

Tennessee Criminal Justice Standards and Goals Project

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CORRECTIONS

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Tennessee Law Enforcement Planning Commission, 1975

PREFACE

This volume is one of eight reports adopted by the Tennessee Law Enforcement Planning Commission as goals and objectives for the criminal justice system in Tennessee. The development of the goals and objectives herein resulted from the award of Law Enforcement Assistance Administration (LEAA) discretionary funds to the Tennessee Law Enforcement Planning Commission. The Commission utilized the services of Midwest Research Institute, Kansas City, Missouri, for the coordination and operation of the goals and objectives effort.

The opinions and recommendations in this report are those of criminal justice practitioners and citizens of Tennessee. As goals and objectives are implemented, experience will dictate that some be upgraded, some modified, and perhaps some discarded. Practitioners and citizens will contribute to the process as the goals and objectives are tested in the field.

It is the hope of the Tennessee Law Enforcement Planning Commission that these goals and objectives will become an integral part of criminal justice planning throughout Tennessee and be utilized as a guideline for future program implementation.

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IMPLEMENTATION REPORT FOR CORRECTIONS

Introduction

The definition of corrections as the community's official reactions to convicted adult and juvenile offenders neither states nor implies what corrections should try to achieve. This is essential if realism is to replace rhetoric in the field. In particular, corrections is not defined here as being directed exclusively toward the rehabilitation (or habilitation, which is more often the case) of the convicted offender.

If correctional processes were, or could be, truly rehabilitative, it is hard to see why they should be restricted to the convicted. Corrections is limited to the convicted because there are other justifications for intervening in their lives in addition to helping them. Clearly, the penal sanctions imposed on convicted offenders serve a multiplicity of purposes, of which rehabilitation is only one.

Even when correctional purposes are both benevolent and rehabilitative, there is no reason to assume they are so viewed and experienced by the convicted offender. He may believe the intent is to punish, to deter others from crime, or merely to shut him up while he grows older and the fires of violence or criminality die down.

Some feel that crime and delinquency are symptoms of failure and disorganization in the community as well as in the offender himself. He has had too little contact with the positive forces that develop law-abiding conduct--among them good schools, gainful employment, adequate housing and rewarding leisure-time activities. So a fundamental objective of corrections must be to secure for the offender, contacts, experiences and opportunities that provide a means and a stimulus for pursuing a lawful style of living in the community. Thus, both the offender and the community become the focus of correctional activity. With this thrust, reintegration of the offender into the community comes to the fore as a major purpose of corrections.

Corrections clearly has many purposes. It is important to recognize that correctional purposes must differ for various types of offenders. In sentencing the convicted murderer, we usually are serving punitive and deterrent rather than rehabilitative purposes. Precisely the contrary is true with respect to the deprived, ill-educated, vocationally incompetent youth who is adjudged delinquent; with him, rehabilitative and reintegrative purposes predominate.

There is no doubt that corrections can contribute more than it does to the reduction and control of crime, and this is clearly one of its

purposes. What is done in corrections may reduce recidivism. To the extent that recidivist crime is a substantial proportion of all crime, corrections should be able to reduce crime. A swift and effective criminal justice system, respectful of due process and containing a firm and humane corrections component, may provide useful deterrents to crime. Through these mechanisms corrections can contribute to the overall objective of crime reduction. This is an entirely worthy objective if it can be achieved without sacrificing other important human values to which this society is dedicated.

There are other limits to the overarching purpose of reducing crime and the extent to which it can be accomplished. The report of the President's Task Force on Prisoner Rehabilitation was surely correct when it stressed that:

"... some of the toughest roots of crime lie buried in the social conditions, especially poverty and racial discrimination, that prevail in the nation's inner cities. These conditions not only make it difficult for millions of Americans to share in America's well-being, but make them doubt society's good faith toward them, leaving them disposed to flout society. America's benefits must be made accessible to all Americans. How successfully America reduces and controls crime depends, in the end, upon what it does about employment and education, housing and health, areas far outside our present mandate or, for that matter, our particular competence. This is not to say that improvements in the correctional system are beside the point Our point is that improvements in the correctional system are necessarily tactical maneuvers that can lead to no more than small and short-term victories unless they are executed as part of a grand strategy of improving all the nation's systems and institutions."^{1/}

It is a mistake to expect massive social advance to flow either from corrections or from the criminal justice system as a whole. The system can be fair; it can be humane; it can be efficient and expeditious. To an appreciable extent, it can reduce crime. Alone, it cannot substantially improve the quality and opportunity of life. It cannot save men from themselves. It can be a hallmark of a harmonious and decent community life, not a means of achieving it.

^{1/} President's Task Force on Prisoner Rehabilitation, "The Criminal Offender-What Should Be Done?" Washington, D.C., Government Printing Office (1970).

There is another limitation on corrections' potential to reduce and control crime. Corrections is only a small part of a social control system applied to define, inhibit, reduce and treat crime and criminals. It is but a subsystem of the criminal justice system--and it is the inheritor of problems created by the many defects in the other subsystems.

Corrections alone cannot solve the diverse problems of crime and delinquency, but it can make a much more significant contribution to that task. Correctional planning and programs must be closely related to the planning and programs of police and courts. Correction goals must be defined realistically and pursued with determination by application of achievable and measurable standards.

The Tennessee Criminal Justice Standards and Goals Project Correction Report deals with the problems and prospects of corrections in three parts. Each part carries recommended standards for improving corrections.

Considered first is the need for coordination and cooperation between state and local correction systems. Establishment of Uniform Correction Guidelines is called for as a basic tool for correctional improvement and a procedure by which local correction systems may seek financial assistance from an informed General Assembly to implement these improvements.

Part II treats the need for changes in major program areas of corrections, including diversion of offenders out of corrections, pretrial release and detention, classification of offenders, rights of offenders, rehabilitation and reentry, and the probation and parole system.

Part III covers elements basic to improvement of the correctional system as a whole and each of its components, effective organization and administration, optimum use of manpower, an adequate statutory framework and guidelines for the building of new institutions.

This implementation report manual was compiled in cooperation with correctional agencies in Tennessee. Many of the goals, objectives and strategies were suggested by the National Advisory Commission on Criminal Justice Standards and Goals, by national groups such as the American Bar Association, American Wardens' Association, and still others were added by professionals working in corrections who attended a series of task group meetings throughout the state. Much background research was done on the various components of the Tennessee Criminal Justice System and the material presented herein has gone through numerous revisions, modifications and additions.

The proposals for improving the correction system are presented in the form of a workbook designed to facilitate revision and updating of the proposals in future years. At the beginning of the report there is

an actionlist that serves two purposes. It is a table of contents for the main body of the report. It also shows at a glance the key proposals, the agency responsible for implementing them and the priorities assigned to them by the Tennessee Law Enforcement Planning Commission (TLEPC). The priorities assigned by the Commission will have important consequences in future years because, as is explained below, they will influence the distribution of LEAA funds through the funding of grant proposals made by correction agencies in the state. It is important for agencies using this report to understand the meaning of certain terms and of the numerical priorities assigned by the Commission.

Definition of Terms

- Goal A statement indicating a general direction or trend that is desired.
- Objective A specific program and a date by which that program is to be at least partially in effect.
- Priorities:
- 1 Must This is an objective that must be met by agencies seeking funds from the Commission. Each agency must meet all of the number one priorities applicable to it at any given time before it will be granted funds for objectives having lower priorities. The agency is expected to achieve the objective by the year indicated. In that year it will not receive any funds for programs with a priority of less than one unless it has met all of the number one priorities for that and previous years. Agencies will not be penalized for failing to meet a priority one objective: (1) if that failure was due to a failure by the General Assembly or the Tennessee Supreme Court to take action required to carry out the program; (2) if the agency applied for funds to assist it in meeting the priority but did not receive a grant because the Commission was financially unable to fund the request. In the body of the report, the work "must" is used in stating each objective that was given a priority of one.

With respect to proposals for legislation or for action by agencies that do not seek Commission funding, a priority of one means "very strongly recommended."

2 Should Strongly recommended--not a "must" but will be considered for funding ahead of objectives with lower priorities. In the body of the report the work "should" is used in stating objectives with a priority of two.

With respect to legislative proposals or actions by agencies that do not seek Commission funds, a priority of two means "strongly recommended."

3 Study Recommended for research or study--to be at least partially completed by the date indicated. In the body of the report a priority of three means "study."

4 May Consider For consideration--included for information purposes only. Indicated by the words "may consider" in stating the objective.

Following the actionlist is the main body of the report. It is organized in the same order as the goals and objectives in the actionlist. Most objectives have attached to them a list of "strategies" which are various ways in which objectives might be achieved and which should be considered by the agencies concerned. The goals, objectives and strategies are further explained and discussed through introductions to each goal and commentaries on an objective or set of objectives.

Most objectives or sets of objectives also have a "source" indicated. The source is the original written proposal from which the objective was taken. The objective may be in a form identical to the original source or may have been modified to meet the needs and conditions of Tennessee. In some cases no source will be listed because the objective was developed in a task group meeting or by the Commission itself and does not have an original written source. Also included are lists of references which can be used to obtain more information about the problems and issues addressed by particular objectives. References to relevant sections of the Tennessee Code Annotated (TCA) are also included.

Personnel in correction agencies should be able to look at the actionlist, see what objectives require their actions, by what year, and look up the more detailed statement in the body of the report. The development of these proposals has emphasized not only what is desirable but what is workable and practical. Therein lies the strength of this document.

CORRECTIONS - ACTIONLIST ABBREVIATIONS

C - Tennessee Department of Correction
CA - Community Action
Ct - Courts
L - Legislature
P - Police Department (with detention facilities)
S - Sheriff Department
TLEPC - Tennessee Law Enforcement Planning Commission

CORRECTIONS ACTIONLIST

<u>Goal and Page Nos.</u>	<u>Description</u>	<u>Agency</u>	<u>'76</u>	<u>'77</u>	<u>'78</u>	<u>'79</u>	<u>'80</u>	<u>Beyond '80</u>										
1. (16)	GOAL: COORDINATION BETWEEN STATE AND LOCAL SYSTEMS FOR THE IMPROVEMENT OF ALL CORRECTIONAL FACILITIES, PROGRAMS AND SERVICES.																	
1.1 (17)	Uniform Correction Guidelines for all correctional facilities, programs and services should be developed by the Tennessee Department of Correction in cooperation with local systems.	C-P-S TLEPG		2														
1.1A (17)	For the purpose of identifying program applicability, the Uniform Correction Guidelines must consider the following population classifications:	C- TLEPG		.1														
	<table border="1"> <thead> <tr> <th><u>County Code</u></th> <th><u>Population Range</u></th> </tr> </thead> <tbody> <tr> <td>A</td> <td>150,000 and up</td> </tr> <tr> <td>B</td> <td>50,000 - 150,000</td> </tr> <tr> <td>C</td> <td>24,500 - 50,000</td> </tr> <tr> <td>D</td> <td>24,500 and under</td> </tr> </tbody> </table>	<u>County Code</u>	<u>Population Range</u>	A	150,000 and up	B	50,000 - 150,000	C	24,500 - 50,000	D	24,500 and under							
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A	150,000 and up																	
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C	24,500 - 50,000																	
D	24,500 and under																	
1.2 (19)	Beginning with the 1977 budget and each year thereafter, Commissioner of Correction must apprise the legislature of those local facilities most in need of upgrading to comply with the <u>Minimum Standards for Local Correctional Facilities</u> , the intent being legislative allocations to those priority localities.	L-C		.1														
2. (20)	GOAL: IMPROVE PRERELEASE PROGRAMS AND SERVICES																	
2.1 (21)	The Uniform Correction Guidelines should include policies and procedures governing adult intake services.	C-P-S		2														
2.2 (22)	Counties with 50,000 and up population should establish centrally coordinated and directed adult intake services.	P-S		2 (A&B only)														

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2.3 (23)	Counties with 50,000 and up population should arrange for specialized services to be purchased in the community on a contractual basis.	P-S		2 (A&B only)				
2.4 (24)	Each community of more than 100,000 must develop staff and procedures to investigate arrested adult defendants for possible release on recognizance while awaiting trial.	P-S		.1				
2.5 (25)	The Uniform Correction Guidelines should include strategies for implementation of a range of alternatives to institutionalization, to include diversion, supervisory and prerelease programs.	C-P-S		2				
2.6 (26)	All community correctional planning should give priority to diversion and utilization of existing community resources.	CA-P-S					2	
3. (28)	GOAL: IMPROVE PRETRIAL DETENTION FACILITIES AND SERVICES							
3.1 (29)	The Uniform Correction Guidelines should include procedures governing the pretrial detention admission process.	C-P-S		2				
3.2 (30)	Except in cases of mass arrests, detention center admission staffing must be sufficient to avoid use of holding rooms for periods longer than 2 hours.	P-S				1		
3.3 (31)	The Uniform Corrections Guidelines should include policies and procedures to insure that the rights of persons detained while awaiting trial are observed.	C-P-S		2				

CORRECTIONS ACTIONLIST

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3.4 (33)	Pretrial and posttrial inmates must be separated.	P-S		1				
4. (34)	GOAL: DEFINE AND IMPLEMENT COMPREHENSIVE CLASSIFICATION SYSTEM							
4.1 (36)	The Uniform Correction Guidelines should include a standardized classification system.	C-P-S		2				
4.2 (38)	Each correctional agency, whether community-based or institutional, should implement or reorganize its classification system according to standards recommended in the Uniform Correction Guidelines.	C-P-S			2			
4.3 (39)	The classification system must be in written form specifying the structure of the system, its objectives, major factors in classifying each individual, and means for classifying.	C-P-S			1			
4.4 (40)	Comprehensive treatment programs should implement the recommendations of the Tennessee Classification and Diagnostic Center.	G				2		
4.5 (42)	Planning and operation of community classification teams should involve state and local correctional personnel, personnel of specific community-based programs, police, court and public representatives.	C-P-S Ct-CA				2		
5. (45)	GOAL: INSURE RIGHTS OF SENTENCED OFFENDERS							
5.1 (46)	All correctional institutions must have written rules of conduct for offenders.	G-S		1				

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5.2 (47)	Justification for limiting offenders' rights must include rules and regulations to maintain order and protect others.	C-S		1				
5.3 (49)	All correctional institutions must have written disciplinary procedures for offenders. These procedures must emphasize good behavior rather than punishment.	C-S		1				
5.4 (54)	Rules and Regulations must be written prescribing nondisciplinary procedures for determining and changing offender status.	C-S		1				
5.5 (57)	Each correctional agency must establish a grievance procedure.	C-S		1				
5.6 (59)	The Uniform Correction Guidelines should include policies and procedures that fulfill the right of offenders to be free from personal abuse by correctional staff or other offenders.	C-S		2				
5.7 (64)	The Uniform Correction Guidelines should include policies governing searches of persons under correction authority.	C-S		2				
5.8 (68)	TLEPC very strongly recommends that legislation be enacted to repeal all mandatory provisions depriving offenders of civil rights or other attributes of citizenship after release from correctional custody.	L		1				
6. (69)	GOAL: IMPROVE CONDITIONS OF CONFINEMENT							
6.1 (71)	Commitment of drug addicts should be to mental health facilities for treatment prior to confinement.	C-Ct		2				

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6.2 (72)	Psychotic offenders should be transferred to mental health facilities.	C-Ct		2				
6.3 (75)	All state institutions, jails, workhouses, penal farms and temporary holding and lock-up facilities must adhere to Section 5.057 of the <u>Minimum Standards for Local Correctional Facilities</u> regulating offenders assigned as trustees.	C-P-S		.1				
6.4 (76)	The Uniform Correction Guidelines should include suggestions for offender participation in a wide variety of community-based programs.	C-Ca-S		2				
6.5 (77)	Each correctional agency must adopt policies enabling inmates to maintain community and family ties.	C-S		.1				
7. (79)	GOAL: IMPROVE PROCEDURES AND PROGRAMS FOR REHABILITATION AND REENTRY							
7.1 (80)	Each correctional agency must develop policies that give offenders the opportunity to participate in programs designed to bring about positive behavior change. These policies must include work-release programs.	C-CA-S			1			
7.2 (82)	Correctional agencies should develop release programs drawing community leadership, social agencies, and business interests into the criminal justice system.	C-CA-S		2				
7.3 (84)	Counties with populations of 50,000 and over must establish a system of classification to form a basis for residential assignment and program planning for individuals.	C-S		.1 (A&B only)				

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7.4 (88)	A decisionmaking body should be established to follow and direct the inmate's progress through the correctional system.	C-S			2			
7.5 (90)	Research should be conducted as to the possibility and feasibility of broadening the operation of prison industries. Simultaneous research should be conducted on the:			3				
	1. Sale of products of prison industries on the open market.							
	2. Payment of full market wages to offenders working in prison industries-- they, in turn, paying for their daily-keep.							
8. (92)	GOAL: IMPROVE THE PROBATION SYSTEM							
8.1 (93)	The Uniform Correction Guidelines should include the planning and development of a goal-oriented probation service delivery system.	C-Ct			2			
8.2 (95)	A study should be conducted to determine the feasibility of placing the probation system in the executive branch of the state government.	C-S			3			
8.3 (96)	If the study determines the probation system should be placed in the executive branch of state government, it must be placed under the control of the Department of Correction.	C			. 1			
8.4 (100)	TLEPC very strongly recommends that legislation be enacted granting the sentencing court the authority to discharge a person from probation, after a hearing, at any time.	L			. 1			

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9. (101)	GOAL: IMPROVE THE PAROLE SYSTEM							
9.1 (102)	The parole system should develop goal-oriented service delivery systems.	C			2			
9.2 (105)	A study should be conducted to determine the feasibility of developing citizen committees (to include ex-offenders) to advise on policy development.	C-CA			3			
9.3 (106)	Parole officers must begin work with parolees during the furlough phase and prior to release, to facilitate easier transition and adjustment.	C		.1				
9.4 (107)	Funds should be made available to parole staffs to purchase needed community resources for parolees.	C		2				
10. (109)	GOAL: IMPROVE ADMINISTRATIVE STRUCTURE AND UPGRADE PERSONNEL							
10.1 (110)	TLEPC strongly recommends that the General Assembly enact comprehensive correctional codes governing institutional and community-based programs.	L					2	
10.2 (112)	The Tennessee Department of Corrections should establish an administrative unit responsible for securing citizen involvement, including advisory and service roles.	C			2			
10.3 (113)	The Administrative Unit responsible for securing citizen involvement should study the feasibility of recruiting and training volunteers to assist in the correctional agencies.	C						3

CORRECTIONS ACTION LIST

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10.4 (115)	A study should be conducted on the feasibility of adopting participatory management programs in which managers, staff and offenders share.	C-S		3				
10.5 (118)	The Uniform Correction Guidelines should include systemwide standards for recruitment and selection of personnel.	C-S		2				
10.6 (123)	The Uniform Corrections Guidelines should include standards for the training and education of corrections personnel.	C-S		2				
10.7 (124)	The Tennessee Department of Correction and correction systems in counties with populations of 150,000 and over must plan for and provide: <ol style="list-style-type: none"> 1. Forty hours a year of executive development training to correctional managers on operations of police, courts, prosecution and defense attorneys. 2. New correctional staff with 40 hours orientation training during first week and 60 additional hours during first year. 3. Forty hours additional training, after first year, to all correctional staff. 	C-S		1				
10.8 (128)	Each correctional system in counties with populations over 50,000 should have a functioning ombudsman.	C-S				2		

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10.9 (130)	A formal salary structure for correctional personnel, based on the systematic classification of all correction positions must be established. It should be incorporated in the Uniform Corrections Guidelines.	G-S		1				
11. (132)	GOAL: UPGRADE PLANNING FOR NEW INSTITUTIONS, ADULT AND JUVENILE							
11.1 (133)	Planning for new facilities must start from the basis that no more than 400 inmates can be housed in a single institution. New planning must also minimize the negative effects of excessive regimentation.	C		1				
11.2 (134)	The feasibility of converting male and female institutions of adaptable design and comparable populations into coeducational facilities should be studied.	C					3	
11.3 (136)	The Tennessee Department of Correction must adopt the policy of not building new institutions for juveniles until community resources have been developed deinstitutionalizing status offenders.	G-CA		1				
11.4 (137)	The Tennessee Department of Correction must phase out juvenile institutions, where possible, in favor of community programs and facilities.	G-CA					1	

1. GOAL: COORDINATION BETWEEN STATE AND LOCAL SYSTEMS, FOR THE IMPROVEMENT OF ALL CORRECTIONAL FACILITIES, PROGRAMS AND SERVICES

Introduction

Responsibility for the provision of correctional services in Tennessee is divided between the state and its political subdivisions. The Department of Correction, the county sheriffs and the lower courts all interact to varying degrees in providing correctional services in the many jurisdictions of the state. At best, a very loose form of coordination and cooperation is evident among them. It is not uncommon for comprehensive correctional programming to exist for jail inmates in some of the metropolitan counties, while adjoining counties provide no services except working the sentenced prisoner on the road gang.

Because most existing jails and local short-term institutions are consistently deficient in meeting modern program and facility standards, improved levels of performance must be sought.

1.1 Objective. By 1977, Uniform Correction Guidelines for all correctional facilities, programs and services should be developed by the Tennessee Department of Correction in cooperation with local systems.

- A. Uniform Correction Guidelines should take into account that the need for programs does vary from county to county, depending upon population and criminal justice activity. For the purpose of identifying program applicability, planners should consider the following population classifications:

<u>County Code</u>	<u>Population Range</u>
A	150,000 and up
B	50,000 - 150,000
C	24,500 - 50,000
D	24,500 and under

- B. Uniform Correction Guidelines should cover the following areas:

1. Adult intake services
2. Alternatives to institutionalization
3. Pretrial detention facilities and services
4. Classification system
5. Rights of defendants and offenders
6. Inmate and facility searches and seizures
7. Goal oriented probation and parole services
8. Standards for personnel recruitment, training and education
9. Formal salary structure

(Possible strategies to aid in formulating and implementing these programs are covered in the sections dealing with the specific area.)

Commentary

A uniform correction system, setting out facility and service requirements and defining programs, would offer rural jailers and penal farm wardens alike, the basic tools for improvement. While there are certain minimum facility service requirements that both small and large institutions should comply with, the type of facility and its population characteristics should determine program needs. A rural jail in a county whose

population is 24,500 or under should provide heat in the winter, and shower facilities as would a penal farm or metropolitan workhouse; but may not necessarily have a need to establish an adult intake service program.

In defining program applicability, the Uniform Correction Guidelines should be drawn up on a cooperative basis, combining the evaluative expertise in the Department of Correction with the rural jailer's knowledge of local needs.

The absence of need in some of the rural jails, however, should in no case exclude incorporation in the guidelines of all the program areas defined in the strategies. When a need arises for a program, the Uniform Correction Guidelines would exist to assist in implementation. In addition to providing the funds, it must be determined who will do the staff work in developing the Uniform Correction Guidelines. If current Department of Correction personnel cannot be expected to undertake this additional work, then the Department may either have to hire additional personnel or purchase staff services for this project. In the event that outside staffing is required it would be best if the persons hired had a working knowledge of the Tennessee correction system and were acquainted with the problems addressed in this report.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction Chapter 9, Government Printing Office (1974).

References

1. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington: Government Printing Office (1971).
2. Alexander, Myrl E., "Jail: History, Significance," in Proceedings of the American Correctional Association: 1967 Baltimore: ACA (1967).

1.2 Objective. Beginning with the 1977 budget and each year thereafter, the Commissioner of Correction must appraise the legislature of those local facilities most in need of upgrading to comply with the Minimum Standards for Local Correctional Facilities, the intent being legislative allocations to those priority localities.

Commentary

The State Legislature passed Minimum Standards for Local Correctional Facilities in 1975. The State Jail Inspector now inspects local facilities and reports to the local sheriff and the local legislative body on all conditions not meeting the minimum standards. In those counties below minimum standards the sheriff, the legislative body and the jail inspector all agree that they are not complying with the minimum standards, but they are also all aware that there are no funds available to meet minimum standards. In a battle of limited county funds for a new school or a new or upgraded jail, the new school usually wins.

As jail inspection is a state function, under the Department of Correction, the Commissioner of Correction is knowledgeable of local facility deficiencies. Armed with the reports of the Jail Inspector, the Commissioner is in a position to appraise the General Assembly of those counties most in need of upgrading to meet minimum standards and thereby to assist the local legislative body in seeking allocations for improvement from the state.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 9.3, Government Printing Office (1974).

Reference

1. Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington: Government Printing Office (1971).

2. GOAL: IMPROVE PRERELEASE PROGRAMS AND SERVICES

Introduction

In most instances, the financial, human and social costs of pretrial detention far outweigh any benefit the public receives. In the pretrial process the detention of persons awaiting trial is far too frequent; and in practice it is generally based not on any real or imagined public interest requirements but rather, on the financial resources of the accused. Persons awaiting trial in most jurisdictions are considered to be in the same class as persons already convicted and sentenced and are housed together. Jails commonly house many persons awaiting trial who require or could use some assistance with alcohol, drug, physical or mental problems.

Courts do not have the staff nor should they be burdened with the additional administrative responsibilities needed to perform investigative services before making the decision to detain prior to trial. An adult intake program providing the above services would be a valuable asset for an accused, the judge, and the local correction system.

2.1 Objective. By 1977, the Uniform Correction Guidelines should include policies and procedures governing adult intake services.

2.2 Objective. By 1978, counties with 50,000 and up population should establish centrally coordinated and directed adult intake services providing:

- a. pretrial intake screening
- b. diversion and referral
- c. initial and ongoing assessment, evaluation and classification services to other agencies as requested
- d. assessment, evaluation and classification services that assist program planning for sentenced offenders
- e. secure residential detention for pretrial detainees

Strategies

1. Intake services should be administratively part of community corrections and operate in conjunction with the judiciary, to protect the rights of the accused at every phase, and maintain confidentiality at all times.
2. Social inventory and offender classification should be a significant component of intake services.
3. Information gathering services for the judicial officer relative to the pretrial release or detention decision should be provided in the first instance by the law enforcement agency, and then verified and supplemented by the agency developing the presentence reports.
4. Investigation to gather information relevant to the pretrial release or detention decision should commence immediately.

2.3 Objective. By 1977, counties with 50,000 and up population should arrange for specialized services to be purchased in the community on a contractual basis and include the services of psychiatrists, clinical psychologists, social workers, interviewers, and education specialists.

2.4 Objective. By 1977 each community of more than 100,000 must develop staff and procedures to investigate arrested adult defendants for possible release on recognizance while awaiting trial.

Strategies

1. Staff should be persons trained in interviewing, investigation, and report preparation techniques.
2. Staff should collect the necessary information on employment status, financial condition, prior record, and family, relatives, or others who may assist the defendant in attending court, and should recommend to the court the conditions that should be imposed on the defendant if released on recognizance.
3. Pretrial intervention services should be provided to persons released on recognizance; for instance, aid in finding employment or referral to proper agency for counseling.

2.5 Objective. By 1978, the Uniform Correction Guidelines should include strategies for implementation of a range of alternatives to institutionalization, to include diversion, supervisory programs and prerelease programs.

2.6 Objective. By 1979, all community correctional planning should give priority to diversion and utilization of existing community resources.

Commentary

Appropriately administered intake screening serves the following purposes:

1. Diverts noncriminal and sociomedical problem cases and other individuals who can better be served outside the criminal justice system.
2. Reduces detention population to that required for community safety and to guarantee appearance for trial.

Intake services should offer nonresidential services to community-based programs for improved decisionmaking and system performance. They emphasize early investigation and reports as the basis for pretrial decisions and posttrial dispositions. Misdemeanant presentence reports provide screening services necessary to reduce jail populations. Intake services should include mobile teams that provide regular diagnostic services to outlying districts. For example, Community Corrections Research Center, Inc., Baton Rouge, Louisiana, serves a five-parish region.

Recognizing that the bail system as presently constituted is inherently discriminatory and hence underutilized, intake services provide the mechanisms for improving its use. Information obtained through the initial intake interview and evaluation by the staff provide a more rational basis than the present system for decision about an individual's eligibility for bail, release on recognizance, daytime release, release to a third party, or other alternatives and referrals. Based on more complete information, periodic judicial review of detainees' eligibility for bail would accelerate case processing. Operating intake services on a 24-hour basis would be accompanied by expanded use of night courts and "on call" arrangements with lower court judges and magistrates and, consequently, would further reduce jail population.

Intake services offer the potential for implementing community-based programs responsive to both individual and societal needs within a service area. They make possible a major redirection of offender flow and resource allocation.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 9, Government Printing Office (1974).

References

1. American Bar Association, Standards Relating to Speedy Trial New York: Office of the Criminal Justice Project (1967).
2. American Bar Association, Standards Relating to Pretrial Release, New York: Office of the Criminal Justice Project (1968).
3. Ares, Charles E., Anne Rankin, and Herbert Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," New York University Law Review 38:67 (1963).
4. Hawaii State Law Enforcement and Juvenile Delinquency Planning Agency, Correctional Master Plan, Honolulu: (1972).
5. Moyer, Frederic D., et al., Guidelines for the Planning and Design of Regional and Community Correctional Centers for Adults, Urbana: University of Illinois, Department of Architecture (1971).
6. St. Louis Metropolitan Police Department, The St. Louis Detoxification and Diagnostic Evaluation Center, Washington: Government Printing Office (1970).

3. GOAL: IMPROVE PRETRIAL DETENTION FACILITIES AND SERVICES

Introduction

The person confined awaiting trial is generally detained in a local jail, the correctional facility that suffers most from lack of resources, programs and professional personnel. More often than not, living conditions are intolerable. Yet, the person awaiting trial is presumed to be innocent of the offense charged.

A review of prevailing practices, present facilities, and resources to meet contemporary processing needs for pretrial residential care reveals an appalling weakness of services. Admission processing standards today are a vestige of practices of the past. They have developed from lack of techniques, inadequate or nonexistent resources, and indifference. This sadly neglected but critically important area requires immediate and drastic reform.

The last few years have seen a dramatic expansion of court willingness to evaluate correctional practices and policies in light of constitutional requirements. Most lawsuits have been brought by sentenced prisoners seeking release or an amelioration of the conditions of their confinement. Only recently have the courts focused their attention on the plight of the pretrial detainee and made various of the rights of sentenced prisoners directly applicable to pretrial detainees.

3.1 Objective. By 1977, Uniform Correction Guidelines should include procedures governing the pretrial detention admission process.

Strategies

1. The admission process should be conducted within the security perimeter, with adequate physical separation from committed offenders.
2. Intake processing should include a hot water shower with soap, the option of clothing issue, and proper checking and storage of personal effects.
3. All personal property and clothing taken from the individual upon admission should be recorded and stored, and a receipt issued to him. The detaining facility is responsible for the effects until they are returned to their owner.
4. Proper recordkeeping in the admission process is necessary in the interest of the individual as well as the criminal justice system. Such records should include: name and vital statistics; a brief personal, social, and occupational history; usual identity data; results of the initial medical examination; and results of the initial intake interview. Emphasis should be directed to individualizing the recordtaking operation, since it is an imposition on the innocent and represents a component of the correctional process for the guilty.
5. Each person should be interviewed by a counselor, social worker, or other program staff member as soon as possible after reception. Interviews should be conducted in private, and the interviewing area furnished with reasonable comfort.
6. It should be mandatory that the physician's orders be followed.

3.2 Objective. Except in cases of mass arrests, by 1978, detention center admission staffing must be sufficient to avoid use of holding rooms for periods longer than 2 hours. Emphasis should be given to prompt processing that allows the individual to be aware of his circumstances and to avoid undue anxiety.

3.3 Objective. By 1977, the Uniform Correction Guidelines should include policies and procedures to insure that the rights of persons detained while awaiting trial are observed.

Strategies

1. Persons detained awaiting trial should be accorded the same rights recommended for persons convicted of crime. In addition, the following rules should govern detention of persons not yet convicted of a criminal offense:
 - a. Treatment, the conditions of confinement, and the rules of conduct authorized for persons awaiting trial should be reasonably and necessarily related to the interest of the state in assuring the person's presence at trial. Any action or omission of governmental officers deriving from the rationales of punishment, retribution, deterrence, or rehabilitation should be prohibited.
 - b. The conditions of confinement should be the least restrictive alternative that will give reasonable assurance that the person will be present for his trial.
 - c. Isolation should be prohibited except where there is clear and convincing evidence of a danger to the staff of the facility, to the detainee, or to other detained persons.
2. Administrative cost or convenience should not be considered a justification for failure to comply with any of the above enumerated rights of persons detained awaiting trial.

Commentary

With few exceptions, prevalent practice in urban, high-volume detention centers is no better than that in rural areas with much smaller workloads. In the urban setting, handling is typically perfunctory and mechanical, overly oriented to process and movement, with little differentiation between individuals and their particular problems or needs. In the rural setting, processing typically involves primitive procedures and few resources with which to assess individual problems. In either situation, there are compelling arguments in favor of humane treatment and the protection of individuals from exposure to a variety of ills common to such places.

Increasingly, the courts are finding violations of constitutional rights in connection with handling and housing of pretrial detainees.

Segregation is required on several levels. The typical jail population, which collects poverty-stricken and socially deprived members of society, presents a host of considerations that must be met in the admission process.

Protection of the individual, of society, and of individuals from one another while detained calls for recognition of these needs and their incorporation into improved admission and detention practices. Postarrest intake processing should be a series of judgments, actions, and decisions, which begins with consideration of diversion at the street level and proceeds to consideration of diversion at initial intake. For persons subsequently processed, these steps should include humane approaches to prisoner handling, keeping necessary records, efficient and sanitary processing, medical examination, and individual interviewing designed to humanize the entire process.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 9, Government Printing Office (1974).

References

1. Moyer, Frederic D., et al., Guidelines for the Planning and Design of Regional and Community Correctional Centers for Adults, Urbana: University of Illinois (1971).
2. Richmond, Mark, Classification of Jail Prisoners Washington: U.S. Bureau of Prisons (1971).

3.4 Objective. By 1977, pretrial and posttrial inmates must be separated.

Commentary

Detention before trial is based on the state's interest in assuring the presence of the accused at trial. Where persons are already convicted of an offense, the state can, with varying degrees of legitimacy, argue that practices are motivated by concepts of punishment, retribution, deterrence or rehabilitation. None of these rationales can be applied to justify treatment of a person not yet convicted of an offense.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 4, Washington, D.C., Government Printing Office (1974).

References

1. Brennehan v. Madigan, 11 Crim. L. Repr. 2248 (N.D. Cal. 1972) (Outlines) rights of pretrial detainees.)
2. Comment, "Constitutional Limitations on the Conditions of Pretrial Detention," Yale Law Journal 79:941 (1970).
3. Davis v. Lindsay, 321 F. Supp. 1134 (S.D., N.Y. 1970) (Isolation of pretrial detainee not justified unless based on evidence of threat to his safety).
4. Hamilton v. Love, 328 F. Supp. 1182 (E.D. Ark. 1971) (Conditions of pretrial detention should be superior to those for sentenced offenders and cannot be motivated by rationale of punishment, retribution, deterrence, or rehabilitation.)
5. Jackson v. Indiana, 406 U.S. 715 (1972) (Limited time of detention for incompetents).
6. Jones v. Wittenberg, 323 F. Supp. 93 (N.D. Ohio 1971) aff'd. sub nom. Jones v. Metzger, 456 F. 2d 854 (8th Cir. 1972) (Allows class action for pretrial detainees.)
7. Turner, William, "Establishing the Rule of Law in Prisons: A Manual for Prisoner's Rights Litigation," Stanford Law Review, 23:473 (1971).

4. GOAL: DEFINE AND IMPLEMENT COMPREHENSIVE CLASSIFICATION SYSTEM

Introduction

Theoretically, classification is a process for determining the needs and requirements of those for whom correction has been ordered and for assigning them to programs according to their needs and the existing resources. Classification is conceptualized as a system or process by which a correctional agency, unit, or component determines differential care and handling of offenders.

The Department of Corrections has a classification system designed for treatment purposes, but it is basically utilized for management purposes. The term "management," as used here, means effective control of offenders to avoid further law violations while the agency is responsible for them. In contrast to management, "treatment" refers to attempts to change the individual offender or aspects of his environment in order to assure long-term behavior change, beyond the period of direct agency responsibility.

The Classification and Diagnostic Center was instituted in 1970 for the purpose of placing adult male inmates in the various correctional institutions--placement recommendations being based on a battery of aptitudinal, medical and psychological tests designed to aid in the determination of an individualized treatment program. The Center is located near the Tennessee State Penitentiary and is administratively structured as an independent component of the Department of Correction and, budgetarily located under the Tennessee State Penitentiary--although it serves all state operated adult male institutions.

From a theoretical and management standpoint, a classification system should permit the Department of Correction to provide planned, specified programs for different types of offenders and to do so in ways that facilitate program evaluation. Currently, although the Center makes specific recommendations concerning institutional placement and program involvement for each sentenced offender, due to insufficient resources, the various state institutions cannot implement the Center's recommendations with any degree of regularity or certainty. In addition, the only information the Center presently receives concerning what actually happens to an individual after he leaves the Center is whether he is in fact incarcerated in the particular institution recommended. Center personnel receive no further information concerning whether the individual actually participated in a recommended vocational program, for instance, nor whether, if he did participate, the recommended program was actually beneficial to the inmate. Several years ago the Center attempted to collect data on the implementation of their recommendations but could not obtain the cooperation of the various institutions in providing the necessary data.

As was mentioned above, the Center is budgetarily located under the warden of the main prison. Aside from consultations between the warden and the Center's director when the budget is being prepared, the Center has no control or influence over its budget. Because the Center's budget is primarily a line item in the main prison's budget, its funds can be transferred to other areas of prison operation--at the warden's discretion--in times of financial need.

The Department of Correction is now in the process of drawing up a Master Plan for Corrections. The Master Plan is the perfect vehicle for reevaluating the Center's budget control and for defining and implementing the data requirements for a systematic program of evaluation. (The TLEPC has required that by 1977, each event involving an arrested individual must be recorded by the appropriate agency. See Criminal Justice Information and Statistics System Implementation Report, Objective 1.8.)

Other than the state Classification and Diagnostic Center, there are only two other classification systems in Tennessee--one at the Shelby County Penal Farm in Memphis which has been operational since 1972, and the other at the Metro Workhouse in Nashville, which began in 1973.

Another organizational arrangement for classification that is now emerging suggests that with development of a realistic classification system used throughout a correctional system, the classification function can involve a much wider range of personnel and resources than previously supposed. For instance, a classification team consisting of parole and probation officers might collect the social history, while local practitioners could provide necessary medical and psychiatric examinations. State and local institution personnel, in cooperation with the other members of the community classification team, in turn, would review the appropriate correctional programs available to meet the offender's needs.

The community-based classification team concept has already begun to emerge within the correctional system. Indeed, to the extent that community correctional programs become the pattern, offenders should not have to be removed to a state diagnostic center or institution for review and study. The classification process itself can be adapted to the needs of offenders, most of whom, for the purposes of community-based programs, require little more than screening for risk and matching to resources.

4.1 Objective. By 1977, the Uniform Correction Guidelines should include a standardized classification system.

Strategies

1. The purpose of initial classification should be:
 - a. Through orientation to give new inmates an opportunity to learn of the programs available to them and of the performance expected to gain their release.
 - b. To screen inmates for safe and appropriate placement and determine whether the programs will accomplish the purpose for which the inmate was placed in the correctional system.
2. The classification system should:
 - a. Specify the objectives of the system, detailed methods for achieving the objectives, and monitoring and evaluation mechanisms' to determine whether the objectives are being met.
 - b. Specify the major factors to be considered in classifying each individual.
 - c. Identify the specific means that will be used in determining the classification of each prisoner.
 - d. Specify the structure (committee, unit, team, etc.) and procedures for balancing the decisions that must be made in relation to programming, custody, personal security, and resource allocation.
 - e. Provide full coverage of the offender population.
 - f. Be consistent with individual dignity and basic concepts of fairness.
 - g. Provide for maximum involvement of the individual in determining the nature and direction of his own goals (including the right to appeal administrative decisions affecting him).
 - h. Be adequately staffed with trained personnel.
 - i. Be sufficiently objective and quantifiable to facilitate research and administrative decision making.

3. The correctional agency should participate in or be receptive to research comparing different types of classification systems so that a classification system will be developed that can be used commonly by all correctional agencies.
4. Initial classification should not take longer than 4 weeks.
5. Isolation or quarantine periods, if any, should be as brief as possible.
6. Review of classification should be undertaken at intervals not exceeding 6 months, or upon request.

4.2 Objective. By 1978, each correctional agency, whether community-based or institutional, should implement or reorganize its classification system according to standards recommended in the Uniform Correction Guidelines.

4.3 Objective. By 1978, the classification system must be in written form specifying the structure of the system, its objectives, major factors in classifying each individual, and means for classifying.

4.4 Objective. By 1978, comprehensive treatment programs should implement the recommendations of the Tennessee Classification and Diagnostic Center.

Commentary

Many classification decisions at reception centers have not proved accurate or consistent from one center to another. Persons wishing to use a given classification system in another geographical area experience difficulty in arriving at meaningful program plans from interviews. Consequently, many correctional administrators and researchers are seeking ways to standardize and computerize the classification approach.

A uniformly applied classification system can lead to more effective management, assignment, and programming decisions. It can add precision to evaluative research in the corrections field. Current evidence indicates that the most efficient ways to combine data for making classification decisions and for predicting problems are based on actuarial or mechanical (computer-based) methods combined with sequential classification rules.

Corrections personnel from necessity have become interested in the possibility of dealing with programs and persons simultaneously, that is, utilizing a classification system that would make it possible to match subjects and programs. Experience suggests that when such differential programming is inaugurated, the overall success rate achieved by offenders may be increased, particularly when the offender is included in determining the direction and extent of his own program.

Ultimately, the full utilization of classification systems require a better application of technology. For too long, the correctional system has maintained an archaic system of keeping offenders' records. This traditional paper system provides relatively little useful information on the offender. Effective utilization of objective data, made more usable by modern electronic data processing, could substantially move the art of classification to its next level, wherein the primitive art form is converted into a rudimentary science.

It is imperative that classification systems be developed for the whole of the correctional system. Classification systems that operate effectively at the community level will help select those offenders whose needs can be met best through specific programs in the community setting. They will allow only those who need 24-hour control to pass on to correctional institutions.

Sources

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 6, Washington, D.C. Government Printing Office (1974).

References

1. TGA 41-302, 328, 355, 420.
2. Breed, Allen F., "The Significance of Classification Procedures to the Field of Corrections," consultant's paper prepared for the President's Commission on Law Enforcement and Administration of Justice (1967).
3. Carney, F., "Research and Decisionmaking," Journal of Research in Crime and Delinquency, 6:110-122 (1969).
4. Conrad, John P., Crime and Its Correction, Berkeley: University of California Press (1965).
5. Doran, Robert E., "The Process of Organizational Stereotyping: The Case of the Adjustment Center Classification Committee," paper prepared for internal consumption in California Department of Corrections Classification Section (1971).

4.5 Objective. By 1977, community classification teams should be established wherever possible. The planning and operation of the teams should involve:

- a. State and local correctional personnel (institutions, jails, probation, and parole);
- b. Personnel of specific community-based programs (employment programs, halfway houses, work-study programs etc.);
- c. Police, court and public representatives.

Strategies

1. The classification teams should:
 - a. Encourage the diversion of selected offenders from the Criminal Justice System.
 - b. Minimize the use of institutions for convicted or adjudicated offenders.
 - c. Program individual offenders for community-based programs.
2. The classification teams should assist:
 - a. Pretrial intervention projects in the selection of offenders for diversion.
 - b. Courts in identifying offenders who do not require institutionalization.
 - c. Probation and parole agencies and state and local institutions in original placement and periodic reevaluation and reassignment of offenders in specific community programs of training, education, employment and related services.
3. The classification team, in conjunction with participating agencies, should develop criteria for screening offenders according to:
 - a. Those who are essentially self-correcting and do not need elaborate programming.
 - b. Those who require different degrees of community supervision and programming.
 - c. Those who require highly concentrated institutional controls and services.

4. The classification team should develop policies that consider the tolerance of the general public concerning degrees of "punishment" that must be inflicted.
5. The work of the classification team should be designed to enable:
 - a. Departments, units and components of the correctional system to provide differential care and processing of offenders.
 - b. Managers and correctional workers to array the clientele in caseloads of varying sizes and programs appropriate to the clients' needs as opposed to those of the agencies.
 - c. The system to match client needs and strengths with department and community resources and specifically with the skills of those providing services.
6. The classification team should have a role in recommending the establishment of new community programs and the modification of existing ones; to involve volunteers, ex-offenders and paraprofessionals; and to have an evaluation and advisory role in the operation of community programs.
7. The organization of the classification team should be flexible and involve rotating membership and chairmen selected on an alternating basis among participating agencies.

Commentary

As with other efforts involving the community, the planning and operation of community classification should be accomplished with the assistance of affected and interested groups--police, courts, and public. Their support is essential to the successful operation of community-based programs, and they can assist in opening the doors to further resources.

For full effectiveness, the teams should participate in all types of processes that channel offenders into community-based programs--diversion, sentencing and disposition, and placement decisions of correctional agencies. The program resources of a community need coordination and consistency in operation as well as the increased flexibility that a classification team would make possible.

For efficiency, and to avoid counterproductive and needless interference in the lives of offenders, the classification team should adopt realistic criteria to prevent allocation of resources to offenders who

do not need them and to assure that expensive, inherently damaging institutional controls are imposed only upon those offenders who require them in the interest of public safety.

As with institutional classification, the community classification team is intended primarily as a means for screening offenders for risk, with appropriate placements, and for managing large groups of offenders. The objective is to give offenders opportunities to change themselves rather than to attempt, as has been done so unproductively in the past, to coerce behavioral changes.

In addition to its responsibility for assigning offenders to various community programs, the classification team should have a role in observing the operation of these programs and recommending new programs, changes, or innovations that may be more responsive to the needs of offenders. These programs are largely in the initial stages of development, and many adjustments should be anticipated as experience and research accumulate.

The membership of the classification team should not be fixed, but made up of changing representatives of the participating agencies. This arrangement would be a useful device in the training of agency personnel and in insuring wide participation in and the harmonious functioning of community classification and community-based programs.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 6.3, Washington, D.C., Government Printing Office (1974).

References

1. Argyle, Michael, A New Approach to the Classification of Delinquents with Implications for Treatment, Sacramento: California State Board of Corrections (1961).
2. Breed, Allen F., "The Significance of Classification Procedures to the Field of Corrections," consultant's paper prepared for the President's Commission on Law Enforcement and Administration of Justice (1967).
3. Empey, LaMar T., Studies in Delinquency: Alternatives to Incarceration, Washington: U.S. Department of Health, Education, and Welfare (1967).
4. Havel, Joan, Special Intensive Parole Unit IV: The High Base Expectancy Study, Research Report No. 10, Sacramento: California Department of Corrections (1963).
5. Heaton, W. S., and S. Adams, Community Performance of Three Categories of Institutional Releases Research Report No. 15, Sacramento: California Department of Corrections (1969).

5. GOAL: INSURE RIGHTS OF SENTENCED OFFENDERS

Introduction

Until quite recently, an offender as a matter of law was deemed to have forfeited virtually all rights upon conviction. Legislative committees and concerned citizen groups voiced occasional questions and concern but lacked the authority to force improvements. The offender was protected only by minimum standards imposed by the Constitution and the restraint of some correctional administrators and their staff. The courts maintained a "hands off" policy, believing that, at conviction, the requirements of due process were satisfied and that correctional administration was a technical matter best left to the experts.

Despite recognition of the need for reform, the gross abuse of offender rights did not change significantly until the courts intervened and the community became concerned. This is well documented by such factors as the increase in the volume and the variety of challenges to correctional decisionmaking in the courts, the findings and recommendations of the President's Commission on Law Enforcement and the Administration of Justice, the work of the American Bar Association's Project on minimum standards for criminal justice, the increasing concern about correctional decisionmaking in legal education, and the recent concern of both legislators and correctional administrators.

The following legal trends in corrections are now relatively clear:

1. There is a willingness of the courts to hear legitimate offender complaints.
2. Formal procedures are required in order to take away a person's freedom or to provide restrictions on normal activity.
3. Corrections cannot violate the principles of due process.
4. Corrections must justify any practice which limits some rights of the offender.
5. Should Corrections demonstrate that a restriction is necessary and proper, it must select the least restrictive alternative to satisfy the state's interest.

Corrections now has an opportunity for progress. Many correctional operations are substandard, mainly because resources for improvement have been lacking. Judicial decrees demanding change should help make available the necessary resources. As this process continues, the courts may require either an acceptable correctional system or none at all.

5.1 Objective. By 1977, all correctional institutions must have written rules of conduct for offenders.

Strategies

1. Offenders should be provided with written statements of the institution's up-to-date rules.
2. Rules of conduct for offenders should be:
 - a. Designed to effectuate or protect an important interest of the facility or program for which they are promulgated.
 - b. The least drastic means of achieving that interest.
 - c. Specific.
 - d. Accompanied by a range of sanctions that can be imposed.
 - e. Promulgated after appropriate consultation with offenders
3. Rules of conduct for offenders should provide that:
 - a. Acts of violence or other violations of the law be referred for criminal prosecution;
 - b. If the District Attorney General does not prosecute, the institution is responsible for disciplining these cases.
4. Disciplinary action be deferred in cases where the state intends to prosecute.
5. Where the state prosecutes and the offender is found not guilty, the correctional authority should not take further punitive action.

5.2 Objective. By 1977, justification for limiting offenders rights must include rules and regulations to maintain order and protect others.

Commentary

A source of severe dissatisfaction with the correctional system is the belief widely held among offenders that the system charged with instilling respect for law punishes arbitrarily and unfairly.

Not only do such practices contribute to problems of managing offenders but they also violate one of the most basic concepts of due process. Advance notice of what behavior is expected must be given so that the person being controlled may avoid sanctions for misbehavior. Failure to be specific will result in legal challenge on grounds of vagueness.

Codes of offender conduct are notorious for their inclusiveness and ambiguity and as a source of dissatisfaction. Rules should not repeat the mistakes of existing criminal codes by attempting to include every sort of behavior that is considered morally reprehensible. "Feigning illness" and "being untidy" for example, are of dubious threat to institutional or public security, personal safety, or operational efficiency. Vague rules allow too much discretion and often are abused; rules trivial in their intent engender hostility and lack of respect for the correctional authority.

Codes of conduct should be limited to observable behavior that can be shown clearly to have a direct adverse effect on an individual or others. Rules prohibiting attitudinal predispositions, such as "insolence," should be avoided because their ambiguity permits undue interpretative discretion. What one person describes as "insolence" another may consider a display of independence indicating improved self-perception. Ambiguous or abstract prohibitions make individual culpability questionable because they are difficult to communicate.

As evidenced by decisions regarding the elements of a fair disciplinary proceeding, courts deem an advance notice procedure to be of compelling importance. Notice of the alleged violation always is required to prepare an adequate defense. Giving full notice of the rules before alleged misconduct may contribute to a reduction of disciplinary cases.

Correctional agencies' rules of conduct, no less than the criminal code itself, should be enforced with penalties related to the gravity of the offense. The concept of proportionality of punishment should be fully applicable; several courts have recognized that disciplinary punishments in many instances are far in excess of this standard.

Virtually all correctional literature recognizes the need for established codes of offender conduct. The trend in practice today is to maximize offender participation in rulemaking.

The criminal code is applicable to those already convicted of crime. Inevitably, because of the breadth of criminal codes, disciplinary rules promulgated by correctional authorities will duplicate the criminal law, but correctional agencies should not attempt to promulgate parallel rules. Criminal action by offenders should be subject to trial as in any other case, with the potential sanction and the appropriate formal safeguards.

Where overlap occurs, correctional administrators should defer to prosecution wherever possible. And where prosecution is unsuccessful, justice requires that further administrative punitive measures be prohibited.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 2.11, Government Printing Office (1974).

References

1. American Correctional Association, Manual of Correctional Standards, 3rd ed., Washington: ACA, 408 (1966).
2. Cluchette v. Procunier, 328 F. Supp. 767 (N.D. Cal. 1971).
3. Landman v. Peyton, 370 F. 2d 135 (4th Cir. 1966), cert. denied, 388 U.S. 920 (1967).
4. National Council on Crime and Delinquency, A Model Act for the Protection of Rights of Prisoners, New York: NCCD Sec. 4 (1972).

5.3 Objective. By 1977, all correctional institutions must have written disciplinary procedures for offenders. These procedures must emphasize good behavior rather than punishment.

Strategies

1. Disciplinary procedures should be uniform for each type of residential facility.
2. Minor violations of rules of conduct should be punishable by no more than a reprimand or loss of privileges for a reasonable length of time.
3. Rules governing minor violations should state that:
 - a. Staff may impose prescribed sanctions after informing the offender of the violation and giving him a chance to explain.
 - b. If a report of a violation is placed in an offender's file, he should be notified in writing.
 - c. The offender should be provided with an opportunity to request a review by an impartial officer or board.
 - d. All references to the incident should be removed from the offender's file if the review indicates that the offender did not commit the violation or that the staff's action was not appropriate.
4. Rules governing major violations should provide for the following prehearing procedures:
 - a. Someone other than the reporting officer should conduct the investigation. If probable cause exists, a hearing date should be set.
 - b. The offender should receive a copy of any disciplinary report or charges of the alleged violation and notice of the time and place of hearing.
 - c. The offender should receive assistance in preparing for the hearing if requested.

5. Rules governing major violations should provide for a hearing, within 72 hours of the alleged violation, which should be conducted as follows:
 - a. The hearing should be held as quickly as possible after 24 hours.
 - b. The hearing should be before an impartial officer or board in the institution.
 - c. The offender should be allowed to present evidence or witnesses on his behalf.
 - d. The offender may be allowed to confront and cross-examine the witnesses against him.
 - e. The offender should be allowed to select an inmate advisor to assist him at the hearing.
 - f. The hearing officer or board should be required to find preponderance of guilt before imposing a sanction.
 - g. The hearing officer or board should be required to render its decision in writing, including its reasons. If the decision is that the offender did not commit the violation, all reference to the charge should be removed from offender's file.
6. Rules governing major violations should provide for internal review of the hearing officer's or board's decision when requested.
7. The internal reviewing authority should be authorized to:
 - a. Accept the decision.
 - b. Order further proceedings.
 - c. Reduce the sanction imposed.

Commentary

The nature of discipline and the procedures utilized to impose it are very sensitive issues, both to correctional administrators and to committed offenders. The imposition of drastic disciplinary measures can have a direct impact on the length of time an offender serves in confinement.

The administration of some form of discipline is necessary to maintain order within an institution. However, when that discipline violates constitutional safeguards or inhibits or seriously undermines reformatory efforts, it becomes counterproductive and indefensible.

The very nature of a closed, inaccessible institution makes safeguards against arbitrary disciplinary power difficult. The correctional administration has power to authorize or deny every aspect of living from food and clothing to access to toilet facilities. It is this power, more than perhaps any other within the correctional system, which must be brought under the "rule of law."

Court decisions such as *Goldberg v. Kelley*, 397 U.S. 254 (1970) and *Morrissey v. Brewer*, 408 U.S. 471 (1972) have established the hearing procedure as a basic due process requirement in significant administrative deprivations of life, liberty, or property. There has been considerably less clarity, especially in the correctional context, of what minimal requirements must attend such a hearing. Court decisions have varied in interpretation. At one end of the spectrum they have provided only adequate notice of charges, a reasonable investigation into relevant facts, and an opportunity for the prisoner to reply to charges. At the other they have upheld the right to written notice of charges, hearing before an impartial tribunal, reasonable time to prepare defense, right to confront and cross-examine witnesses, a decision based on evidence at the hearing, and assistance by lay counsel (staff or inmate) plus legal counsel where prosecutable crimes are involved.

The Tennessee Department of Correction has incorporated detailed disciplinary procedures in their Policies and Procedures Manual for Adult Correction, and have included substantial portions of the recognized elements of administrative agency due process.

Due process is a concept authorizing varying procedures in differing contexts of governmental action. It does not require in all cases the formal procedures associated with a criminal trial. On the other hand, due process does contain some fundamentals that should regulate all governmental action having a potentially harmful effect on an individual.

Basic to any system that respects fundamental fairness are three requirements: (1) that the individual understand what is expected of him so he may avoid the consequences of inappropriate behavior; (2) if he is charged with a violation, that he be informed of what he is accused; and (3) that he be given an opportunity to present evidence in contradiction or mitigation of the charge.

As the consequences to the individual increase, other procedural devices to assure the accuracy of information on which action will be

based come into play. These include the right to confront the individual making the charge of violation with an opportunity to cross-examine him; the right to assistance in presenting one's case, including legal counsel; the right to a formal hearing before an impartial tribunal or officer; the right to have proceedings of the hearing recorded in writing; and the right to written findings of fact.

Discipline can range in degree from an oral reprimand to loss of good time or disciplinary segregation. Where the punishment to be imposed extends or potentially extends the period of incarceration, or substantially changes the status of the offender either by placing him in disciplinary segregation or removing him from advantageous work assignments, the wider range of procedural safeguards should be employed. These decisions are critical not only to the offender but to the public. Since these procedures are designed only to assure a proper factual basis for governmental action, both the public and the offender have an interest in their implementation.

Sources

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 2, Washington, D.C. Government Printing Office (1974).

References

1. Tennessee Department of Corrections, Adult Policies and Procedures Manual, Section 4.600 Nashville, Tennessee.
2. Shelby County Penal Farm, Inmate Manual, Memphis, Tennessee.
3. Council on the Diagnosis and Evaluation of Criminal Defendants, Illinois Unified Code of Corrections: Tentative Final Draft, St. Paul: West, 1971, Section 335-9 and Section 340-7.
4. Hirschkop, Philip J., and Michael A. Milleman, "The Unconstitutionality of Prison Life," Virginia Law Review, 55:795 (1969).
5. Landman v. Royster, 333 F. Supp. 621 (E.D. Va. 1971) (Virginia case on hearing and related procedures for imposition of solitary confinement, transfer to maximum security, padlock confinement over 10 days and loss of good time).
6. McGee, Thomas A., "Minimum Standards for Disciplinary Decisionmaking," Unpublished paper prepared for the California Department of Corrections, Sacramento (1972).
7. Milleman, Michael A., "Prison Disciplinary Hearings and Procedural Due Process--The Requirement of a Full Administrative Hearing," Maryland Law Review, 31:27 (1971).
8. Morris v. Travisono, 310 F. Supp. 857 (D.R.I. 1970) (Due process safeguards for discipline involving segregation).

9. *Sostre v. McGinnis*, 442 F. 2d 178 (2d Cir. 1971), cert. denied, 404 U.S. 1049 (1972) (Due process safeguards for cases of substantial discipline).
10. South Carolina Department of Corrections, The Emerging Rights of the Confined, Columbia (1972).
11. Turner, William B., "Establishing the Rule of Law in Prisons: A Manual for Prisoners' Rights Litigation," Stanford Law Review, 23:473 (1971), and authorities cited therein.
12. TCA 41-333.

5.4 Objective. By 1977, rules and regulations must be written prescribing nondisciplinary procedures for determining and changing offender status.

Strategies

1. Rules and regulations should cover procedures for determining:
 - a. Offender classification,
 - b. Transfers, and
 - c. Major changes or decisions on participation in treatment, education and work programs.
2. Rules and regulations which prescribe procedures for determining and changing offender status should:
 - a. Specify criteria for classification;
 - b. Specify frequency of status reviews;
 - c. Be made available to offenders;
 - d. Provide for notice to offender when his status is being reviewed; and
 - e. Provide for participation of the offender in decisions affecting his own program.
3. An offender should have an opportunity for a hearing to oppose or support proposed changes in his status.
4. Proceedings for nondisciplinary changes of status should not be used to impose disciplinary sanctions or otherwise punish offenders.

Commentary

The area of nondisciplinary classification and status determinations long has been considered a proper subject for the diagnostic, evaluation, and decisional expertise of correctional administrators and specialists. Decisions of this kind can have a critical effect on the offender's degree of liberty, access to correctional services, basic conditions of existence within a correctional system, and eligibility for release. This is true

especially in Tennessee with its indeterminate sentence structure and simple commitment of offenders to the correctional authority, without statutory or court specification of kinds of institutional or program treatment.

This standard seeks to strike an appropriate balance between the interests of the system and those of the offender, specifying some basic principles of offenders' rights in this area but with a specificity and degree of formality much less pervasive than the "due process" elements proposed for imposition of major disciplinary sanctions.

First, the standard requires written rules and regulations, available to the offender, which clearly establish the basis for classification and other status determinations. This helps the individual understand the personal implications of each alternative choice so he can express an informed preference. In addition, specifying decision criteria communicates to the offender that decisions are not capricious or arbitrary.

The effectiveness of rehabilitation is related directly to the offender's understanding and acceptance of program objectives. An individual is more likely to accept and understand the reasons for a decision in which he participates. Therefore, the standard calls for notice to the offender when his status is under review and a maximum attempt to solicit his views in all of the wide ranges of decisionmaking that may be applied while he is under correctional control.

A formal hearing right is specified for reviews involving potential changes of a substantially adverse character in the offender's degree, type, or level of custody. Courts already have shown concern for such procedural protections in the case of transfers from prisons to hospitals for the criminally insane and from juvenile institutions to adult facilities.

Sources

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 2.13, Washington, D.C., Government Printing Office (1974).

References

1. American Correctional Association, Manual of Correctional Standards, 3d ed., Washington: ACA Chs. 7,26 (1966).
2. Baxstrom v. Herold, 383 U.S. 107 (1966). (Administrative commitment of prisoner to hospital for criminally insane at the of prison term without new judicial determination available to others so committed denies equal protection of laws.)

3. Cohen, Fred, The Legal Challenge to Corrections, Washington: Joint Commission on Correctional Manpower and Training (1969).
4. Goldfarb, Ronald, and Linda Singer, "Redressing Prisoners' Grievances," George Washington Law Review, 39:398-201 (1970).
5. Morris v. Travisono, 310 F. Supp. 857 (D.R.I. 1970) (Responding to charge of discriminatory classification procedures in state prison court order required (i) regular periodic review of classifications, (ii) enumeration of privileges and restrictions of each classification, (iii) written record of classification proceedings and notification to inmate of contemplated changes with reasons.)
6. People ex. rel Goldfinger v. Johnston, 53 Misc. 2d 949, 280 N.Y.S. 2d 304 (Sup. Ct. 1967) (Court requires hearing before transferring juvenile from correctional school to institution for (defective delinquents.)
7. Shone v. Maine, 406 F 2d 844 (1st Cir. 1969) (Juvenile entitled to hearing and assistance of attorney in procedure to transfer from a juvenile institution to a men's prison as an "incorrigible.")
8. South Carolina Department of Corrections, The Emerging Rights of the Confined, Columbia (1972).
9. U.S. ex rel Schuster v. Herold, 410 F. 2d 1071 (2d Cir. 1969) Prisoner under life sentence could not be transferred to hospital for criminally insane without procedures, periodic review, and jury determination available for involuntary civil commitments.
10. TCA 41-302.

5.5 Objective. By 1977, each correctional agency must establish a grievance procedure.

Strategies

1. Each person being supervised by the correctional authority should be able to report a grievance.
2. The grievance should be transmitted without alteration, interference or delay to the person or entity responsible for receiving and investigating grievances.
 - a. Such person or entity preferably should be independent of the correctional authority. It should not, in any case, be concerned with the day-to-day administration of the corrections function that is the subject of the grievance.
 - b. The person reporting the grievance should not be subject to any adverse action as a result of filing the report.
3. Promptly after receipt, the grievance should be investigated. A written report should be prepared for the correctional authority and the complaining person. The report should set forth the findings of the investigation and the recommendations of the person or entity responsible for making the investigation.
4. The correctional authority should respond to each such report, indicating what disposition will be made of the recommendations received.

Commentary

Open lines of communication between inmate and staff can do much to keep the correctional authority alert to developing problems. Unfortunately, a number of factors frequently limit the viability of such informal means. The following are among them.

1. Staff and inmates may not communicate effectively because of age, racial, or other differences.
2. Staff may discount offender views and complaints and fail or refuse to transmit them through channels for investigation.
3. Investigators may be too close to conditions to perceive the validity of grievances or the existence of reasonable alternatives.

A formal procedure to insure that offenders' grievances are fairly resolved should do much toward alleviating the existing tension within institutions. The first amendment requirements, protecting the right of persons to petition their government for redress, speaks eloquently of the importance attached to a government responsive to the complaints of its citizenry. Peaceful avenues for redress of grievances are a prerequisite if violent means are to be avoided. Thus, all correctional agencies have not only a responsibility but an institutional interest in maintaining procedures that are, and appear to offenders to be, designed to resolve their complaints fairly.

The strategies have three main features. To encourage use of the procedure, it must be open to all, and no reprisals should flow from its use. Second, all grievances with merit should be investigated. A natural outcome is a report of what was found and what is being done, with a copy to the originator of the grievance.

Finally, someone not directly connected with the function being investigated should be charged with the responsibility of evaluating the grievance. In addition to producing a balanced report, as free as possible of self-serving conclusions, this step is calculated to gain credibility for the mechanism. The procedure encompasses use of an ombudsman, an independent grievance commission, or an internal review or inspection office.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 2.14, Washington, D.C., Government Printing Office (1974).

References

1. American Correctional Association, Riots and Disturbances in Correctional Institutions, Washington: ACA, Chs. 1,2 (1970).
2. Council on the Diagnosis and Evaluation of Criminal Defendants, Illinois Unified Code of Corrections: Tentative Final Draft. St. Paul: West, Sections 340-348 (1971).
3. Goldfarb, Ronald, and Linda Singer, "Redressing Prisoners Grievances," George Washington Law Review, 39:175, 304, 316 (1970).
4. National Sheriffs' Association, Manual on Jail Administration, Washington, NSA p. 20, 24 (1970).
5. National Council on Crime and Delinquency, A Model Act for the Protection of Rights of Prisoners. New York: NCCD Ch. 5 (1972).

5.6 Objective. By 1977, The Uniform Correction Guidelines should include policies and procedures that fulfill the right of offenders to be free from personal abuse by correctional staff or other offenders.

Strategies

The following should be prohibited:

1. Corporal punishment.
2. The use of physical force by correctional staff except as necessary for self-defense, protection of another person from imminent physical attack, or prevention of riot or escape.
3. Solitary or segregated confinement as a disciplinary or punitive measure except as a last resort and then not extending beyond 10 days' duration per offense.
4. Any deprivation of clothing, bed and bedding, light ventilation, heat, exercise, balanced diet, or hygienic necessities.
5. Any act or lack of care, whether by willful act or neglect, that injures or significantly impairs the health of any offender.

Correctional authorities should:

6. Evaluate their staff continuously to identify persons who may constitute a threat to offenders, and where such individuals are identified, reassign or discharge them.
7. Develop institution classification procedures that will identify violence-prone offenders, and where such offenders are identified, insure greater supervision.
8. Implement supervision procedures and other techniques that will provide a reasonable measure of safety for offenders from the attacks of other offenders. Technological devices such as closed circuit television should not be exclusively relied upon for such purposes.
9. Correctional agencies should compensate offenders for injuries suffered because of the intentional or negligent acts or omissions of correctional staff.

Commentary

The courts recently have recognized a number of situations in which individual conditions of correctional confinement (for example, use of the strip cell and beatings) or a multiplicity of conditions under which prisoners are housed and handled can amount to the infliction of "cruel and unusual punishments" prohibited by the eighth amendment.

In this area particularly, standards should be more prohibitive than judicial interpretation of the eighth amendment because they give credence to the new philosophy of corrections as a reintegrative force, rather than a punitive one. These strategies enumerate a variety of punitive activities which, at least on an individual basis, may fall short of the eighth amendment ban but which should be included in the legal protections available to the offender.

The list of prohibited activities begins with the basic ban on imposition of corporal punishment^{1/} and proceeds to disapprove^{2/} the use of any physical force beyond that necessary for self-defense^{2/} to prevent imminent physical attack on staff, inmates, or other persons; or to prevent riot or escape. In these instances, utilization of the least drastic means necessary to secure order or control should be the rule.

The strategies would fix a firm maximum limit on the use of solitary or segregated confinement (10 days)^{3/} somewhat less than the general norm recommended in the 1966 standards of the American Correctional Association and considerably less than what is authorized under present Tennessee law. This refers to "solitary" as a disciplinary or punitive imposition rather than "separation" used as an emergency measure to protect the offender from self-destructive acts, from present danger of acts of violence to staff or other inmates, or voluntary reasons related to fear of subjection to physical harm by other inmates. Action of this emergency nature should be sanctioned only with proper determinations of key institutional administrators and, when appropriate, continuing medical and psychiatric reviews. In all cases, solitary confinement should be the least preferred alternative.

1/ TCA 41-722 provides that the Commissioner of Corrections must authorize corporal punishment, but Tennessee case law has held that the warden does not have the authority to impose corporal punishment.

2/ Tennessee Department of Corrections Policies and Procedures Manual provides that an officer is not permitted to strike an inmate under any circumstances, except in self-defense.

3/ TCA 41-707 authorizes solitary confinement for up to 30 days for each violation of the rules.

Two further prohibitions would assure offenders against deprivation of the basic amenities of humane institutional life. Under one,^{1/} all offenders, even those in disciplinary status, would be accorded the right to basic clothing, bedding, sanitation, light, ventilation, adequate heat, exercise, and diet as applicable to the general confined population. Under the other prohibition,^{2/} affirmative action or willful neglect that impairs the physical or mental health of any offender would be banned. Extreme abuse in these areas prompted the court decisions declaring that "strip cell" practices or shocking isolation, sanitary, or nutritional regimes as a punitive denial could amount to "cruel and unusual punishment."

Correctional authorities should take affirmative steps to diminish the level of violence and abuse within correctional institutions. To minimize the problem of staff-caused violence, the correctional authority should institute screening procedures to detect staff members with potential personality problems. Staff with such problems should not be assigned to duties where they would interact with offenders in situations that might trigger an aggressive response.

Protecting offenders from the violent acts of other offenders is more difficult. A variety of measures undoubtedly is necessary, including physical changes in some institutions (converting to single rooms or cells) and changes in staff scheduling (extra night duty staff). A precise program taking into account the situation in each institution should be developed. A more "normalized" institutional environment with positive inmate-staff relationships probably is the best safeguard against frequent violence. In any event, a person convicted of crime and placed under the authority of the state should not be forced to fear personal violence and abuse.

Existing law^{3/} does not clearly establish that the correctional authority is responsible for protecting persons sentenced to incarceration. Most law in this area has been developed in the context of a civil suit in

1/ TCA 41-719 authorizes placing a convict in solitary on a diet of bread and water. The Department of Corrections Policies and Procedures Manual is in compliance with the strategy as stated.

2/ Department of Corrections Policies and Procedures Manual states in regard to punitive segregation, staff should focus on positive and constructive benefits and at no time should there be an attempt to create discomfort.

3/ U.S. Code 42-1983 provides that an individual is afforded a civil remedy for a violation of his constitutional or federal statutory rights by a person acting under the color of state law. The U.S. Supreme Court has suggested that money damages are available to a prisoner under this statute.

which an injured prisoner is seeking to recover damages from the correctional authority. In many cases, the prisoner has been able to recover where negligence or intent on the part of correctional authorities is shown. Correctional agencies should be required to respond in damages to compensate offenders for injuries suffered by the lack of appropriate care.

Only the correctional authority is in a position to protect inmates, and the need to do so is clear. Observers of correctional institutions agree that inmate attacks on one another--often sexually motivated--are commonplace and facilitated by lack of personal supervision or lack of concern on the part of supervisory personnel. In many cases the tort law standard of a foreseeable risk of harm involving specific individuals has not been properly applied in the face of the pervasive and constant threat apparently existing today.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 2.4, Washington, D.C., Government Printing Office (1974).

References

1. American Correctional Association, Manual of Correctional Standards, 3rd ed. Washington: ACA Chapter 24 (1966).
2. Annotation, "Liability of Prison Authorities for Injury to Prisoners Directly Caused by Assault by Other Prisoners," 41 ALR 3rd 1021 (1972).
3. Davis, John, "Sexual Assaults in the Philadelphia Prison System and Sheriff's Vans," Trans-Action 6:8 (1968).
4. Comment, "Prisoners' Rights: Personal Security," University of Colorado Law Review, 42:305 (1970).
5. Goldfarb, Ronald, and Linda Singer, "Redressing Prisoners' Grievances," George Washington Law Review, 39:186-208 (1970).
6. Hirschkop, Philip J., and Michael A. Milleman, "The Unconstitutionality of Prison Life," Virginia Law Review, 55:795 (1969).
7. Jackson v. Hendrick, 40 Law Week 2710 (Ct. Common Pleas, Pa. 1972) (Total living, health, overcrowding, and program deficiencies render Philadelphia's entire three-facility penal system cruel, inhumane, and unconstitutional.)
8. Jordan v. Fitzharris, 257 F. Supp. 674 (N.D. Cal. 1966) (Strip cell confinement without clothing, bedding, medical care and adequate heat, light, ventilation, or means for keeping clean deemed cruel and unusual punishment.)
9. National Council on Crime and Delinquency, Model Act for the Protection of Rights of Prisoners, New York: NCCD Secs. 2 and 3 (1972).

10. Singer, Richard G., "Bringing the Constitution to Prison: Substantive Due Process and the Eighth Amendment," University of Cincinnati Law Review, 39:650 (1970).
11. Tolbert v. Bragan, 451 F. 2d 1020 (5th Cir. 1971) (Severe physical abuse of prisoners by their keepers without cause or provocation is actionable under Federal Civil Rights Act.)
12. Valvano v. McGrath, 325 F. Supp. 408 (E.D. N.Y. 1971) (Correctional authority ordered to present plan for impartial investigation and prosecution of charges against correctional officers and supervisors regarding the mistreatment of inmates.)

5.7 Objective. By 1977, the Uniform Correction Guidelines should include policies and procedures governing searches of persons under their authority.

Strategies

1. Correctional agencies operating institutions should develop and present to the appropriate judicial authority or the officer charged with providing legal advice to the corrections department for approval, a plan for making regular administrative searches of facilities and persons confined in correctional institutions.
 - a. The plan should provide for:
 - (1) Avoiding undue or unnecessary force, embarrassment, or indignity to the individual.
 - (2) Using nonintensive sensors and other technological advances instead of body searches wherever feasible.
 - (3) Conducting searches no more frequently than reasonably necessary to control contraband in the institution or to recover missing or stolen property.
 - (4) Respecting an inmate's rights in property owned or under his control, as such property is authorized by institutional regulations.
 - (5) Publication of the plan.
2. The policies and procedures should also provide that any employee with probable cause can and should search any inmate and/or part of the institution at any time.
3. Unless specifically authorized by the court as a condition of release, persons supervised by correctional authorities in the community should be subject to the same rules governing searches and seizures that are applicable to the general public.

Commentary

Three situations should be distinguished when discussing searches of persons under correctional supervision:

1. When a person is an inmate of a correctional institution and the proposed search is of the general type, routinely conducted to prevent accumulation of contraband (administrative search).
2. When a person is an inmate and the proposed search relates to a particular crime, incident, or item of contraband (law enforcement search).
3. When a person is under community supervision.

Since the respective interests of the correctional authority and the person to be searched are different in each of these situations, different rules are necessary in each case.

In correctional institutions, the acquisition of contraband by an inmate is power. The limitation of contraband facilitates maintenance of control and safety. Some contraband is inherently dangerous to institutional security. All weapons fall into this category. In other instances, possession of contraband may be a source of power to manipulate other inmates.

Establishing this need, however, does not justify carte blanche searches of inmates and their property. Indeed, since the threat is predictable and ongoing, the correctional authority has ample opportunity to evaluate the security requirements of the institution and plan and implement countermeasures.

In view of the constitutional issues possible involved one of the strategies recommends that the corrections department seek judicial review or consult the officer charged with providing legal advice to the department. At the state level, the officer should be a member of the attorney general's staff. At the local level, the appropriate person would be the district attorney.

There is no doubt that weapons and contraband are a valid interest justifying administrative searches. The recommendation for prior approval of an overall plan for such searches is intended to assure that such searches are "suitably restricted." Too frequent or too intrusive searches are unrelated to contraband; they are more often used as harassment.

Requiring judicial approval of the plan for administrative searches in advance may at first run counter to the general reluctance of courts to give advisory opinions. However, the Camara and See cases support the notion that a warrant for administrative searches may extend over a wide geographic area rather than being confined to a specific site to be searched. Judicial approval of the correctional search plan is analogous to a warrant procedure extending not the geographic area but the time in which the search may take place.

Rapid progress has been made in recent years in the development of sensors and detectors for a variety of law enforcement purposes. Those associated with prevention of "skyjacking" and sale or possession of narcotics are perhaps the most heralded. These various devices generally have not been integrated into institutional security systems, and as a result, correctional authorities continue to rely on physical searches.

In addition to the apparently legitimate bases for many searches, correctional authorities sometimes have other purposes, including harassment. The balance between proper and improper motives, between disruptive searches and less intrusive ones, is unknown. The correctional administrator in the past has exercised unreviewed discretion.

As a condition for approval of the plan, the reviewing authority could require periodic reviews, outside monitoring, and incorporation of advanced technology. It might require further that the search plan include a means for controlling excessive zeal on the part of employees conducting the search.

In drawing up the policies and procedures regarding unscheduled searches for specific law enforcement purposes, care should be taken to safeguard the inmates' constitutional rights.

By all accounts, even in programs with small caseloads, the amount of direct interaction between a correctional worker and probationer, parolee, or participant in another community correctional program is small. The paucity of these contacts eliminates security as a justification for any special search power in the correctional authority. Having few or no contacts with the offender means that searches of a supervised offender in the community are for law enforcement rather than administrative purposes. An entire body of law regulates the conditions under which government may invade an individual's privacy. The strategy suggests that in the case of these offenders, except where periodic searches (in the case of former addicts, for example) are specifically authorized by the court or paroling authority as a condition of release, the correctional authority must comply with the requirements of the fourth amendment regarding searches.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 2.7, Washington, D.C., Government Printing Office (1974).

References

1. Camara v. Municipal Court of the City and County of San Francisco, 387 U.S. 523 (1967).
2. U.S. v. Hill, 447 F. 2d 817 (7th Cir. 1971) (Recognizing propriety of fourth amendment protection for probationer but rejecting application of exclusionary rule).
3. National Sheriffs' Association, Manual on Jail Administration, Washington: NSA, Ch. XV (1970).
4. See v. City of Seattle, 387 U.S. 541 (1967).
5. Singer, Richard G., "Privacy, Autonomy, and Dignity in the Prison: A Preliminary Inquiry Concerning Constitutional Aspects of the Degradation Process in Our Prisons," Buffalo Law Review, 21:669 (1972).
6. U.S. ex rel. Sperling v. Fitzpatrick, 426 F. 2d 1161 (2nd Cir. 1970).

5.8 Objective. The Tennessee Law Enforcement Planning Commission very strongly recommends that by 1977, legislation be enacted to repeal all mandatory provisions depriving offenders of civil rights or other attributes of citizenship after release from correctional custody.

Commentary

Loss of citizenship rights--the right to vote, hold public office, and serve on juries--inhibits reformative efforts. If corrections is to reintegrate an offender into free society, the offender must retain all attributes of citizenship. In addition, his respect for law and the legal system may well depend, in some measure on his ability to participate in that system. Mandatory denials of that participation serve no legitimate public interest.

The restraints on entry into various occupations and eligibility for licenses is far more serious. The ability of the offender to earn a livelihood may well determine his success in rejecting a life of crime. By precluding his participation in the growing number of government regulated occupations, his readjustment is made much more difficult. If changes are not made in regulating statutes, the problem will grow more serious.

In individual cases, there may be some public interest that supports the denial of a particular license to a particular offender. An individual with a long history of armed robberies may legitimately be denied a license to carry a firearm for a specified period of time. But there is little to indicate that an offender convicted of joyriding, a felony in some states, should forever be precluded from owning a gun. A lawyer convicted of embezzling clients' funds may or may not be fit to continue to practice law upon release. With few exceptions, the offender, not the offense, should determine the particular disability imposed.

Present Tennessee law^{1/} prohibits one convicted of a felony (excepting manslaughter) and of an "infamous crime" from holding public office. Present law^{2/} also allows one who has lost "rights" to petition for their restoration in circuit court. The proposed code restates the above law except that it provides for automatic restoration of rights to an offender upon his release from correctional authority.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 2, Washington, D.C., Government Printing Office (1974).

1/ TCA 40-2714 and TCA 8-1801.

2/ TCA 40-3701.

6. GOAL: IMPROVE CONDITIONS OF CONFINEMENT

Introduction

This goal section deals with certain selected procedures for improving the conditions of confinement. Objectives in other goal sections could have been considered in this section as their implementation would indirectly affect conditions of confinement, but are included in the goal section to which they most directly relate. For example, Goal Section 8, "Improve Programs for Rehabilitation and Reentry," includes Objective 7.5. This objective advocates a study of full market wages for offenders working in prison industries, which would directly affect the offenders' reentry into the community, but could also be considered in this section on "Conditions of Confinement."

Aimed specifically at improving physical facility conditions, Objective 1.2 states, "Beginning with the 1977 budget, and each year thereafter, the Commissioner of Correction must apprise the legislature of those local facilities most in need of upgrading to comply with the Minimum Standards for Local Correctional Facilities, the intent being legislative allocations to those priority locations." This objective is a cooperative effort between the state Department of Correction, responsible for jail inspection; the local correction officials (sheriffs), who have a real desire to improve facilities and programs; and the local legislative bodies, who have the same desire for improvement but no funds.

Legislation requires that the Department of Correction conduct annual inspections of each local correction facility for compliance with minimum standards, but gives the department no authority to order or aid improvement. In the middle between the Department of Correction and their own legislative bodies, are the local sheriffs. Of major concern to many sheriffs is the possibility of offender lawsuits stemming from inadequate facilities and/or the condemnation of their facility. In every county, except Davidson, the County Quarterly Court allocates all county funds. The state jail inspector and the sheriff may go before this legislative body, apprise them of the deficiencies and request budget funds to improve the facilities. The County Quarterly Court then faces the dilemma of diverting already insufficient monies from other areas, such as education, water and sewerage programs, etc., to the correction area. The general population of Tennessee is just not concerned with spending tax monies to improve jails, especially if it infringes on funds available for improvement of their school system.

Objective 1.2 would enable the Department of Correction, the local sheriff and the County Quarterly Court to cooperatively seek legislative allocations for improvement of local correctional facilities.

Faced with a priority list of facilities under minimum standard, the specific deficiencies of those facilities and the financial situation of the jurisdiction, it is hoped the General Assembly will consider allocations to assist in upgrading the facilities.

The following objectives are directed toward improving conditions of confinement through programs for special offender types, use of trusts, and community-based prerelease programs.

6.1 Objective. By 1977, commitment of drug addicts should be to mental health facilities for treatment prior to confinement.

6.2 Objective. By 1977, psychotic offenders should be transferred to mental health facilities.

Strategies

1. When drug addicts, emotionally disturbed, or psychotic offenders are committed to correctional institutions, policies should provide for:
 - a. Specially trained and qualified staff to design and supervise drug offender programs,
 - b. Former drug offenders recruited and trained as change agents and identification of the motivations for change, and
 - c. Realistic goals for the reintegration of the offender with a drug problem through the classification process.
2. Institutions should make special provisions, other than segregation, for inmates who have serious behavior problems.
3. Correctional agencies should provide for psychiatric treatment of emotionally disturbed offenders.
4. Correctional institution treatment of the emotionally disturbed should be under the supervision and direction of psychiatrists.
5. Program policies and procedures should be clearly defined.
6. A diagnostic report should be developed, along with a program plan for each offender.
7. All psychiatric programs should have access to a qualified neurologist and essential radiological and laboratory services.
8. Psychiatric programs should provide for education, occupational therapy, recreation and social services.
9. On transfer from diagnostic to treatment status, the diagnostic report, program prescription and all case material should be reviewed within two working days.

Commentary

In recent years penalties for narcotics violators have grown more severe. The result has been a large commitment of offenders with drug problems to penal institutions. In addition, many offenders confined for offenses not related to narcotics are drug users or alcoholics. Emotionally disturbed offenders are also found in most Tennessee institutions for juveniles and adults, but in much fewer numbers than is popularly thought. Each of these special offender groups, drug users, alcoholics and the emotionally disturbed, are committed to correctional rather than mental health institutions because available programs do not have security facilities, with the exception of the Forensic Services Unit of the Central State Psychiatric Hospital. Of the population in state institutions, it is estimated that 35 percent are drug dependent; 20 percent alcoholics and 35 percent emotionally disturbed with some overlapping in each of the groups.

At present, there is a 23 bed psychiatric ward as part of the hospital in the main prison at Nashville supervised by a clinical psychologist. As the psychiatric ward is geared for maximum security, any inmate under maximum security classification in need of medical attention must be bedded in the psychiatric ward, thus reducing space available for inmates in need of the treatment offered by the ward. No other state or local facilities have on-site professional staff; but some do contract with mental health programs in their locality for assistance. When an offender in a state institution is identified as having a special problem, i.e., psychotic, the offender is transferred to the psychiatric ward at the main prison as soon as space is available. He is treated within the limits of the ward in one of four ways: (1) he remains for extensive treatment, (2) is transferred to the Forensic Services Unit of Center State Psychiatric Hospital (which only accepts emergency cases now), (3) is sent to the 25 bed therapeutic community located in the prison hospital or (4) transferred back to the appropriate institution. (The therapeutic community became operative in January 1976 and is designed as a half-way house within the prison to serve men with too many problems to deal effectively with the general prison population, but do not need the treatment programs of the psychiatric ward.)

The Forensic Services Unit of Central State Psychiatric Hospital must provide diagnostic services for all pre-trial defendants so ordered by the courts and are now only taking emergency offenders from the sentenced populations. In April of 1976, they will no longer take emergency cases. In its 1976 budget, the Department of Correction has requested \$2.5 million to set up and staff a 210 bed Psychological Service Unit

in the space to be vacated by the Forensic Services Unit of Central State. The unit will be headed by a clinical psychologist with 98 security and 61 treatment personnel, and will provide treatment for male and female and adult and juvenile offenders with special problems. Approval of this request would at last allow the Department of Correction to plan, implement, operate and evaluate the treatment programs of offenders under their care.

The correctional institutions should persist in efforts to persuade mental health agencies to accept the psychotic offender for care and treatment. The institutional program for the emotionally disturbed should be under the direct supervision of psychiatric personnel, and the usual standards and procedures of that field should be adopted. Associated treatment personnel should be organized into teams and particularly intensive services be provided. Arrangements for the continued treatment of the disturbed offender after his release into the community should be a primary consideration.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 11, Washington, D.C., Government Printing Office (1974).

References

1. American Psychiatric Association, Standards for Psychiatric Facilities Serving Children and Adolescents, Washington: APA (1971).
2. Bratman, Richard, and Alfred Freedman, A Community Mental Health Approach to Drug Addiction, Washington: Government Printing Office (1965).
3. California Youth Authority, The Disturbed and Intractable Ward: A Staff Analysis and Report, Sacramento (1969).
4. Glaser, William, M. D., Reality Therapy, New York: Harper and Row (1965).
5. Classcoti, Raymond, and others. The Treatment of Drug Abuse Programs Problems and Prospects. Washington: Joint Information Service of the American Psychiatric Association and the National Association for Mental Health (1972).
6. Golden, Stephen, Psychiatric Treatment Programs, Sacramento: California Youth Authority (1972).
7. Knight, Doug, The Impact of Living-Unit Size in Youth Training Schools: A Review of Selected Evidence, Sacramento: California Youth Authority (1971).
8. Task Force on Juvenile Delinquency, Missouri Law Enforcement Assistance Council, Proposed High Security Training Schools for Youth in Trouble, Jefferson City: Missouri Law Enforcement Assistance Council (1971).

6.3 Objective. By 1977, all state institutions, jails, workhouses, penal farms and temporary holding and lock-up facilities must adhere to Section 5.057 of the Minimum Standards for Local Correctional Facilities regulating offenders assigned as trusties.

Commentary

The content of this section is self-explanatory and reads as follows:

"Prisoners assigned as trusties should be carefully supervised by a paid employee not only when working outside, but also inside the facility where prisoners are confined. Trusties should not be permitted unrestricted freedom or assume any of the authority or responsibility which properly belongs to a staff member. Inmates with "detainers" or "hold orders" shall not be assigned to trusty status."

6.4 Objective. By 1977, the Uniform Correction Guidelines should include suggestions for offender participation in a wide variety of community-based programs.

Strategies

1. Some areas which should be considered are:
 - a. Prerelease guidance centers.
 - b. Halfway houses.
 - c. Work-release programs.
 - d. Community-based vocational training programs.
 - e. Inmate participation in academic programs in the community.
 - f. Furloughs of short duration to visit relatives. (Furloughs to visit relatives should be of variable length depending on the situation.)
 - g. Furloughs of short duration to contact prospective employers.
 - h. Furloughs of short duration for other reasons consistent with the public interest.
 - i. Authorization for the development of community-based residential centers.
 - j. Authorization to cooperate with and contract for a wide range of community resources.
 - k. A requirement that correctional agencies promulgate rules and regulations specifying conduct that will result in revocation of community-based privileges.

6.5 Objective. By 1977, each correctional agency must adopt policies enabling inmates to maintain community and family ties.

Commentary

The most dramatic development in corrections over the last several years is the extension of correctional programming into the community. Probation and parole have always involved supervision in the community; now institutional programs located in the community provide a gradual diminishment of control leading toward parole and outright release.

Work-release programs that allowed the committed offender to work in the community by day and return to the institution during nonworking hours began in Wisconsin for misdemeanants in 1913. In 1971, Tennessee enacted legislation establishing work-release programs for first and second term inmates.^{1/}

The flexibility of community-based programs is limited only by the availability of community resources and the imagination of correctional administrators. Employment opportunities are only one example. Legislation should authorize correctional agencies to utilize any community resource with reasonable relation to efforts to reintegrate the offender into the community on release.

Present Tennessee law authorizes furloughs only under the following conditions: (1) serious illness or death in an inmate's immediate family, (2) the inmate is on a work-release program and, (3) the inmate has only 90 days until his release.^{2/} Legislation should be expanded to include family visits seeking employment and educational placements, and other reasons consistent with the public interest. Legislation should also eliminate the "90 days until release" stipulation and allow the head of the correctional facility to determine when a furlough would be beneficial to a particular inmate. Since furloughs for family visitation are controversial in some locations, the legislature should specifically authorize such a program.

Contemporary correctional thinking is that offenders will be given gradual responsibility and more freedom until parole or outright release. Thus, each new decrease in control is a test for eventual release. A

1/ TCA 41-1810.

2/ TCA 41-356.

violation of trust at any one stage of the process inevitably will affect the date when the offender will be paroled. Decisions that revoke community-based privileges thus have a substantial impact on an offender's liberty. Procedural safeguards should be required in revocation of community-based privileges.

Sources

1. National Advisory Commission on Criminal Justice Standards and Goals, Corrections, Standard 16.14. Washington, D.C., Government Printing Office (1974).

References

1. TCA 41-1809, 1810, 1816, 356.
2. Carpenter, Lawrence, "The Federal Work Release Program," Nebraska Law Review, 45:690 (1966).
3. Cohen, Fred, The Legal Challenge to Corrections, Washington: Joint Commission on Correctional Manpower and Training (1969).
4. Council on the Diagnosis and Evaluation of Criminal Defendants, Illinois Unified Code of Corrections: Tentative Final Draft, St. Paul: West (1971).
5. Empey, LaMar T. Alternatives to Incarceration, Washington: U.S. Department of Health, Education, and Welfare (1967).
6. Federal Prisoner Rehabilitation Act of 1965, 18 U.S.C. Sec. 4082 (1965).
7. Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency, Washington: U.S. Department of Health, Education, and Welfare (1972).
8. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington: Government Printing Office (1967).

7. GOAL: IMPROVE PROCEDURES AND PROGRAMS FOR REHABILITATION AND REENTRY

Introduction

One function of corrections is to provide the offender with the opportunity and climate for change, and as much motivation as possible so that change can occur. The entire institutional stay should be orientated toward the offender's return to the community and the problems existing there. Efforts to restore and rehabilitate criminal offenders are essential to the reduction of crime. Correctional policies and programs that tend toward an incarceration and surveillance-oriented custody result in insufficient investment of time and resources in rehabilitation. Most custodial facilities fail to equip an offender for successful reentry into society and often criminal tendencies are strengthened.

7.1 Objective. By 1978, each correctional agency must develop policies that give offenders the opportunity to participate in programs designed to bring about positive behavior change. These policies must include work-release programs.

Strategies

The correctional agency should:

1. In planning rehabilitative programs, establish a presumption in favor of community-based programs,
2. Include a mixture of educational, vocational, counseling and other services appropriate to offender needs.
3. Specify a mixture of the following services:
 - a. Comprehensive array of education programs to include: remedial education; high school equivalency; and college.
 - b. Vocational programs.
 - c. Counseling programs to include: education; vocational; employment; psychiatry; and psychology.
 - d. Work programs to include: institutional maintenance and construction; on-the-job training; and work release as an integral part of a viable and practical treatment program.
4. These programs, to be provided individually or in any combination, should be offered the individual client based upon needs identified through a diagnostic evaluation. The correctional authority should draw upon all available resources to implement rehabilitative programs.
5. Advise courts and sentencing judges of the extent and availability of rehabilitative services and programs.
6. The correctional agency should insure that no offender is required or coerced to participate in rehabilitation programs or treatment.
7. If an offender chooses to refuse to involve himself in rehabilitation, then he should be retained within the confines of the institution.

Commentary

The standard recognizes that not every program can be available for every offender. The test to be applied should be whether the offender has access to some programs which are "appropriately related" to his classification.

The standard suggests that courts and sentencing judges be regularly advised of the true extent of rehabilitative services and programs available within their adult and juvenile correctional systems. This requirement is needed for sentencing officials to make proper choices among the sentencing alternatives available to them and to avoid mistaken ideas of what can be provided to sentenced offenders. This important corollary to the availability of rehabilitative services has long been neglected in interaction between courts and correctional systems.

Endorsement of access to treatment does not carry with it the right of correctional authorities to require offenders to participate in rehabilitative programs. Considerations of individual privacy, integrity, dignity, and personality suggest that required programs should not be permitted. In addition, a forced program of any nature is unlikely to produce constructive results. This principle, as applied to juveniles, must be qualified under the parens patriae concept, but nonetheless it would appear to have considerable validity here also.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 2.9, Washington, D.C., Government Printing Office (1974).

References

1. Comment, "A Statutory Right to Treatment for Prisoners: Society's Right of Self-Defense," Nebraska Law Review, 50:543 (1971).
2. Dawson, Robert, "Legal Norms and the Juvenile Correctional Process," in Fred Cohen, The Legal Challenge to Corrections, Washington: Joint Commission on Correctional Manpower and Training (1969).
3. Goldfarb, Ronald, and Linda Singer, "Redressing Prisoners' Grievances," George Washington Law Review, 39:208 (1970).
4. Note, Southern California Law Review, 45:616 (1972).
5. Schwitzegebel, Ralph K., "Limitation on the Coercive Treatment of Offenders," Criminal Law Bulletin 8:267 (1972).

7.2 Objective. By 1977, correctional institutions should develop release programs drawing community leadership, social agencies, and business interests into the criminal justice system.

Strategies

1. Internal programs should be aimed only at that part of the institutional population unable to take advantage of ongoing programs in the community.
2. Local institutions should provide counseling services.
3. Arrangements should be made to encourage offender participation in local civic and social groups.
4. Joint bodies consisting of institutional management, inmates, labor organizations, and industry should be responsible for planning and implementing a work program useful to the offender.
5. The offender should be involved as a member of the work-release program.
6. Program location should give high priority to the proximity of job opportunities.
7. Placement in private industry on work furlough programs could be implemented where job training needs cannot be met within the institution.
8. Work-release should be made available to all persons who do not present a serious threat to others.
9. The offender in a work-release program should be paid at prevailing wages.
10. Job placement programs should be operated at all community correctional centers.
11. When the release program is combined with a local correctional facility, there should be separate access to the work-release residence and activity areas.

Commentary

Work release, educational release, and other forms of program release are based on recognition that institutions cannot replicate community living. The institutional setting offers only an overstructured environment for the custodial control of those representing a threat to others. Full adjustment to community living is served best by transitional programs that gradually decrease the level of supervision. Such programs are variously referred to as work release, day parole, work furlough, daylight parole, prerelease work, and day work.

Experience with these programs has revealed the importance of community acceptance. Accordingly, a significant portion of the planning should convey to the community the program's purpose and the need for active support. Successful work-release programs often have used citizen advisory boards or committees in selecting a work-release location, obtaining financial support, locating jobs, and linking the programs to the rest of the community.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Corrections, Standard 9.9, Washington, D.C., Government Printing Office (1974).

References

1. Case, John D., "Problems of Corrections," in Hearings before Subcommittee No. 3 of the Committee on the Judiciary, House of Representatives, 92nd Cong., 1st Sess., on Corrections. Part I: Corrections Practices, Their Faults and Shortcomings, June 23, 1971.
2. National Sheriffs' Association, Three Papers on Modern Corrections in an Old Jail, Washington: NSA (1971).
3. South Carolina Department of Corrections, An Outline of the Community Prerelease Programs, Columbia (1970).

7.3 Objective. By 1977, counties with populations of 50,000 and over must establish a system of classification to form a basis for residential assignment and program planning for individuals.

Strategies

1. An offender should meet with the classification team to develop a plan for increasing personal responsibility and community contact when he is received at a correctional institution.
2. Behavioral objectives should be established at the initial meeting. After those objectives have been met, another meeting should be held to make adjustments in the individual's plan which will provide for transition to a lower level of custody and increasing personal responsibility and community involvement.
3. At regular time intervals, each inmate's status should be reviewed and further favorable adjustments made (if no strong reasons exist to the contrary).
4. The inmate should move through a series of levels from initial security involving few outside privileges and minimal contact with community participants in institutional programs, to lesser degrees of custody with participation in institutional and community programs, to partial release programs, to residence in a half-way house or similar residence, to residence in the community at the place of his choice with moderate supervision, and finally to release from correctional supervision.
5. When an inmate fails to meet behavioral objectives, the team may decide to keep him in the same status for another period or move him back. The primary emphasis should be on individualization. A guiding principle should be the use of positive reinforcement in bringing about behavioral improvements.
6. Primary emphasis should be on individualization--behavioral changes based on the individual's interests, abilities, and priorities.
7. Offenders should be given opportunities to give of their talents, time and efforts to others, including other inmates and community residents.
8. Implement policies and procedures to improve treatment for female offenders.
 - a. Insure that facilities for women offenders are an integral part of the overall corrections system rather than an isolated activity or the responsibility of an unrelated agency.

- b. Develop comprehensive evaluation of women offenders through research.
- c. Implement appropriate vocational training programs.
- d. Restructure classification systems to provide the information necessary for an adequate treatment program.
- e. Implement diversionary methods for female offenders including arrangements that allow women to keep their families.
- f. Alternatives to imprisonment should be found for women inmates of correctional agencies which are too small to secure adequate facilities and programming.

Commentary

If there is one thing on which the criminal justice world is agreed, it is the difficulty of evaluating "readiness for release." In large part, the difficulty is related to the "either/or" philosophy evident in current practice. Today, some person or group of persons must decide whether an inmate is or is not ready for release. While it is true that mechanisms such as partial release programs, halfway houses, and parole sometimes are used, their use generally is limited to individuals whose release date already has been set.

Given the acknowledged "unnaturalness" of a prison environment, inability to assess release readiness is not surprising. The range for exercise of individual choice and responsibility is limited in today's institutions.

Officials charged with assessing release readiness thus have meager grounds for evaluating an individual's likelihood of responsible behavior in the community. They have tended to be inclined favorably toward offenders who evidence cooperation and a "good attitude." But, given the institutional environment, a "good adjustment" is not necessarily indicative of the behavior to be expected on the outside. The tendency to reward cooperation also may stem more from concern with smooth operations than from belief about its relationship to outside adjustment.

An individual arriving at a correctional institution should meet with a committee or team to develop an individualized progress plan. The plan would incorporate specific behavioral objectives to be met in a specified period of time, preparatory to transition into a new level with different or additional behavioral objectives.

Such a plan might specify that for a certain period of time, the individual would be assigned medium security status, in which he would follow a regular schedule and participate in an educational and training aptitude and interest program. Depending on the individual's preferences, he also might agree to accept responsibility for part of a certain recreational activity, observing inmate advisory council meetings, or other such activities. It should be stressed that each plan might be different from every other plan because each should emphasize those activities and responsibilities the individual felt to be important, interesting, or rewarding. A date would be set for the next such team meeting when a new and less controlling plan would be developed, assuming the basic behavioral objectives were not violated.

At the next meeting, the individual would make program choices such as whether to take educational courses, participate in vocational training, join a group therapy session, begin to participate in an arts and crafts program, etc. Again, he would help determine a daily schedule, but this time with more flexibility built in. He would also have the option to begin participating in institutional-community programs in the institution and certain types of such activities in the community.

At the following meeting, assuming no major problems under the existing plan, further changes would be made. The inmate might progress now to attending an adult education course at a nearby high school to which he would be provided transportation. He also might wish to seek a position on the inmate advisory council or to undertake supervision of an evening recreational period involving community and institution residents. In this phase, his allowable participation in cooperative programs would be greater but he would still be subject to regular supervision.

The next phase might involve full-time attendance at a local school, eligibility for furlough, and continuation of the activities begun in the third phase.

A possible next step would be reassignment to a halfway house or community correctional center, where progression would continue in assuming individual responsibility and choice, until a release to the community with supervision was made, followed by release from all correctional supervision.

The above case is merely illustrative. There would be great variation in the rate and detail of individual plans. In general, however, current rates of progression should be speeded up greatly. There also might be some backward steps when change had been made too quickly and behavior problems resulted. The important point, however, is that a number of transitional phases would be employed instead of the current one or two, greatly separated in time, by which individuals now typically move from confinement status to that of free citizen.

The advantages in terms of protection of community interests are obvious. Many of the random practices of release today would be eliminated, and an offender proved to be responsible would be released. The advantages to the individual involved also would be substantial. It would give him an immediate, realizable goal to work for, and above all, hope and feelings of worthiness as an individual reintegrated into society.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 7.4, Washington, D.C., Government Printing Office (1974).

References

1. Bradley, Hal, Design for Change: A program for Correctional Management Sacramento: Institute for the Study of Crime and Delinquency (1968).
2. Bradley, Harold B., et al., The Nonprison: a New Approach to Treating Youthful Offenders, Sacramento: Institute for the Study of Crime and Delinquency (1970).
3. Institute for the Study of Crime and Delinquency, Model Community Correctional Programs, 3 vols., Sacramento: Institute for the Study of Crime and Delinquency (1969).
4. Titmuss, Richard, The Gift Relationship: From Human Blood to Social Policy, New York: Random House (1970).

7.4 Objective. By 1978, a decisionmaking body should be established to follow and direct the inmate's progress through the correctional system.

Strategies

1. Members should include a parole and probation supervisor, the administrator of the correctional facility or his immediate subordinates, professionals whose services are purchased by the institution, representatives of community organizations running programs in the institution or with its residents, and inmates. This body should serve as a central information-gathering point.
2. It should discuss with an individual inmate all major decisions pertaining to him.

Commentary

To match individuals with the most appropriate programming and to monitor progress, a central decisionmaking group is required. Such a group is in operation in the State of Vermont's community correctional centers, and has been described in this way.

"A classification team at each center develops an individual plan for every sentenced person. This team is made up of the center superintendent, a parole supervisor, and representatives of other public or private agencies in the area, such as mental health, vocational rehabilitation, alcoholic rehabilitation, and employment security.

In coordination with the superintendent and officers at the center, the probation-parole officer who later will be responsible for street supervision if the inmate is released on parole, implements the plan outlined by the classification team. He reports any difficulties or special problems and suggests necessary changes in the treatment plan to the classification team."

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction Standard 9.8, Washington, D.C., Government Printing Office (1974).

References

1. Hawaii State Law Enforcement and Juvenile Delinquency Planning Agency, Correctional Master Plan, Honolulu (1972).
2. Institute for the Study of Crime and Delinquency, Design for Change: A Program for Correctional Management: Final Report--Model Treatment Program, Sacramento: ISCD (1968).
3. Maryland Community Correctional Center, Architectural Program for the County Model, Baltimore (1972).
4. Moyer, Frederic D., et al., Guidelines for the Planning and Design of Regional and Community Correctional Centers for Adults, Urbana: University of Illinois Department of Architecture (1971).
5. Vermont Department of Corrections, Biennial Report for the Two Years Ending June 30, 1970, Montpelier: pp. 15-16 (1970).

7.5 Objective. By 1977, research should be conducted as to the possibility and feasibility of broadening the operation of prison industries. Research of the following two subobjectives should be conducted simultaneously.

Subobjective 1. Sale of products of prison industries on the open market.

Subobjective 2. Payment of full market wages to offenders working in prison industries, they in turn, paying for their daily upkeep.

Commentary

Work in prisons serves a variety of purposes that often are in conflict with each other. Its functions have been to punish and keep the committed offender busy, to promote discipline, to maintain the institution, to defray some operating costs of the prison, and to provide training and wages for the offender. To accomplish any one function, it has been necessary to sacrifice one or more of the others. Unfortunately, the job training function has not had the highest priority.

Until 30 years ago American prisons were busy places. In the late 1920's and early 1930's federal and state laws were passed to eliminate alleged unfair competition arising from the sale of prison-made goods. The prisons have not recovered from this blow. The result has been that only a few offenders in institutions have productive work, while the others are idle or engaged in trying to look busy at routine housekeeping tasks.

The most prevalent system of prison industries today is state use. Under this system, the use or sale of prison-made products is limited to public agencies. This system is designed to avoid direct competition with free enterprise and labor.

Recent developments indicate that organized labor and other business interests may no longer be concerned about prison products competing in the free market. There is evidence that free labor and industry are willing to become involved in planning, updating, and evaluating prison industry programs as well as cooperating in work release, job training, and job placement. Such cooperation should be pursued actively.

Prison industrial and employment programs should be reorganized to provide skills and work experience related to the kind of work offenders will do after they are released. This involves upgrading the training

involved in these programs and modernizing the machinery. Institutional industries should undertake the manufacture of products that are also manufactured on the outside by companies that might be expected to hire offenders when they are released. Such companies may be persuaded to establish factory branches at institutions and thus provide a continuum of employment from institution to free community.

Eventually, inmates performing work of economic benefit to the state or to another public or private entity should be compensated at prevailing wages for the same work in the area surrounding the institution. The ability of correctional agencies to implement this objective will depend on the development of more efficient institutional industries, better training for inmates, more skilled supervision, and motivational techniques. Achievement of this goal might be accompanied by the establishment of an obligation on the part of the inmate to reimburse the state for a reasonable share of its cost in maintaining him. Research on prison industry should be broad enough to encompass the implementation of a restitution plan.

Sources

1. National Advisory Commission Criminal Justice Standards and Goals, Correction, Chapter 11, Washington, D.C., Government Printing Office (1974).

References

1. TCA Title 41, Chapter 4.
2. Bridges, Kirke E., "Prison Labor and Industries," unpublished paper, Sam Houston State University, Texas (1970).
3. Caldwell, Robert G., Criminology, New York: Ronald Press (1956).
4. Gillin, John Lewis, Criminology and Penology, New York: Century (1926).
5. Jones, Howard, Crime and the Penal System, London: University Tutorial Press (1962).
6. Lopez-Rey, Manuel, "Some Considerations on the Character and Organization of Prison Labour," Journal of Criminal Law, Criminology, and Police Science (1958).
7. Means, Ernest E., Prison Industries and Rehabilitation Programs, Tallahassee: Florida Division of Corrections (1959).
8. Robinson, Louis N., Should Prisoners Work? Philadelphia: Winston (1931).
9. Sutherland, Edwin H., and Donald R. Cressey, Principles of Criminology, 6th ed., New York: Lippincott (1960).
10. United Nations, Prison Labour, New York: United Nations (1955).

8. GOAL: IMPROVE THE PROBATION SYSTEM

Introduction

Extensive use of institutions has been giving way to expanded use of community-based programs during the past decade. This is true not only in corrections, but also in services for the mentally ill, the aging, and dependent and neglected children.

The movement away from institutionalization has occurred not only because institutions are very costly, but also because they have debilitating effects on inmates, who have great difficulty in reintegrating themselves into the community. Therefore, it is essential that alternatives to institutionalization be expanded in use and enhanced in resources. The most promising process by which this can be accomplished in corrections--probation--is now being used more as a disposition. Even greater use can be projected for the future.

Broad use of probation does not necessarily increase risk to the community. Results of probation are as good, if not better, than those of incarceration. With increased concern about crime, reduction of recidivism, and allocation of limited tax dollars, more attention should be given to probation, as a system and as a sentencing disposition.

Although probation is viewed as the brightest hope for corrections, its full potential cannot be reached unless consideration is given to the development of a system that enables offenders to receive the support and services they need, so that ultimately they can live independently in a socially acceptable way.

Currently, probation has failed to realize this. Probation is not adequately structured, financed, staffed, or equipped with necessary resources. A major shift of money and manpower to community-based corrections is necessary if probation is to be adopted as a preferred disposition. The shift will require strengthening the position of probation in the framework of government, defining goals and objectives for the probation system, and developing an organization that can meet the goals and objectives.

CONTINUED

1 OF 2

8.1 Objective. By 1977, the Uniform Correction Guidelines should include the planning and development of a goal-oriented probation service delivery system.

Strategies

1. A goal-oriented probation service delivery system should include:
 - a. Establishing statewide goals, policies and priorities for probation.
 - b. Program planning and development of innovative probation service strategies.
 - c. Staff development and training.
 - d. Planning for manpower needs and recruitment.
 - e. Collecting statistics, evaluation and research.
 - f. Consultation service to courts, legislative bodies and local executives.
 - g. Coordinating the activities of separate systems for delivery of services to the courts and to probationers until separate staffs to perform services to the courts are established within the court system.
 - h. Developing a goal-oriented service delivery system that seeks to remove or reduce barriers confronting probationers. The staff delivery services to probationers in urban areas should be separate and distinct from the staff delivery services to the courts. A wide range of services should be offered probationers, and the primary function of the probation office should be that of community resource manager for probationers.
2. Manpower and resources should be available to assure that courts may use probation for persons convicted of misdemeanors.
3. There should be more communication and more involvement between the probation officers and the community mental health centers.
4. Corrections should regularly review caseloads with a view toward adjusting boundaries of the area officers cover with sufficient frequency to keep the caseloads more nearly comparable.

Commentary

A goal-oriented probation services system should be directed toward removing or reducing individual and social barriers that result in recidivism among probationers. To achieve this goal, the probation system should provide a range of services directly and obtain others from existing social institutions or resources. The goal should be to help persons move from supervised care in their own communities to independent living.

The probation system must help create a climate that will enable the probationer to move successfully through transitions from one status to another. The first is from the status of an individual charged with committing an offense to that of a probationer living in the community but not completely independent. The final transition occurs when probation is terminated and the probationer moves from supervised care to an independent life. The goal should be to maintain in the community all persons who, with support, can perform there acceptably and to select for some type of confinement only those who, on the basis of evidence, cannot complete probationer status successfully, even with optimal support.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 10.2, Washington, D.C., Government Printing Office (1974).

References

1. American Bar Association Project on Standards for Criminal Justice, Standards Relating to Probation, New York: Institute of Judicial Administration (1970).
2. Bloodorn, Jack C., Elizabeth B. Maclatchie, William Friedlander, and J. M. Wedemeyer, Designing Social Service Systems, Chicago: American Public Welfare Association (1970).
3. Litwak, Eugene, and Jack Rothman, "Impact of Factors of Organizational Climate and Structure on Social Welfare and Rehabilitation Workers and Work Performance," in Working Papers No. 1: National Study of Social Welfare and Rehabilitation Workers, Work and Organizational Contexts, Washington: Government Printing Office (1971).
4. Olmstead, Joseph, "Organizational Factors in the Performance of Social Welfare and Rehabilitation Workers," in Working Papers No. 1: National Study of Social Welfare and Rehabilitation Workers, Work and Organizational Contexts, Washington: Government Printing Office (1971).
5. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington: Government Printing Office (1967).
6. Studt, Elliot, The Reentry of the Offender into the Community, Washington: Government Printing Office (1967).

8.2 Objective. By 1977, a study should be conducted to determine the feasibility of placing the probation system in the executive branch of the state government.

8.3 Objective. By 1977, if the study determines the probation system should be placed in the executive branch of state government, it must be placed under the control of the Department of Correction.

Strategies

The study should consider:

1. Establishing statewide goals, policies, and priorities that can be translated into measurable objectives by those delivering services.
2. Program planning and development of innovative service strategies.
3. Staff development and training.
4. Planning for manpower needs and recruitment.
5. Collecting statistics, monitoring services, and conducting research and evaluation.
6. Offering consultation to courts, legislative bodies, and local executives.
7. Coordinating the activities of separate systems for delivery of services to the courts and to probationers until separate staffs to perform services to the courts are established within the courts system.
8. If the study indicates that the probation system be placed under direct state operation, further research should be directed toward giving the Department of Correction authority to supervise local probation and to operate regional units in rural areas during the period of transition from local to state operation.

In addition, the study should also consider giving the Department of Correction (during the period of transition) responsibility for:

9. Establishing standards relating to personnel, services to courts, services to probationers, and records to be maintained, including format of reports to courts, statistics, and fiscal controls.
10. Consultation to local probation agencies, including evaluation of services with recommendations for improvement; assisting local systems to develop uniform record and statistical reporting procedures conforming to state standards; and aiding in local staff development efforts.

11. Assistance in evaluating the number and types of staff needed in each jurisdiction.
12. Financial assistance through reimbursement or subsidy to those probation agencies meeting standards.

Commentary

The position of probation in the government framework varies. A long-standing debate as to the most appropriate placement of probation continues. The controversy centers on two main issues: whether probation should be a part of the judicial or executive branch of government and whether it should be administered by state or local units.

Those who support placement of probation in the judicial branch contend that:

1. Probation would be more responsive to the courts.
2. Relationship of probation staff to the courts creates an automatic feedback mechanism on the effectiveness of dispositions.
3. Courts will have greater awareness of resources needed.
4. Courts might allow their own staff more discretion than they would allow to members of an outside agency.
5. If probation were incorporated into a department of corrections, it might be assigned a lower priority than it would have as part of the

On the other hand, placement of probation in the judiciary has certain disadvantages:

1. Judges are not equipped to administer probation.
2. Services to probationers may receive lower priority than services to the courts.
3. Probation staff may be assigned duties unrelated to probation.
4. Courts are adjudicatory and regulative rather than service-oriented bodies.

Placement in the executive branch has these features to recommend it:

1. Allied human service agencies are located within the executive branch.
2. All other corrections subsystems are located in the executive branch.
3. More coordinated and effective program budgeting as well as increased ability to negotiate fully in the resource allocation process becomes possible.
4. A coordinated continuum of services to offenders and better utilization of probation manpower are facilitated.

When compared, these arguments tend to support placing probation in the executive branch. The potential for increased coordination in planning, better utilization of manpower and improved services to offenders cannot be dismissed.

A state-administered probation system has decided advantages over local administration. A total system planning approach to probation as a subsystem of corrections is needed. Such planning requires state leadership. Furthermore, implementation of planning strategies requires uniformity of standards, reporting, and evaluation as well as resource allocation.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 10.1, Washington, D.C., Government Printing Office (1974).

References

1. American Bar Association Project on Standards for Criminal Justice, Standards Relating to Probation, New York: Institute of Judicial Administration (1970).
2. American Correctional Association, Manual of Correctional Standards, 3d ed., Washington: ACA (1966).
3. National Council on Crime and Delinquency, Model Act for State Correctional Services, New York: NCCD (1966).
4. Nelson, Elmer K., Jr., and Catherine H. Lovell, Developing Correctional Administrators, Washington: Joint Commission on Correctional Manpower and Training (1969).

5. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington: Government Printing Office (1967).
6. Smith, Robert L., A Quiet Revolution--Probation Subsidy, Washington: U.S. Department of Health, Education, and Welfare (1972).

8.4 Objective. The Tennessee Law Enforcement Planning Commission very strongly recommends that by 1977, legislation be enacted granting the sentencing court the authority to discharge a person from probation, after a hearing, at any time.

Commentary

Probation is a sentence in itself. In the past, in most jurisdictions, probation was imposed only after the court suspended the execution or imposition of sentence to confinement. It was an act of leniency moderating the harshness of confinement. It should now be recognized as a major sentencing alternative in its own right. It should be governed by the maximum terms established by the criminal code. If the offense in question provides for a 5-year maximum for confinement, the same maximum should be applicable to probation.

As sentences of confinement can be terminated through the parole system, the court similarly should be authorized to discharge the offender from probation at any time when, after a hearing the court determines the supervision of the probation officer is no longer necessary.

Present Tennessee code^{1/} gives the trial judge authority to terminate the balance of the suspended sentence at any time not less than the minimum set forth in the statute providing punishment for the offense.

Source

1. American Bar Association Project on Standards for Criminal Justice, Standards Relating to Probation, Standard 4.2, New York: Office of the Criminal Justice Project (1970).

References

1. American Law Institute, Model Penal Code: Proposed Official Draft, Philadelphia: ALI (1962).
2. Legislative Guide for Drafting Family and Juvenile Court Acts, Washington: U.S. Department of Health, Education, and Welfare (1969).
3. Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency, Washington: U.S. Department of Health, Education, and Welfare (1972).
4. Nebraska Probation Administration Act, Neb. Rev. Stat. Sec. 29-2246 (Supp. 1971).
5. Note, Columbia Law Review, 67:181 (1967).

1/ TGA 40-2901.

9. GOAL: IMPROVE THE PAROLE SYSTEM

Commentary

Release procedures and policies are controversial issues within the criminal justice system. Releasing offenders prematurely may seriously jeopardize the safety of the community; yet to confine prisoners longer than necessary is costly and destructive. Release procedures need to be analyzed to determine the most appropriate ones and to develop standards governing such procedures.

Parole is the preferred method of release for the vast majority of prisoners. Professionals agree that most offenders require some form of supervision following release. Parole is designed to protect the public as it permits the offender a graduated return to the community. It also monitors offender behavior and provides assistance and guidance in the difficult reintegration process. The American Correctional Association has stated:

"Any parole system which does not include a process of careful selection of those to be released at the optimum time for their release, in addition to the necessary degree of supervision after release, is not a sound parole system."^{1/}

^{1/} American Correctional Association, Manual of Correctional Standards, Maryland, American Correctional Association (1972).

9.1 Objective. By 1978, the parole system should develop goal-oriented service delivery systems.

Strategies

1. Parole boards should have jurisdiction and be responsible for:
 - a. Articulating and fixing policy.
 - b. Acting on appeals from decisions of hearing examiners.
 - c. Issuing and signing warrants to arrest and hold alleged parole violators.
2. Boards should establish clearly defined procedures for policy development, hearings and appeals.
3. Hearing examiners may be empowered to hear and make initial decisions in parole grant and revocation cases.
4. The parole board should develop policies for parole release hearings that have the following characteristics:
 - a. Hearings with inmates should be scheduled within 1 year after they are received in an institution. (Inmates should be present.)
 - b. Decisions should be directed toward the quality and pertinence of program objectives agreed upon by the inmate and institution staff.
 - c. Board representatives should monitor and approve programs that can have the effect of releasing the inmate without further board hearings.
 - d. Offenders should be released on parole when first eligible unless certain specific conditions exist. (This should be required by legislation.)
 - e. When a release date is not agreed upon, a further hearing date within 1 year should be set.
 - f. A parole board member or hearing examiner should hold no more than 20 hearings in any full day.
 - g. One examiner (or member) should conduct hearings, and his findings should be final unless appealed to the full parole board within 5 days.

- h. Inmates should be notified of any decision directly and personally before the board member leaves the institution.
 - i. The person hearing the case should specify in detail and in writing the reasons for his decision.
 - j. Parole procedures should permit disclosures of information on which the hearing examiner bases his decisions.
 - k. Parole procedures should permit representation of offenders under appropriate conditions.
5. Parole boards should establish in each case the specific parole conditions appropriate for the individual offender.
 6. Parole rules should be reduced to the absolute minimum, retaining only those critical to the specific case.
 7. Parole staff should be able to request the board to amend the rules to fit the needs of each case and be empowered to require the parolee to obey any such rule when put in writing, pending final action of the parole board.
 8. Department of Correction should develop a diverse range of programs to meet the needs of parolees.
 9. Stringent review procedures should be adopted, so that parolees not requiring supervision are released from supervision immediately and those requiring minimal attention are placed in minimum supervision caseloads.
 10. Parole officers should be selected and trained to fulfill the role of community resource manager.
 11. Parole staff should participate fully in developing coordinated delivery systems of human services.
 12. Funds should be made available for parolees without interest charge. Parole staff should have authority to waive repayment to fit the individual case.
 13. Parole and state employment staffs should develop effective communication systems at the local level. Joint meetings and training sessions should be undertaken.
 14. Each parole agency should have one or more persons to act as liaison with major program agencies, such as the Office of Economic Opportunity, Office of Vocational Rehabilitation, and Department of Labor.

15. Institutional vocational training tied directly to specific subsequent job placements should be supported.
16. Parole boards should encourage institutions to maintain effective quality control over programs.
17. Small community-based group homes should be available to parole staff for prerelease programs, for crises, and as a substitute to recommitment to an institution in appropriately reviewed cases of parole violation.
18. Special caseloads should be established for offenders with specific type of problems, such as drug abuse.
19. Parole services should be delivered, wherever practical, under a team system. (Teams should be located in neighborhoods where parolees reside.)
20. Organizational and administrative practices should be altered to provide greatly increased autonomy and decisionmaking power to parole teams.
21. Parole and probation officers should develop close liaison with police agencies so that any formal arrests necessary can be made by police. Parole officers, therefore, would not need to be armed.
22. Parole jurisdictions should develop and implement a system of revocation procedures to:
 - a. Permit prompt confinement of parolees exhibiting behavior that poses a serious threat to others;
 - b. Provide careful controls, methods of fact-finding and possible alternatives to keep as many offenders as possible in the community.
23. Return to the institution should be used as a last resort.
24. Warrants to arrest and hold alleged parole violators should be issued and signed by parole board members.

9.2 Objective. By 1978, a study should be conducted to determine the feasibility of developing citizen committees (to include ex-offenders) to advise on policy development.

9.3 Objective. By 1977, parole officers must begin work with parolees during the furlough phase and prior to release, to facilitate easier transition and adjustment.

9.4 Objective. By 1977, funds should be made available to parole staffs to purchase needed community resources for parolees.

Commentary

The parole authority is organizationally situated in the Department of Correction but possesses independent powers. This arrangement is desirable in that paroling authorities need to be aware of and involved with all aspects of correctional programs.

The existence of antiquated criteria by which decisions are made constitutes a major failing in the parole system. The sound use of discretion and the ultimate accountability for its exercise rest largely in making visible the criteria used in forming judgments. Parole boards must free themselves from total concern with case-by-case decisionmaking and attend to articulation of the actual policies that govern the decisionmaking process.

In addition to the pressure for clearly articulated policies, there is also demand for mechanisms by which parole decisions can be appealed. It is important for parole systems to develop self-regulation systems, including internal appeal procedures.

Case-by-case decisionmaking should be done by hearing examiners responsible to the board who are familiar with its policies and knowledgeable about correctional programs. Hearing examiners should have statutory power to grant, deny, or revoke parole, subject to parole board rules and policies. Appeals by the correctional authority or inmates on the decisions of hearing examiners should be decided by the parole board on the basis of the written report of the hearing examiner. The grounds for review would be whether or not there is substantial evidence in the report to support the finding or whether the decision was erroneous as a matter of law.

An important component of the parole decisionmaking function is the involvement of community representatives. Policy development offers a particularly suitable opportunity for such citizen participation. It is likely to improve the quality of policies and almost certainly will improve the probability of their implementation.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapter 12, Washington, D.C., Government Printing Office (1974).

References

1. TCA 40-3601, 3612, 3614, 3615, 3617, 3618.
2. U.S. Department of Justice, Attorney General's Survey of Release Procedures, Vol. IV, Washington: Government Printing Office (1939).
3. California State Assembly, Select Committee on the Administration of Justice, Parole Board Reform in California: Order Out of Chaos, Sacramento (1970).
4. Comment, "The Parole System," Pennsylvania Law Review, 120:282 (1971).
5. Davis, Kenneth Gulp, Discretionary Justice, Baton Rouge: Louisiana State University Press (1969).
6. Gottfredson, Don, and Kelley Ballard, "Difference in Parole Decisions Associated with Decisionmakers," Journal of Research in Crime and Delinquency, 3:112 (1966).
7. Joint Commission on Correctional Manpower and Training, Perspectives on Correctional Manpower and Training, Washington: JCCMT (1970).
8. National Council on Crime and Delinquency, Standard Act for State Correctional Services, New York: NCCD (1966).
9. National Parole Institutes, The Organization of Parole Systems, 2d ed., New York: National Council on Crime and Delinquency. (in press)
10. Zwerdling, Joseph, "The Role and Functions of Federal Hearing Examiners," Annals of the American Academy of Political and Social Science, 400:27 (1972).
11. Day, Bob, Sam Gillespie, and Al Pearson, Discretion in Sentencing and Parole Board Decisions in Tennessee: 1960-1969, Nashville: Vanderbilt University, School of Law (1972).

10. GOAL: IMPROVE ADMINISTRATIVE STRUCTURE AND EFFECTIVENESS OF CORRECTION SYSTEM

Introduction

This goal is divided into two parts. The first part addresses the general administrative structure of corrections, covering enactment of comprehensive correctional codes, action on the part of the Department of Correction in establishing a citizen involvement division of the department, and programs for participatory management.

The second deals with the personnel of corrections, covering standards for recruitment, selection, and education of all personnel, establishment of a formal salary structure, and specific standards for training.

General Administrative Structure

10.1 Objective. The Tennessee Law Enforcement Planning Commission strongly recommends that by 1980, the General Assembly enact comprehensive correctional codes governing institutional and community-based programs.

Commentary

Correctional legislation has one essential task--allocation and regulation of governmental power. In the context of criminal corrections the power to be allocated and regulated is substantial. An individual who violates criminal law subjects himself to possible deprivation of those attributes of citizenship that characterize free societies. Allocation and regulation of correctional power is a sensitive undertaking for a legislature in a free society. The potential for abuse of that power is apparent and real; the potential for effective and constructive reform of criminal offenders is less clear.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction Standard 16.1, Washington, D.C., Government Printing Office, 1973.

References

1. American Correctional Association, Manual of Correctional Standards, 3d ed. Washington: ACA, Chapter 1 (1966).
2. American Law Institute, Model Penal Code: Proposed Official Draft, Philadelphia: ALI (1962).
3. Council on the Diagnosis and Evaluation of Criminal Defendants, Illinois Unified Code of Corrections: Tentative Final Draft, St. Paul: West (1971).
4. Federal Bail Reform Act of 1966, 18 U.S.C. Sec. 3146.
5. Legislative Guide for Drafting Family and Juvenile Court Acts, Washington: U.S. Department of Health, Education, and Welfare (1969).
6. Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency, Washington: U.S. Department of Health, Education, and Welfare, (1972).
7. Morris, Norval, "Lessons From the Adult Correctional System of Sweden," Federal Probation, 30:3 (1966).

8. National Conference of Commissioners of Uniform State Laws, "Uniform Juvenile Court Act," in Handbook, Chicago: NCCUSL, Sec. 1 (1968).
9. National Council on Crime and Delinquency, Model Sentencing Act, New York: NCCD (1963).
10. National Council on Crime and Delinquency, Standards and Guides For the Dentention of Children and Youth, New York: NCCD (1965).
11. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections, Washington: Government Printing Office (1967).

10.2 Objective. By 1978, the Tennessee Department of Correction should establish an administrative unit responsible for securing citizen involvement, including advisory and service roles.

Strategies

1. The unit should be a multipurpose public information and education unit. It should inform the general public on correctional issues and organize support for and overcome resistance to general reform efforts and specific community-based projects.
2. The unit should develop and make public, a written policy on the selection process, term of service, tasks, responsibilities, and authority for any advisory or policymaking body.
3. The unit should coordinate the planning of community-based programs with the institutions and the community.

10.3 Objective. By 1983, the administrative unit responsible for securing citizen involvement should study the feasibility of recruiting and training volunteers to assist in the correctional agencies.

Strategies

1. The study should consider recruiting volunteers from minority groups, the poor, inner-city residents, ex-offenders who can serve as success models, and professionals who can bring special expertise to correctional programs.
2. The study should consider the use of a paid coordinator of volunteers in each program using volunteer help.

Commentary

The degree to which the public understands, accepts, and participates in correctional programs will determine to a large extent not only how soon, but how successfully, corrections can operate in the community and how well institutions can prepare the inmate for return to it.

Public participation is widespread in both institutional programs and community-based programs. The National Information Center on Volunteers in Courts, operating in Boulder, Colorado, estimates that citizen volunteers outnumber professionals by four or five to one. According to the Center, about 70 percent of correctional agencies which deal with felons have some sort of volunteer program to aid them. Volunteer work with the misdemeanor is even more widespread.

Some volunteers supplement professional activities, as in teaching, while others play roles unique to volunteers in friendship situations, such as big brothers to delinquent youngsters. Other citizens serve as fundraisers or organizers of needed services, goods, and facilities.

In recent years institution doors have been opened to volunteer groups, including Alcoholics Anonymous and other self-help groups, ethnic organizations, and churches. Such programs have the double effect of involving citizens in the correctional system and providing services that inmates need.

Although corrections has succeeded in bringing citizen participants into many institutions, it has often met resistance when it has tried to set up residential facilities in communities. Opinion surveys have shown that people who register general approval of halfway houses, drug treatment centers, and similar facilities, are often alarmed at the thought of such a facility in their own neighborhood fearing it would jeopardize public safety or depreciate property values.

Work-release programs should involve advice from employer and labor groups. Offenders should be able to participate in community educational programs and, conversely, community members with special interest in educational or other programs at the institution should be able to participate in them. The institution should cultivate active participation of civic groups and encourage the groups to invite offenders to become members.

For such activity to become widespread, there will have to be a general change in the attitude of corrections itself. The correctional system is one of the few public services today that is isolated from the public it serves. Public apathy toward improving the system is due in part to the tendency of corrections to keep the public out--literally by walls, figuratively by failure to explain its objectives. If corrections is to receive the public support it needs, it will have to take the initiative in securing it. This cannot be achieved by keeping the public ignorant about the state of corrections and thus preventing it from developing a sense of responsibility for the correctional process.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction Chapter 7, Washington, D.C., Government Printing Office (1973).

References

1. Biderman, Albert, et al., Report on a Pilot Study in the District of Columbia on Victimization and Attitudes Towards Law Enforcement, prepared for the President's Commission on Law Enforcement and Administration of Justice, Washington: Government Printing Office (1967).
2. Chamber of Commerce of the United States, Marshaling Citizen Power Against Crime, Washington: CCUS (1970). (This handbook, aimed at the intelligent civic leader, devotes one chapter to corrections and is a reasoned and informed document.)
3. Chamber of Commerce of the United States, Marshaling Citizen Power to Modernize Corrections, Washington: CCUS (1972).
4. Luger, Milton, "Utilizing the Ex-Offender as a Staff Member: Community Attitudes and Acceptance," in Offenders as a Correctional Manpower Resource, Washington: Joint Commission on Correctional Manpower and Training (1968).
5. McIntyre, Jennie, "Public Attitudes Towards Law and Law Enforcement," Annals of the American Academy of Political and Social Science, 374: 34-46 (1967).
6. Morrison, June, A Survey: The Use of Volunteers in Juvenile Courts in the United States, Tucson: University of Arizona (1971).
7. Scheier, Ivan, et al., Guidelines and Standards for the Use of Volunteers in Correctional Programs, Washington: Law Enforcement Assistance Administration (1972). (The volume contains extensive and detailed descriptions of projects across the nation, as well as sources and addressed for further information.)
8. Youth Development and Delinquency Prevention Administration, Volunteers Help Youth, Washington: U.S. Department of Health, Education, and Welfare (1971).

10.4 Objective. By 1977, a study should be conducted on the feasibility of adopting programs of participatory management in which managers, staff and offenders share.

Strategies

1. The program should include:
 - a. Training and development sessions for new roles in organizational development;
 - b. An ongoing evaluation process;
 - c. A procedure for the participation of other elements of the criminal justice system in planning for each component part of the system; and
 - d. A change of manpower utilization in keeping with new management and professional concepts.
2. In utilizing participatory management in corrections, input should be sought from both staff and inmates. The final decision should remain with those who, by law or policy, are held accountable for whatever decisions are made and whatever actions are taken.

Commentary

The aim of participatory management is to give all persons in the organization a stake in its direction, operation, and outcome. This concept is gaining support in practice. First, all those affected by the organization (prison, community-based facility, training school) join in training and development sessions to prepare for involvement in the system. Mutual problems are identified, and plans are made to resolve the problems and set goals and objectives. All roles are redefined to accomplish the newly stated organizational goals. Responsibility for role fulfillment is fixed, and results are measured over a period of time.

Participatory management can best be defined operationally by describing its specific objectives:

1. To create an open, problem-solving climate throughout an organization.
2. To supplement the authority associated with role or status with the authority or knowledge of competence.

3. To locate decisionmaking and problem-solving responsibilities as close to information sources as possible.

4. To build trust among individuals and groups within the organization.

5. To maximize collaborative efforts.

6. To increase the level of personal enthusiasm and satisfaction in the organization.

7. To increase the level of individual and group responsibility in planning and implementation.

8. To increase self-control and self-direction for persons within the organization.

9. To increase the incidence of confrontation of organizational problems, both within and among groups, in contrast to "sweeping problems under the rug."

In short, participatory management is a planned effort to change an obstructing organization into one in which individuals may pursue their own and the organization's needs and objectives simultaneously.

When such a process is set in motion in a correctional facility, some immediate results may include elected inmate councils, diminished cleavage between custody and treatment staff, inmate-operated community facilities, and new roles for line staff.

One large-scale experiment with participatory management has been conducted at the Women's Treatment Center in Purdy, Washington. The results are encouraging.

1. Managers find their jobs shifting to a coordinating and facilitating function.

2. Line staff undergo role shifts. They find less need for emphasis on custody and greater need for counseling skills and inclusion in self-help programs.

3. Professional staff are freed to work directly with inmates having special needs or to provide assistance to staff and inmates in their new roles.

4. Inmates develop self-government, self-help programs, and roles as aides and community liaison.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 14.7, Washington, D.C., Government Printing Office (1974).

References

1. Advisory Committee on Intergovernmental Relations, Correctional Reform, Washington: Government Printing Office (1971).
2. Center for Organization Studies, NTL Institute for Applied Behavioral Science, Bethesda, Md., publications since 1965.
3. Committee on Alternatives to Incarceration, Alternatives to Incarceration for Adult Offenders, Washington: CAI (1971).
4. Franch, Wendell, "Organization Development: Objectives, Assumptions, and Strategies," California Management Review, 12:39 (1969).
5. Gellerman, Saul W., Management by Motivation, New York: American Management Association, 1968.
6. Gerstl, Theodore, From Do Your Own Time to Let's Get it Together, Olympia: Washington Department of Institutions (1971).
7. Herzberg, Frederick, Work and the Nature of Man, Cleveland: World (1966).
8. Joint Commission on Correctional Manpower and Training, A Time to Act, Washington: JCCMT (1969).
9. Nelson, Elmer K., and Catherine H. Lovell, Developing Correctional Administrators. Washington: Joint Commission on Correctional Manpower and Training (1969).
10. Norman, Sherwood, The Youth Service Bureau: A Key to Delinquency Prevention. New York: National Council on Crime and Delinquency (1972).
11. Struggle for Justice: A Report on Crime and Punishment in America. Prepared for the American Friends Service Committee. New York: Hill and Wang (1971).

Corrections Personnel

10.5 Objective. By 1977, the Uniform Correction Guidelines should include systemwide standards for recruitment and selection of personnel.

Strategies

The Guidelines should:

1. Eliminate all political patronage for staff selection.
2. Eliminate such personnel practices as:
 - a. Unreasonable age or sex restrictions.
 - b. Unreasonable physical restrictions (e.g., height, weight).
 - c. Barriers to hiring physically handicapped.
 - d. Questionable personality tests.
 - e. Legal or administrative barriers to hiring ex-offenders.
 - f. Unnecessarily long requirements for experience in correctional work.
 - g. Residency requirements.
3. Provide for an open system of selection in which any testing device used is related to a specific job and is a practical test of a person's ability to perform that job.
4. Require a task analysis of each correctional position (to be updated periodically) to determine those tasks, skills, and qualities needed. Testing based solely on these relevant features should be designed to assure that proper qualifications are considered for each position.
5. Eliminate discrimination in the employment of personnel.
 - a. Correctional agencies should recruit actively from minority groups, women, young persons. However, there should not be any changes in requirements made for the sole purpose of increasing minority hiring.
 - b. Where the general population does not reflect the ethnic and cultural diversity of the correctional population, there should be a community relations effort designed to make the

community more hospitable and attractive to potential minority recruits. Suitable housing, transportation, education, etc., should be arranged for minority staff where these factors are such as to discourage their recruitment.

c. Correctional agencies should:

- (1) Change policy to eliminate discrimination against women for correctional work.
 - (2) Provide for lateral entry to allow placement of women in administrative positions.
 - (3) Develop selection criteria that remove unreasonable obstacles to the employment of women.
 - (4) Assume aggressive leadership in giving women a full role in corrections.
6. Provide opportunities for staff advancement within the system. The system should be opened to provide opportunities for lateral entry and promotional mobility within jurisdictions and across jurisdictional lines.

Commentary

Many problems must be overcome for the successful recruitment of highly qualified staff. Prospective staff often are driven from this field because of poor personnel policies and practices that select out or repel applicants.

Selection through political patronage results in the accumulation of employees who are poorly qualified or motivated for correctional work. The practice is also discouraging to employees who prepared themselves for correctional careers and who wish to improve the status and effectiveness of the field.

Correctional agencies traditionally have preferred to hire only males of mature age who met rigid and arbitrary requirements as to height and weight and who were free of physical defect. Agencies also have administered personality tests that were not originally designed for correctional recruitment and barred the employment of persons who had ever been arrested or convicted of even the most minor offenses. None of these practices is based upon the realities of correctional work. They have operated effectively to bar persons with skills and talents that can be put to good use in corrections. Instead of closing the doors of corrections to these people, agencies should make an active and enlightened effort to recruit them.

Some widely used requirements for jobs in corrections select out applicants because they do not have extensive experience in specific correctional work. This requirement is most widely used for supervisory or administrative positions and results in perpetuation of a questionable seniority system. In many cases it works against bringing into management new employees with new ideas and the courage to champion change rather than perpetuate the status quo.

A challenge to unfair testing procedures for employment was upheld in the Supreme Court on March 8, 1971, in the decision regarding *Griggs v. Duke Power Company* (401 U.S. 424, 1971). The court held that selection processes must be specifically job related, culture fair, and validated.

A task analysis of each job should be required to produce a job-related test. For example, the task analysis approach was used by the Western Interstate Commission on Higher Education for the job of parole agent. Each task was isolated, defined, and related to the total job function. The skills needed were identified, and the appropriate training for each skill proposed. The report on the task analysis outlined the following method:

"In order to observe a number of parole agents in the performance of their jobs in a relatively short period, a fairly simple approach for the collection of job data is required. It can best be described as a three-step analysis:

1. Meet the parole agent and inquire about his background and his personal approach to job performance.
2. Observe activities of the agent for a period of time and literally walk or ride with him and even participate in the performance of his task when possible.
3. Record the type of task performed, how often he performs it, the duration of the task, and the degree of difficulty involved in performing it."

If such a task analysis were made of each major job in corrections, adequate predictive instruments could be developed to test applicants for job-related skills and knowledge.

Most written tests do little more than assess the applicant's vocabulary and grammar and test his comprehension with rudimentary exercises in logic. They rarely ask job-related questions, and almost none has been validated to determine whether the test actually does select persons whose adequate job performance was predicted by that test.

Careful task analysis in other human service agencies has shown that many tasks traditionally assigned to professional workers can be done, and done well by persons with less than a college education. Corrections has done very little with reassignment of tasks and restructuring of jobs so that nonprofessional workers can take some of the load now carried by professionals and thus spread scarce professional services. Moreover, many persons with less than a college education can be of special use in corrections since they understand the problems of offenders who are likewise without higher education.

Recruiting such personnel will help to reverse the racial and sexual discrimination that has occurred in staffing corrections. The imbalance in the racial composition of staff members and residents in both juvenile and adult correctional institutions is shown in the two tables below. Only the Tennessee State Prison for Women had a percentage of nonwhite staff that was close to the percentage of nonwhites in the prison population.

RACIAL COMPOSITION OF STAFF MEMBERS AND STUDENTS IN
JUVENILE INSTITUTIONS, 1974

	<u>Percent Nonwhite</u>
Students in all state juvenile institutions	42
Staff members of state juvenile institutions ^{1/}	24

Source: Data supplied by Department of Correction.

^{1/} Data on the staff at the Taft Youth Center was not available.

RACIAL COMPOSITION OF STAFF MEMBERS AND INMATES IN ADULT
PENAL INSTITUTIONS, 1974

	<u>Percent Nonwhite</u>	
	<u>Inmates</u>	<u>Staff</u>
Tennessee State Penitentiary	44	26
Fort Pillow	58	9
Turney Center	38	3
Tennessee State Prison for Women	39	32

Source: Data supplied by Department of Correction.

Recruitment efforts also should be directed toward hiring younger people who are finishing their education and interested in entering corrections as a career. This would reverse the current trend of hiring people who have entered corrections as career of second, third, or last choice.

Recruitment of qualified personnel is restricted by limited opportunity for lateral entry into the correctional system. While no one would challenge the merits of promotion from within, it is also obvious that oftentimes it is desirable to hire a specially qualified person from another jurisdiction. If lateral entry is forbidden, such hiring is impossible. As the Joint Commission on Correctional Manpower and Training pointed out, prohibition of lateral entry is one of the factors that helps make corrections a closed system. Such a system contributes to "a stagnant, rather than a dynamic, work force.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 14.1, Washington, D.C., Government Printing Office (1974).

References

1. Criminal Justice Universe Conference: Proceedings, Washington: Law Enforcement Assistance Administration (forthcoming).
2. Griggs v. Duke Power Company, 401 U.S. 424 (1971).
3. Joint Commission on Correctional Manpower and Training, Corrections 1968: A Climate for Change, Washington: JCCMT (1969).
4. Joint Commission on Correctional Manpower and Training, Perspectives on Correctional Manpower and Training, Washington: JCCMT (1969).
5. Joint Commission on Correctional Manpower and Training, A Time to Act, Washington: JCCMT (1969).
6. National Civil Service League, The Model Public Personnel Administration Law Proposal, Washington: NCSL (1970).
7. Western Interstate Commission for Higher Education, An Operational Analysis of the Parole Task, Boulder, Colo.: WICHE (1969).

10.6 Objective. By 1977, the Uniform Correction Guidelines should include standards for the training and education of correction personnel.

10.7 Objective. By 1977, the Tennessee Department of Correction and correction systems in counties with populations of 150,000 and over, must plan for and provide:

1. Forty hours a year of executive development training to correctional managers on operations of police, courts, prosecution and defense attorneys.
2. New correctional staff members with 40 hours orientation training during the first week of employment and 60 additional hours during the first year.
3. Forty hours additional training, after the first year, to all correctional staff.

Strategies

1. Correction agencies and education agencies should:
 - a. Identify specific and detailed roles, tasks, and performance objectives for each criminal justice position.
 - b. Establish skill requirements for all criminal justice positions at the operational support and management levels.
 - c. Develop implementation plans that recognize priorities and constraints and use the most effective learning techniques for these education and training programs.
 - d. Develop techniques and plans for evaluation of education and training programs as they relate to on-the-job performance.
 - e. Develop techniques for continual assessment of education and training needs.
2. Curricula and programs by agencies of higher education should be established to unify the body of knowledge in criminology, social science, law, public administration and corrections to serve as a basis for preparing persons to work in the correction system.
3. In-service training and continuing legal education programs should be established on a systematic basis at state and local level.

4. Parole agencies should establish training programs to deal with the organizational issues and the kinds of personnel required by the program.
5. Each corrections agency should train a management staff that can provide:
 - a. Managerial attitudes and administrative procedures that permit employees to participate in goal setting;
 - b. A management philosophy that encourages delegation of work-related authority to the employee level and acceptance of employee decisions;
 - c. Administrative flexibility; and
 - d. The capacity to eliminate visible distinctions between employee categories.

Commentary

With the advent of the Law Enforcement Assistance Administration, substantial funds have been pumped into corrections for staff development. But use of these funds is uneven, with many agencies failing to participate through lack of interest and others operating training programs of poor quality.

Many agencies with training programs use trainers who are not qualified for these duties. Also, the training function may be placed so far down the organizational ladder as to achieve little status or notice from management or line personnel. In some organizations, only selected personnel are designated to participate in training, while other personnel--particularly upper and middle management--are excused entirely from such activities.

Failure to train managers is coming to be seen in private enterprise as a real obstacle to the progress of an organization. The trend in business now is to give top and middle managers annual training in executive development.

Correctional managers are in special need of such training for two reasons. First, the standard promotion ladder from guard to warden in institutions (and similar ladders in some community programs) does little to equip an employee with new skills needed as he heads a larger and more varied group of employees who perform more, and more complex tasks. Moreover, the advancing correctional manager will have increasing contacts

with other elements of the criminal justice system. Thus, he needs a minimum of 40 hours a year of training in management skills and in the operations of police, courts, prosecution, and defense attorneys.

The need for orientation to any new job is well recognized. New employees in corrections will need at least 40 hours of general orientation. As they become more familiar with corrections and correctional problems, they will need another 60 hours of more specialized training during their first year. After that, at least 40 hours of training each year will be necessary to alert them to emerging issues and new methods in corrections.

Too often the training programs of corrections are conducted in classrooms or other places that are remote geographically and socially from institutions and community settings where the actual work of corrections is done. Corrections might well look to successful training programs for related types of work which have been conducted in those areas where the persons with whom the trainees will have to work are located. For example, one Colorado program to train employment service professionals for work with hard-core unemployed was centered in a run-down section of Denver.

Some of the most useful innovations in training are coming from the academic community and from private management and staff development firms, which have developed valuable concepts and methods of training. Much of the literature that is useful to correctional trainers has come from higher education and from professional management associations. The proposed National Institute of Corrections should serve as a clearinghouse and packager of training resources.

Funds for training will probably continue to come from LEAA. But state and local correctional agencies must face up to meeting the bulk of training costs as part of their regular budgets. The failure of the General Assembly to fund the training academy for correctional officers was a distressing example of state neglect of correctional needs.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Chapters 13 and 14, Washington, D.C., Government Printing Office (1974).

References

1. American Society for Training and Development, Reports, Madison, Wis.: American Society for Training and Development, 1968 to date.
2. Community Resources Training Programs, Washington Department of Corrections, Annual Report, Olympia (1970).

3. Connecticut Department of Corrections, Connecticut Corrections Training Academy at Haddam, Hartford (1971).
4. Criminal Justice Universe Conference: Proceedings, Washington: Law Enforcement Assistance Administration (forthcoming).
5. Higman, Howard, Robert Hunter, and Tom Adams, The Colorado Story, Boulder: University of Colorado (1964).
6. Joint Commission on Correctional Manpower and Training, A Time to Act, Washington: JCCMT (1969).
7. Joint Commission on Correctional Manpower and Training, Perspectives on Correctional Manpower and Training, Washington: JCCMT (1969).
8. Joint Commission on Correctional Manpower and Training, Targets for In-Service Training, Washington: JCCMT (1968).
9. National Training Laboratory, Reports, Bethesda, Md.: NTL, 1965 to date.
10. Nelson, Elmer K., and Catherine H. Lovell, Developing Correctional Administrators, Washington: Joint Commission on Correctional Manpower and Training (1969).
11. We Hold These Truths, Proceedings of the National Conference on Corrections, Richmond: Virginia Department of Justice and Crime Prevention (1972).
12. Western Interstate Commission for Higher Education, Report on Correctional Programs, Boulder, Colo.: WICHE (1970).

10.8 Objective. By 1978, each correctional system in counties with population over 50,000 should have a functioning ombudsman.

Strategies

1. The ombudsman should be trained, compensated, experienced, and located organizationally in the office of the top administrator.
2. He should hear complaints of employees or inmates who feel aggrieved by the organization or its management.
3. He should hear complaints of offenders who feel aggrieved by employees or conditions of their incarceration.
4. He should have authority similar to that of inspector general in the military, allowing him to stimulate changes, improve problem situations, and render satisfactory responses to problems.

Commentary

Correction management urgently need to prepare to cope with the probability of unionization of certain of their employees, possibly their entire organization membership. There also is the distinct probability of inmate unions forming and seeking, withoutside legal guidance and aid, to negotiate certain terms and conditions of their incarceration with institutional or correctional system managements.

An often quoted phrase that "unions are organized from the inside, not the outside" should alert managers to the fact that the application of appropriate modern management methods may render the organization of employees unnecessary. Employees who truly feel a part of the organization, who find their work challenging and interesting, who perform their duties in an atmosphere of trust, confidence, and approval, and who have the feeling that their economic and security needs are of serious concern to management are unlikely to seek redress of grievances through union affiliation.

The prudent course of action for corrections, however, is to prepare to deal with employee organizations, while at the same time seeking, through enlightened management, to make their generation unnecessary. The ombudsman can plan an important role in this effort.

An ombudsman can also make a major contribution to maintaining peace and order in institutions. By listening to and acting on the grievances of inmates, where action is necessary and justified, he can try to assure that conditions and employee practices that encourage inmate unrest can be corrected at an early point.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 13.4, Washington, D.C., Government Printing Office (1973).

References

1. Advisory Commission on Intergovernmental Relations, Labor-Management Policies for State and Local Government, Washington: Government Printing Office (1969).
2. Center for Labor Management, Negotiation and Public Administration, Iowa City: University of Iowa (1970).
3. Monthly Labor Review, January 1972.
4. Public Administration Review, March-April, 1972.
5. Public Personnel Review, January 1972.

10.9 Objective. By 1977, a formal salary structure based on the systematic classification of all corrections positions must be established. It should be incorporated in the Uniform Correction Guidelines.

Strategies

1. Salaries for correctional personnel should be competitive with other parts of the criminal justice system as well as with comparable occupation groups of the private sector of the local economy.
2. An annual cost-of-living adjustment should be mandatory.

Commentary

Low pay is a common complaint throughout the system. Low salaries are obviously self-defeating. A correctional system that hopes to retain capable workers must see to it that salaries are competitive with those of comparable occupation groups in the state and that they are adjusted annually to meet changes in the cost of living.

The two tables below show the salary range of positions in the state correctional system in the spring of 1975 and the reasons for termination of employment by custody staff in state and local institutions. Thirty-one percent of the custody staff were known to have left because of insufficient pay. The fact that 40 percent were dismissed from their positions is no doubt also related in part to the low salaries. The salaries are too low to recruit very many qualified people who will do a good job. If correctional jobs are seen as a last resort, many of those who obtain them will inevitably be unsuitable in one way or another.

The recent proposal to add a lump sum to the monthly pay of prison guards, in recognition of the potentially hazardous nature of the work, is an encouraging sign that more attention may be given to correctional needs in Tennessee. More than that will have to be done to attract and retain qualified personnel, however. With so much attention going to conditions in state prisons, the needs of local institutions must not be forgotten. In some cases they offer much better salaries than do state institutions. The Tennessee State Prison in Nashville, for instance, tends to lose many of its guards to the metropolitan Nashville correctional system where they can obtain much higher pay. In rural counties, however, the salaries for persons employed in the jail are often completely inadequate.

CORRECTIONAL PERSONNEL IN STATE INSTITUTIONS: RANGE OF
MONTHLY SALARIES, 1975

Superintendents of juvenile institutions	1,046 to 1,374
Wardens, adult institutions	1,046 to 1,635
Deputy wardens	880 to 1,275
Correctional officers (guards)	523 to 1,002

Source: Information supplied by Department of Correction.

REASONS FOR TERMINATION OF EMPLOYMENT OF CUSTODY STAFF IN
STATE AND LOCAL CORRECTIONAL INSTITUTIONS, 1974

<u>Reason</u>	<u>Percentage</u>
Retired	7.3
Dismissed	40.0
Deceased	2.4
Disabled	1.9
Insufficient Pay	30.7
Unknown	<u>17.6</u>
	100.0

N = 205

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 14.6, Washington, D.C., Government Printing Office (1974).

11. GOAL: UPGRADE PLANNING FOR NEW INSTITUTIONS, ADULT AND JUVENILE

Introduction

If protection of society is seen as the purpose of the criminal justice system, and if it is felt that this protection requires sequestration of some offenders, then institutions must exist to carry out this purpose. Immediately the planning is confronted with the question, "What kind of institutions?"

Of fundamental importance to any planning are the values and assumptions dictating the policies. Programs and structural responses are fixed by those policies. Their underlying values affect all subsequent planning and implementation. For nearly two centuries this nation has used the correctional institution as its primary response to illegal behavior. It is long past time for legislators, administrators, and planners to collect and examine the results of this vast institutional experience. Scholarly evaluation currently available suggests that our prisons have been deficient in at least three crucial areas--conception, design, and operation. These areas and two others, location and size, should be given serious consideration in all correctional planning.

11.1 Objective. By 1977, planning for new facilities must start from the basis that no more than 400 inmates can be housed in a single institution; new planning must also minimize the negative effects of excessive regimentation.

Commentary

Traditionally, institutions have been very large, often accommodating up to 2,000 and 3,000 inmates. The inevitable consequence has been the development of an organizational and operational monstrosity. Separation of large numbers of people from society and mass confinement have produced a management problem of staggering dimensions. The tensions and frustrations inherent in imprisonment are magnified by the herding together of troubled people. Merely "keeping the lid on" has become the real operational goal. The ideal of reform or rehabilitation has succumbed to that of sheer containment, a goal of limited benefit to society.

The usual response to bigness has been regimentation and uniformity. Individuals become subjugated to the needs generated by the institution. Uniformity is translated into depersonalization. A human being ceases to be identified by the usual points of reference, such as his name, his job, or family role. He becomes a number, identified by the cellblock where he sleeps. Such practices reflect maladaptation resulting from size.

In "A Plan for Tennessee Regional Correctional Facilities" the Department of Correction recommends that the new regional facilities house no more than 400 inmates.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 9.10, Washington, D.C., Government Printing Office (1974).

References

1. Britt, Benjamin E., "A Case to Illustrate the Need for Single Cells in Prison Correctional Programs," Popular Government 2:2-4 (1966).
2. Collins, John Bunting, Perceptual Dimensions of Architectural Space Validated Against Behavioral Criteria, Salt Lake City: University of Utah Press (1970).
3. Hall, Edward, The Hidden Dimension, New York: Anchor (1966).

11.2 Objective. By 1980, the feasibility of converting male and female institutions of adaptable design and comparable populations into coeducational facilities should be studied.

Commentary

Institutional programs that provide a single-sex social experience may contribute to maladaptive behavior in the institution and in the community. In sexually segregated facilities, it is very difficult for offenders, particularly juveniles and youths, to develop positive, healthy relationships with the opposite sex. A coeducational institution could provide a more normal situation in which inmates could evaluate their feelings about themselves and others and establish their identity in a more positive way.

The correctional objectives, methodology, problems, and needs essentially are no different for females than for males. The correctional system may wish to abandon the current system of separate institutions based on sex and develop a fully integrated system based on all offenders' needs. The coeducational program can be an invaluable tool for exploring and dealing with social and emotional problems related to identity conflicts that many offenders experience.

Coeducational programs such as those in the Ventura and Los Guilucos schools of the California Youth Authority have demonstrated clearly that a mixed population has a positive program impact. The federal system also has converted at least two institutions, one for juveniles at Morgantown, West Virginia, and one for adults at Fort Worth, Texas, to coeducational facilities. It is recognized, however, that in jurisdictions with a relatively large number of male institutions and a small number of women prisoners, coeducational arrangements may not be feasible.

One major problem in corrections is the relatively small proportion of women employed in the field. It will be difficult to change staffing patterns as long as institutions are planned and operated for only one sex. Developing coeducational programs not only will serve to improve programs, but also will require more women in correctional positions.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 11.6, Washington, D.C., Government Printing Office (1974).

References

1. American Association of University Women, Pennsylvania Division, Report on the Survey of 41 Pennsylvania County Court and Correctional Services for Women, Philadelphia: AAUW (1969).
2. American Friends Service Committee, Struggle for Justice, New York: Hill and Wang (1971).
3. California Youth Authority, A Guide to Treatment Programs, Sacramento (1971).
4. Flynn, Edith E., "The Special Problems of Female Offenders," in We Hold These Truths, report of the National Conference on Corrections, Richmond: Virginia Division of Justice and Crime Prevention (1972).
5. Giallombardo, Rose, Society of Women: A Study of a Women's Prison, New York: Wiley (1966).
6. Kay, Barbara A., "Differential Self Perception of Female Offenders," unpublished Ph.D. dissertation, Ohio State University (1961).
7. Pollack, Otto, The Criminality of Women, New York: Barnes (1950).
8. Proceedings, National Conference of Superintendents of Institutions for Delinquent Females, Collegeville, Minn.: Rural Crime and Justice Institute (1971).
9. Reckless, Walter G., and Barbara A. Kay, The Female Offender, consultants' report to the President's Commission on Law Enforcement and Administration of Justice, Washington: Government Printing Office (1967).
10. Sarri, Rosemary, "A Model of Institutional Programming for the Seventies," Paper presented at the Annual Meeting, American Correctional Association (1971).

Juvenile Institutions

11.3 Objective. By 1977, the Tennessee Department of Correction must adopt the policy of not building new institutions for juveniles until community resources have been developed deinstitutionalizing status offenders.

Commentary

Children coming to the attention of corrections generally may be classified into two principal categories: those accused of committing acts that would be considered crimes if committed by adults, and those who are not accused of any offense. The latter category can be further differentiated into those who have broken certain rules applicable only to children--such as running away, truancy, curfew violations, and teenage drinking or smoking--and those who have violated neither laws nor rules but who are labeled for various reasons as "persons in need of supervision" (PINS), "minors in need of supervision" (MINS), "incorrigible and beyond control," or found to have been living in an "injurious environment" or in "situations dangerous to their morals or those of others."

Despite the obvious inequity of the situation, most jurisdictions do not differentiate legally between delinquent and nondelinquent children. While the Standard Juvenile Court Act long has called for separation of the nondelinquent child from those who have violated the law, by requiring that the former not be placed in institutions primarily designed for the treatment of delinquents, continued indiscriminate grouping constitutes disgrace. Even if great care were taken to provide separate level categories by statute, it is doubtful that such differentiated labeling as PINS or MINS would be any less stigmatizing or injurious than being adjudicated delinquent because they are detained and institutionalized together.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 11.1, Washington, D.C., Government Printing Office (1974).

11.4 Objective. By 1980, the Tennessee Department of Correction must phase out juvenile institutions, where possible, in favor of community programs and facilities.

Commentary

How often and how appropriately youngsters are screened out of the juvenile justice process will depend largely on whether suitable services and other options are actually available in the community. A major concern of those who favor retaining court jurisdiction over nondelinquent children is the need for "protective custody" in many cases in which delinquency is not at issue. This is particularly true in regard to runaways and other youth who are having problems in their relationships with their own families.

While the number of community services and agencies providing alternatives to detention still is small, there are some precedents. For example, day-care facilities with casework and group work services are gaining in popularity and offer the advantage of allowing youngsters to stay in their own homes during evenings. Further, public and private agencies functioning as shelters for runaway juveniles provide short-term living accommodations and offer juveniles and their parents counseling which may lead toward the child's successful return to his home. Finally, programs conducted at a community's YMCA and similar agencies can furnish low-security residential centers for youngsters lacking adequate parental supervision.

The planning process should include a thorough assessment of present practices, an evaluation of resources, an analysis of trends based on sufficient statistical information, and an exploration of community-based alternatives to dispositions currently being made.

The total system planning concept also implies coordination with and input from courts, probation departments, law enforcement agencies, state corrections agencies, and public and private agencies already involved in treating and preventing juvenile delinquency. Planning efforts also should include the participation of social welfare agencies, academic and vocational education departments, mental health services, employment agencies, public recreation departments, and youth groups.

Without the existence of such programs, neglected youth surely would be shunted into detention programs. Existing community agencies also can accept voluntary placement of "incurable" or "beyond control" youngsters in periods of crisis, thereby avoiding detention and involvement with the juvenile justice system.

Source

1. National Advisory Commission on Criminal Justice Standards and Goals, Correction, Standard 11.1, Washington, D.C., Government Printing Office (1974).

END

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