioning of corrections and the larger criminal justice system. Yet, for the most part, our comments about community participation are based on the present and assume certain constants for the future. Some of these assumed constants are: the nature of an institution; the population from which selection of inmates for community activities will be made; the quality of components of the system other than corrections; the tolerance and receptivity levels of the "community."

It is impossible to pinpoint all of the changes that will occur within, say, the next decade. Nevertheless, Toffler and others have convincingly demonstrated the fact of an increasing rate of social change, and we should at least attempt to identify some areas in which change will probably have a major impact on correctional efforts that are proposed to be accomplished outside of institutions.

Overall, then, this article suggests that certain issues which are presently discoverable and debatable should be dealt with now, even though—or, perhaps, just because—many of their ramifications have to do with the future.

Implementation of Standards Throughout the Criminal Justice System

If some or most of the standards recommended

in works such as the *Report* of the National Advisory Commission on Criminal Justice Standards and Goals are implemented, criminal law administration will be generally upgraded. As a result of effective preventative programs and the exercise of options at the preadjudicatory, trial, and sentence levels, major diversion of persons away from prisons should then occur.

Penologists frequently say that a majority of imprisoned inmates require less custody than is imposed upon them in today's institutions. This, however, might not always hold true. If diversionary techniques prove effective, fewer persons than are now in prison—or a smaller proportion of the general population—will be institutionalized. At the same time, sentenced inmates in these institutions will also presumably be more dangerous than are inmates at present. The potential universe of those available for community-based programs will, therefore, consist of those who have progressed through a different criminalizing process than exists today.

One result of an improved judicial administration might be that the largest number of persons in prison will be those who are serving long-term sentences and who can be expected to present a danger to society upon their release. Perhaps, too, they will have had unsuccessful experiences in previous community-correctional efforts. These facts would have implications for all aspects of corrections, not just the management of institutions. One likely effect might be the public's lessened willingness to participate in or even tolerate certain kinds of programs involving the placement of these inmates in the community part-time. A second would be an increased urgency, from the viewpoint of society, for the development of programs *effectively* linking the institution and the community.

Perhaps, for these individuals, linking activities will most often take place in the correctional institution rather than in the community itself. Increased use of volunteers in maximum security settings, more family and conjugal interrelationships, and accredited college work are all approaches which have hardly been tapped. But it is also possible that proportionately massive and more concentrated community resources, refined through present experiences and research and applied with these fewer participants, could then dramatically demonstrate the full potential of community-focused interaction.

Social-Control Technology

Future technological development has many ramifications for community corrections that depend on decisions about the correctional use, if any, to which new products should and will be put. Technology affects training, employment, the work ethos, the nature of crime and similar factors that are pertinent to the kinds of programs that can be mounted, either in the community or in the institution.

We shall focus here on but one aspect of technology: that specifically applied to the social control of convicted persons. Presently existing technological capabilities, whether yet developed or applied in this field, seem likely to radically affect the potential of community corrections. Electronic surveillance devices and biological and chemical controls exist, or are presently feasible and able to be produced, which await legal and moral decisions about whether they should be used and, if so, how and on whom.

For example, currently available sensory implants permit contemporaneous monitoring and surveillance of those in the community. Electronic devices are also available by means of which releasees could report to local transmission stations instead of to a caseworker—or, by extension, instead of returning back to the prison. Many other equally effective (in a mechanical sense) monitoring inventions are ready to be adopted for correctional applications. The potential of these approaches might increase the numbers of inmates who could be allowed to function in the community. Yet, without advocating such use, it is interesting to note the ideological horror expressed by liberal, casework-oriented workers when these issues are raised. The possible modification of a counseling relationship, supposedly based upon mutual trust and support, with an approach that is less subject to manipulation and human frailties seems to pose a threat to many. Yet, these very workers offer few alternatives to a swift return to the bastille when their preferred method has failed.

Tranquilizing or other behavior-modifying pharmaceuticals are also potentially relevant to decisions about eligibility for and participation in community-based programs. For example, emerging biomedical research in the field of drug-antagonists might affect decisions about what degree of risk is incurred when an inmate, who would otherwise be vulnerable to drug abuse, is

considered for release into the community—assuming, of course, the continued illegality and relative scarcity of narcotics.

We have had at least one court test, which is in the appeals stage as of this writing, concerning psychosurgery. And some of the implications of this technique, as well as of sterilization and genetic alterations, are truly staggering.

Unfortunately, those who are the most prolific advocates of community correction are often reluctant to become involved in discussions of the issues which are raised by such developments. Yet there is an unavoidable connection between community correction and these issues. At least a preliminary consideration of positions ought, therefore, to be generated within the correctional field.

The authors' position is that devices which presently seem Orwellian should neither be rejected out-of-hand nor planned for—or allowed to slip into—general use in corrections until the subject has been fully debated in light of such factors as the individual's right to privacy, the implications of centralized state control over the individual, our lack of scientific knowledge about total, long-lasting or side effects on the human body and personality, the possibilities of such interventions being abused in practice or as a matter of government policy, and the difficulties of monitoring their use and of controlling abuse.

Entering into any deliberation on the subject should also be the caveat that no device or technique ever be used without the free and informed consent of the inmate. This is important because minors and others with diminished or impaired capacity may be involved and also because the choice will be a function of whatever institutional and community alternatives face an inmate. If, for example, institutional environments are so horrendous as to create a temporary distortion in or undue pressure on the inmate's decisions, there may be no redress possible for that inmate once a device or drug has been placed in use or a surgical technique employed. The issue of whether or not it is possible for any inmate, or perhaps any convicted person, legally to give a "voluntary and informed consent" about matters of such import is, in the authors' opinion, still to be resolved and a likely subject for judicial determination in the future.

Principles governing the permissible application of this kind of social-control mechanism should be explored at present. Included as but one of the factors to be weighed should be an aware-

ness that their responsible use would rid administrators and the public of realistic fears about placing certain individuals in the community and that this would perhaps diminish the number held in prisons.

Changes in the Power Structure of the Community

Such current movements as that toward community control and decentralization of institutions and governmental instruments can be expected to have an impact on future programs that stress community-institution interaction.

In local urban school boards, community planning boards, and hospital advisory groups, those directly involved in receiving services are taking increasingly assertive roles in setting policy, determining standards, ruling on what services are to be provided, and in overseeing their daily administration. Closer to the matter of placing offenders in the community, citizen forces have become involved in community treatment of the mentally disturbed, including some persons hitherto diagnosed as untreatable.

Simultaneously, pressures have developed and will continue, from within the institution, for greater representation of inmates at all levels of decision-making. Through intervention of prisoners'-rights lawyers and ombudsmen, inmate voices will increasingly be heard at the planning and administrative levels of any program having as its core even the temporary placement of incarcerated persons in the community.

These client-centered movements toward treatment in the community, with the major institution and traditional professional staff functioning primarily as a springboard, are likely to serve as a model for future bridging programs for inmates sentenced to institutions but allowed to participate in some kind of community program. The community can be expected then to assume more direct responsibility for providing services for inmates, thereby automatically creating linking opportunities that cannot be implemented at the current level of community involvement.

It seems likely that innercity medical and mental-health institutions will be increasingly governed by lay boards to whom staff will be responsible as much as or more than to professional supervisors. A predictable result will be that controlling community elements will more closely than at present parallel the cultural and ethnic makeup of clients, since those most personally in-

involved will likely be the most active on these levels on a day-to-day basis. There seems no reason why such client-centered movements will not permeate to the level of prison institutions and similarly influence them.

Pressure may be put on staff to review conventional means of determining eligibility for programs and to offer increased access for those previously perceived as unmotivated or untreatable, especially the poor and minority-group offender-clientele.

Such shifts can be expected to result in marked changes in institutional management. A typical institutional staff will probably be more varied than at present in terms of the qualifications and experiences of its personnel. The background of custodial officials will likely become more reflective of those held in prison. These changes may occur as a result of many forces, such as: the demands of concerned and representative community groups; diversification of prison services, requiring new kinds of staff; increased access to positions for those who do not rise solely through the ranks *via* traditional civil-service examinations and conventional educational achievement; the development of inmate power, resulting in increased use of indigenous inmate and ex-inmate paraprofessionals; the development of new professions in corrections and increased mobility and communication between the institution and the community.

Expanding Definitions of Inmates' Rights

Expanded definitions of inmates' rights will probably emerge from the courts. If, for example, a "right" to treatment is judicially proclaimed and participation in meaningful program becomes a requisite for incarceration, community-correction programs might not be able to be maintained primarily for the benefit of the most amenable, most promising, best qualified, middle-class inmates. Either significant prison or community-based programs will have to be developed for hard-core inmates or, ironically, these are the ones who will be the first released into the community because it will be illegal for them to remain while uninvolved and unreached. Society will then be confronted with a choice between absorbing rather than isolating offenders or of providing appropriate and adequate community resources to and within the institution.

Another area in which court decisions will be influential in determining the form and scope of

future linking activities is that of inmates' rights to organize, join unions, and participate in union activities (including strikes, job actions, slow-downs and negotiation of contracts), to receive union wages for their work (whether within or without the institution) or, for nonunion inmates, to be paid minimum hourly wages as determined by governmental jurisdiction in which the prison is located or where their labors are performed.

Many administrators view the notion of minimum wages for offenders with ambivalence—as if fearing that the increased agency budgets which might be required would displease legislators, but ignoring the fact that much of the supposed increase would be offset by charging inmates realistic costs for their maintenance. This does not mean a tradeoff with no net gains for a meaningful corrections. Rather, in terms of the community's image of the inmate, the inmate's own self-image, and the relationship between inmate and correctional system, considerable gain would result on many fronts.

Even so, it is sanguine and perhaps a little irresponsible to rely overly on the "economy"—or even the "break-even"—argument in support of community corrections. The level of economic analysis which has been applied in reaching the conclusion that community corrections is inevitably cheaper than institutionalization does not seem sophisticated enough to account for new costs that must arise in adapting programs to some of the likely future changes which have been suggested. To urge the concept on economic grounds alone, or primarily on that basis—without emphasizing the reality that economic as well as personal commitment is required in order for significant changes to be made—is misleading and may be, in the long run, a contraindicated strategy for proponents.

A related consideration involves the inmate entrepreneur. Does the inmate artist, jeweler, engineer, businessman, writer or even politician (or would-be participant in these fields) have the right to ply his trade, sell his wares, or try his hand on the outside in the same manner as is or will be provided for those with contracted employment? This question has not been specifically decided. But existing court decisions pertaining to issues such as the inmates' right to publish commercially, and decided around principles of law such as free speech and access to the courts (e.g., raising money to discharge legal aid and

retain private counsel), suggest that the answer is likely to be in the affirmative.

Changing Educational and Employment Patterns

Converging with the effects of institutional changes that have been suggested, the action of forces external to correction will have certain impact on community-based programs. For example, the trend away from formal entrance requirements for colleges and professional schools and the substitution of life-experience credits in their stead, combined with open-enrollment programs for local residents, may result in a tremendous expansion of prison study as the core activity in bridging programs.

Inmates acquiring new skills as a result of prison-academic partnerships will create a need for different postrelease placement efforts—or, in the alternative, perhaps diminish that need considerably. Other ramifications include possible field-work placements for inmates within the prison—as interns or in agencies, organizations, business or governmental bodies within the community or in, say, prison hospitals, counseling, clinic, or legal-aid units.

Conclusion

The foregoing are specific examples of how the nature and extent of community corrections depend on, or are interrelated with, factors that are often considered temporarily remote from or irrelevant to the proper concern of correctional planners. The implication of programmatic changes should be explored with full awareness of the fact that the once-distant future seems to arrive overnight and issues for the near term are latent in the present.

It would be possible to set forth further examples in an essay of greater length. The authors would then especially cite the potential impact on community corrections of such movements as Women's Liberation and the sexual revolution as illustrative of present reformist and egalitarian thrusts that should be considered in our thinking.

Hopefully, the correctional system is emerging from isolation. It is both being impelled and impelling itself closer to the community. As correctional isolation ends, it may be expected that the lag time between the impact of important social currents on community life and the effect of these currents on institutional operations—especially on programs conducted in or jointly with the community—will be reduced.

END