

NCJRS

DEC 27 1977

ACQUISITIONS

REPORT ON CORRECTIONS MANAGEMENT

HOUSE INSTITUTIONS COMMITTEE
Bob Naon 11/20/77

44382



OFFICE OF PROGRAM RESEARCH
HOUSE OF REPRESENTATIVES
STATE OF WASHINGTON
November 20, 1977

TO: Representative Ron Hanna, Chairman
House Institutions Committee

Representative John Fischer, Chairman
Subcommittee #3, House Institutions Committee

FROM: Bob Naon, Counsel
House Institutions Committee

Pursuant to your request, I have prepared this study of personnel management and employment in the corrections area. Although the discussion focusses upon the State Penitentiary at Walla Walla, many of the concepts reviewed are obviously of wider applicability.

Research incorporated into this study was provided by Mike Kerr, Research Associate, and Joel Green and Kevin Gallagher, Legal Interns.

I hope that this material will be of assistance to your committees.

BN:kt

I. INTRODUCTION

Two commentators put the function of government enterprise quite succinctly in a recent article: to render a specific array of services to the community in a prompt and efficient manner./1 This function may be framed in terms of responsiveness to the public and its wishes/2 on the part of a given agency and its ability to capture and effectively utilize resources from both its external and internal environments./3 Currently, the ability of certain public concerns to operate in both a responsive and efficient manner is being questioned.

Many people, first of all, feel that most governmental bureaucratic agencies have become "power systems beyond control by the people or by their elected representatives."/4 Francis Rourke warns that one must "guard against the fallacy that a policy issue can be depoliticized by turning it over to bureaucracy."/5 Appointed officials, some of whom cannot always be expected to be responsive to public needs and wishes,/6 have become because of their expertise and information "prime movers" in

1. Bernstein and Reinharth, "Management, The Public Organization, and Productivity," in Marc Holzer (ed), Productivity in Public Organizations 289 (1976).
2. See, e.g., N. Joseph Cayer, Public Personnel Administration in the United States 9 (1975).
3. See, e.g., Felix A. Nigro and Lloyd G. Nigro, The New Public Personnel Administration 32 (1976).
4. Robert Fried, Performance in American Bureaucracy 3 (1976).
5. Bureaucracy, Politics, and Public Policy 109 (1969).
6. Bob Wynia's study suggests, for example, that many bureaucrats hold views quite inconsistent with democracy. "Federal Bureaucrats' Attitudes Toward a Democratic Ideology," 34 Public Administration Review 156-162 (March/April 1974). Graham Allison's earlier analysis makes the same point. "Conceptual Models and the Cuban Missile Crisis," 63 American Political Science Review 689-718 (September 1969). Many commentators detail, for instance, how professionalism may divert loyalty from public service to professional interests and dictates. See, e.g., Cayer, supra note 2 at 49, Shafritz, "The Cancer Eroding Public Personnel Professionalism," in Jay Shafritz (ed) A New World: Readings on Modern Public Personnel Management 19 (1975).

making policy./7 There are, according to one statement on the subject, "clear indications that the public increasingly is becoming aware that its service programs have been formed and are functioning in a context heavily insulated from the people they are intended to serve."/8 Although John Gardner believes that holding a middle level bureaucrat accountable is a comparable task to landing on the moon/9, it would appear to be essential that some mechanism be developed for monitoring the responsiveness of public agencies to public wishes and for enhancing the extent to which such responsiveness is accomplished.

In addition to criticizing their lack of public responsiveness, people and groups have also noted that public bureaucracies have become increasingly inefficient and ineffective at implementing stated policy./10 One publication noted that "the nation's most serious problems of productivity are to be found in center of state and local government."/11 The National Commission on Productivity in the late sixties concluded that many of the means used to improve productivity in private industry might also be applied to government./12 Lack of interest in the efficient

-
7. Middle level administrators can, for example, "veto policy by controlling information and access and by simply not implementing or enforcing policies." Committee for Economic Development, Improving Productivity in State and Local Government 47 (1976). Fried points out that legislators now, in fact if not in principle, expect agencies to come up with ideas for new programs and new legislation and to be "active, not passive, in making policy." Fried, supra note 4 at 189. See also Long, "Politicians for Hire," 25 Public Administration Review 118 (June 1965); Wallace S. Fire and Herbert Kaufman, Governing New York City 732 (1960).
 8. Clayton and Gilbert, "Perspectives of Public Managers: Their Implications for Public Service Delivery Systems," in Robert T. Golembiewski and Michael Cohen (eds), People in Public Service: A Reader in Public Personnel Administration 1589 (1976).
 9. Cited in Brady, "MBO Goes to work in the Public Sector," 51 Harvard Business Review 65, 66 (March/April 1973).
 10. See, e.g., Fried, supra note 4 at 3.
 11. R. S. Rosenbloom, "The Real Productivity Crisis is in Government," Howard Business Review (Sept.-Oct. 1973) cited in Shafritz, supra note 6 at 184.
 12. Cited in Development, supra note 7 at 27.

provision of services by some public agencies may be attributed to their monopolistic character, their "staying power," and their relative emphasis on receiving budget increases and inability to measure actual outputs./13 Nonetheless, renewed emphasis has been and will likely continue to be placed on an agency not only doing its job but doing it well.

There exists, according to Gordon Hawkins, widespread dissatisfaction regarding the prison./14 This may be due, to some extent, because when the public becomes aware of the prison it is usually only when the media exposes specific problems./15 Periodically, states one commentator, there evolves "criticism, exposure, and crisis" with the eventual fixing of responsibility and repetition of the same cycle./16 Public dissatisfaction, however, is matched in this instance by a consensus of expert study. The National Advisory Commission on Criminal Justice Standards and Goals, for example, reported in 1973 that:

The failure of major institutions to reduce crime is incontestable. Recidivism rates are notoriously high. Institutions do succeed in punishing but they do not deter. They protect the community but that protection is only temporary...They change the committed offender, but the change is more likely to be negative than positive./17

-
13. See, e.g., Cayer, supra note 2 at 2; Development, supra note 7 at 36, 61. It is sometimes argued that failure may be better than success for public agency existence.
 14. The Prison: Policy and Practice 29 (1976).
 15. See, e.g., Meyer, "Change and Obstacles to Change in Prison Management," in George Killinger, et. al. (eds), Issues in Corrections and Administration 133 (1976).
 16. Hans Mattick, Illinois Jails: Challenge and Opportunity for the 1970's 368-9 (1969).
 17. National Advisory Commission on Criminal Justice Standards and Goals, Task Force Report on Corrections 1 (1973).

In short, the prison would appear to be of limited responsiveness to specified goals and could not in any way be cast as an efficient provider of services.

There is, on the basis of past performance, a particular need to develop a system to monitor the responsiveness and efficiency of correctional institutions. Wardens have long resisted public accountability.¹⁸ One study noted that prison administrators rated relationships with legislative bodies and commissions, law enforcement agencies, the mass media and related public and private groups as of far less significance than those with those individuals and groups internal to the organization.¹⁹ In one critique of the prison administrator, that official was portrayed as an individual who avoids setting goals and draws his accomplishments from items such as research projects under way which have nothing to do with institutional success.²⁰ John C. Meyer asserts that decisions made by prison management are generally made based on values and not facts, inadequate information, goal statements derived from the

-
18. "The common demand twenty-five years ago for freedom of the administrator to get on with his job free of the harassment of legal imperatives is the same demand made by those who administer the new penology." The President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections 83 (1967). See also David Fogel, We Are The Living Proof 191 (1975).
 19. Elmer Nelson and Catherine Lovell, Developing Correctional Administrators 35 (1969). Even in "headquarters," setting the relationship with offenders ranked more important than those with legislators. Robert Fried states that with respect to state prisons, we could report "with little change" Alexis de Tocqueville's remark made in 1831 that "They preserve their individual independence and each of them is sovereign master to rule itself according to its own pleasure." Performance in American Bureaucracy 143-4 (1976).
 20. Cohn, "The Failure of Correctional Management," in Killinger, supra note 15 at 125-6.

same values used to make decisions, and tradition./21 Certainly, such behavior would inhibit both effective oversight as well as the potential for resolving existing problems.

This report will attempt to detail how one public institution, the Washington State Penitentiary at Walla Walla, might more efficiently perform a defined function. The urgent requirement confronting modern corrections institutions, according to one author, is to "structure themselves so that they are adaptable, their participants voluntarily embrace the organization's goals as their own, and they have a capability for determining and interpreting forces impacting upon them."/22 This theme will be sounded often throughout the analysis. Its accomplishment will necessarily involve three major efforts. First, the organizational goals must be realistically defined. As one recent analysis puts it, "how can one make American correctional institutions more effective if there is no agreement on what purposes such institutions should serve?"/23 Second, changes should be effectuated in the state merit system and collective bargaining laws which will enhance employee excellence while providing management with adequate flexibility. Third, certain specified management techniques should be introduced into the penitentiary system.

21. Meyer, supra note 15 at 146.

22. Henning, "Management Style and Organizational Climate," In George Killinger, et. al. (eds), Issues in Corrections and Administration 264 (1976).

23. Robert Fried, Performance in American Bureaucracy 455 (1976). Fried notes that "one can only admire the coverage and frankness of a government executive willing to state publicly that his organization had little idea of what it was trying to do and even less about whether or not it was succeeding." Id. at 446.

Correctional failure, states one author, can largely be attributed to inadequate management./24 Certainly, the contemporary literature dealing with corrections appears to indicate that this field has long been "cut off from this with the general field of public administration."/25 Accomplishment of specified items within each of these three areas should render the structure of the state penitentiary such that it will be better able to accomplish its goals. Certainly, many of the recommendations might be extended not only to other correctional institutions but to other public agencies as well. It is hoped, however, that by focusing on a single, albeit important, institution, the importance and interdependence of the three areas will be better illustrated.

-
24. Cohn, "The Failure of Correctional Management," in Killinger, supra note 22 at 124. "Managerial thinking has tended to become constricted and reactive to the emergence of problems, rather than innovative and anticipatory." National Advisory Commission on Criminal Justice Standards and Goals, "Managing Correctional Organizations," in Killinger, supra note 22 at 250. See also University of Georgia Institute of Government, "Management by Objectives in the Correctional Setting," in Killinger, supra note 22 at 205.
25. David Fogel, We Are the Living Proof 190-1 (1975). See also sources cited in note 24, supra and Elmer Nelson, Jr. and Catherine Lowell, Developing Correctional Administrators 27 (1969).

II. INSTITUTIONAL GOALS

A. Introduction

When a legislature frames the statutes setting up an agency, presumably it should specify what the agency is supposed to accomplish./1 People are uncertain today, however, as to whether the corrections system is supposed "to punish lawbreakers or to rehabilitate them, to protect society or to change social conditions, or to do some or all of these things under varying circumstances."/2 The Legislature has never made a conscious choice of correctional theory. The superintendent at the State Penitentiary is charged with the dual task of detaining inmates and rehabilitating them./3 According to testimony presented by Douglas Vinzant, Superintendent of the Walla Walla State Penitentiary, rehabilitation remains one of the primary functions to be performed at the institution. In part, this may be because the prison never has required a specific correctional purpose./4 In this time of rapid change within the correctional field, there is a "compelling practical reason" for examining and clarifying correctional goals./5 It is desirable that the Legislature establish a "public policy" on corrections and legislate consistently with its statutory statement. Once a clear policy is set forth for the use of penitentiary personnel, that agency may be better held accountable to the Legislature and specific programs may be more easily evaluated.

-
1. Robert Fried, Performance in American Bureaucracy 62 (1976).
 2. National Advisory Commission on Criminal Justice Standards and Goals, Corrections 464 (1973).
 3. RCW 72.08.040; RCW 72.08.101.
 4. David Fogel, We Are the Living Proof 181 (1975).
 5. See, e.g., National Advisory Commission on Criminal Justice Standards and Goals, "Corrections and the Criminal Justice System," in George Killinger, et. al. (eds) Issues in Corrections and Administration 96-7 (1976).

Paul Tappan has observed that "in different periods of social evolution" certain correctional goals "have emerged out of society's particular climate of values and have been more highly prized than others."/⁶ Although they may be identified, isolated and programmed differently, the law leaves no question that the primary objective of prisons is to keep offenders in custody./⁷ Implicit, although not clearly stated in the law, are the goals of crime prevention/⁸ and general deterrence in which punishment of some strengthens respect for the law on the part of society./⁹ As John Conrad has written, however, "modern prisons remain committed to treatment."/¹⁰ Although the American Correctional Association advised custody officers in 1960 that the first responsibility of the prison is the "secure custody and control of prisoners", it has since stated in other places that rehabilitation is the prison's first purpose./¹¹ In determining what should, in fact, be the goals of the State Penitentiary at Walla Walla this study will discuss the extent to which rehabilitation could reasonably be incorporated into its mission as something it is expected to accomplish.

-
6. "Objectives and Methods in Correction," in Paul Tappan (ed), Contemporary Correction 4 (1951).
 7. Henry Burns, Jr., Corrections: Organization and Administration 317 (1975). Commentators have stated that this may constitute in part a substitute "for private vengeance insofar as it satisfies the public demand for retribution." Gordon Hawkins, The Prison: Policy and Practice 38 (1976).
 8. See, e.g., Lionel Fox, The English Prison and Borstal Systems 17 (1952).
 9. See, e.g., Herbert Packer, The Limits of the Criminal Sanction 69 (1968); Franklin Zimring and Gordon Hawkins, Deterrence: The Legal Threat (1973).
 10. "Corrections and Simple Justice," 64 Journal of Criminal Law and Criminology 208 (1973).
 11. Fogel, supra note 4 at 78. In a national survey taken by Corrections Magazine, 77 percent of prison officials responding stated that the concept of rehabilitation in the prison should not be discarded. "Is Rehabilitation Dead?" Corrections Magazine 3 (May/June 1975). See also Fox, supra note 8 at 71; Burns, supra note 7 at 319.

B. Rehabilitation Reviewed

This section in analyzing the rehabilitation ethic as applied to a correctional institution such as the State Penitentiary will discuss the extent to which rehabilitation can succeed and the consequences of introducing rehabilitation as an institutional goal in that kind of facility.

The evidence from studies which have been made in correctional institutions where rehabilitative programs have been introduced has been "overwhelmingly negative."/1 "We really," notes William E. Ames, "don't know what we are doing."/2 Unfortunately, the answer to this dilemma does not appear to be additional resources: "strikingly different" amount of impacts do not appear to result in different outcomes./3 It may be equally depressing to some that the aspect of prison most often

1. Gordon Hawkins, The Prison: Policy and Practice 51 (1976). Robert Martinson, having reviewed data derived from 231 treatment programs operated from 1945 to 1967 concluded that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effects on rehabilitation." "What works? Questions and Answers About Prison Reform," Public Interest 22,49 (Spring 1974). See also The President's Commission on Law Enforcement and the Administration of Justice, The Challenge of Crime in a Free Society 159 (1967); National Advisory Commission on Criminal Justice Standards and Goals, Corrections 51 (1973); American Friends Service Committee, Struggle for Justice 83 (1971); James Q. Wilson, Thinking About Crime 169 (1975); Sources cited in Bob Naon, Redirecting the Sentencing Process 11-17 (House Judiciary Committee Staff Report, December 12, 1975).
2. "The Philosophy of Corrections: Revisited," in George Killinger, et. al. (eds) Issues in Corrections and Administration 171 (1976).
3. Robert Fried, Performance in American Bureaucracy 146 (1976). In Struggle for Justice, however, it states that "the experts--even the most enlightened and progressive--line up solidly in support of the system, asking only for more of the same." Struggle, supra note 1 at 156.

mentioned by inmates in one well prepared study as of the greatest assistance in helping them to 'go straight' was the unpleasantness of the confinement experience./4

The reasons behind the apparent failure of rehabilitation in correctional institutions cannot be conclusively known. The probable explanations, however, involve the incompatibility of achieving rehabilitation in a custody setting and the difficulty of attempting to coerce such change as an adjunct of the parole process.

The National Advisory Commission on Criminal Justice Standards and Goals concluded in 1973 that it is "probably impossible" to achieve rehabilitative goals in a traditional correctional institution./5 "At the core of the problem," according to David Fogel, "is that the prison cannot be non-punitive if imprisonment--the central fact of a prisoner's life--is itself punitive."/6 Many other commentators are similarly agreed that the goals of custody and rehabilitation are mutually opposed and therefore irreconcilable./7 The authors of Struggle for Justice add that many proposals that seem to urge the abolition of prisons are really exercises in label switching./8 To the extent the greater part

4. Daniel Glaser, The Effectiveness of a Prison and Parole System 481 (1964).

5. Corrections, supra note 1 at 440.

6. We Are the Living Proof 56-7 (1975).

7. See, e.g., Gene Kassebaum et. al, Prison Treatment and Parole Survival vii (1971); John Meyer, "Change and Obstacles to Change in Prison Management," in Killinger, supra note 2 at 146-7. Meyer notes, for example, that programs that attempt to change the individual must necessarily be set aside in response to the need of controlling "collective inmate conduct" id. at 135.

8. Struggle, supra note 2 at 23. "Call them 'community treatment centers' or what you will, if human beings are involuntarily confined in them, they are prisons."

of correctional emphasis remains on custody and security, this situation will likely remain./9

Alongside the argument the rehabilitation cannot occur within a custodial institution has arisen the variant that such change cannot occur so long as it is coerced. "Quiescent conformity imposed from above is a parody of social order, not its fulfillment."/10 The indeterminate sentence, insofar as it involves setting prison release dates upon an individual's "genuine change" arguably operates as an incentive for an inmate to participate in rehabilitation programs. The coercive nature of such programs, however, may undermine whatever "positive value they might otherwise have."/11 It has been stressed that any treatment of offenders must involve the person in his or her own fate and any positive change must result from his or her own volitional behavior./12

The fact that inmates leave prison unchanged should not be necessarily surprising even if it may be a cause of concern. Donald Cressey states that "no institution receiving the man-made "failures" by the rest of society should be expected to make "success" of a very large proportion of them."/13 Even though it is unlikely that it is possible to predict

-
9. Insofar as the "public requires that the offender be sent to prison for punishment, not to be "coddled," this situation is not inconsistent with agency responsiveness. See Barnes, "Penal Practice in America," in Killinger, supra note 2 at 61.
 10. Phillip Selznick, cited in Fogel, supra note 6 at 205. See also Norval Morris, The Future of Imprisonment 17 (1975).
 11. Greenburg, "A Voucher System for Correction," 19 Crime and Delinquency 212, 213 (1973).
 12. See, e.g., Konopka, "Corrections and Human Dignity," in Killinger, supra note 2 at 71; Fogel, supra note 6 at 262; Ames, "The Philosophy of Corrections--Revisited," in Killinger, supra note 2 at 174.
 13. "Adult Felons in Prison," in Lloyd Ohlin (ed), Prisoners in America 148 (1973).

the likelihood of an inmate's future criminal behavior on the basis of his or her institutional life/¹⁴ it is possible to differentiate between the potential of inmates upon the basis of their records before they came to prison./¹⁵ The process of "prisonization" in which an inmate is socialized to the artificial circumstances of prison life/¹⁶ may be to a great extent imported from outside the prison in the form of organization roles and norms patterned on those learned "in the streets."/¹⁷ According to Morris, only three possible changes in the life of the prisoner during his or her incarceration--all extrinsic to treatment aspects of prison programs--are actually correlated with the chances of his or her institutional success./¹⁸ To this extent, it is not unlikely that society might place unnecessarily high expectations with regards to prisons.

The conscious attempt to affect rehabilitative changes upon inmates in a correctional setting may, because of internal inconsistencies created, cause the development of institutional problems impacting all members of the prison population. While we have asked such institutions to set new programs alongside old ones, "we have not abandoned the notion that prisons must be punitive for retribution and deterrence

-
14. See, e.g., Morris, supra note 10 at 16.
 15. See, e.g., Id., Martinson, supra note 1 at 41; Glaser, supra note 4 at 27,40,44,49.
 16. See, e.g., Gresham Sykes and Sheldon Messinger, "The Inmate Social System," in Richard Cloward et. al. (eds), Theoretical Studies in Social Organization of the Prison (1960); Donald Clemmer, The Prison Community (1958); Edwin Sutherland and Donald Cressey, Criminology 538 (1970).
 17. See, e.g., Hawkins, supra note 1 at 70; Wellford, "Factors Associated With Adoption of the Inmate Code: A Study of Normative Socialization," 58 Journal of Criminal Law, Criminology and Police Science 202-03 (1967).
 18. Morris, supra note 16 at 35-6.

purposes."/19 It has been argued that formulating a prison program to simultaneously meet all such goals has generated organizational conflict within such institutions./20 The conflict of goals, the imposition of contradictory pressures, may make institutions unmanageable. The impact of a "sharp sudden shock" into a routine custodial schedule can "quickly disintegrate" prison operations and may result in a "bifurcated organization" in which the resultant subservient groups are unwillingly made to serve the more powerful./21 Although the information supporting the conclusion that the goals at prisons are contradictory and therefore prone to cause conflict is not generally based on hard experimental data, self reporting studies have shown that much of a prison warden's life is devoted to trying to maintain some degree of balance among the different goal-oriented constituencies within the prison./22 Such a situation may "immobilize them for all but the most system-conserving activities."/23 They, themselves expected to accomplish dual purposes and to be both punitive and nonpunitive, retreat to learning the right phrases-- "to rehabilitate offenders" and "to protect society."/24 This may inhibit, or at least frustrate, the exercise of legislative review and inhibit the successful accomplishment of any stated goal.

19. Adult Felons, supra note 13 at 129.

20. See, e.g., Cressey, "Contradictory Directives in Complex Organization: The Case at the Prison," 4 Administrative Science Quarterly 1-19 (1959); O'Leary and Duffee, "Managerial Behavior and Correctional Policy," in Killinger, supra note 2 at 185-6; McKendrick, "Custody and Discipline," in Paul Tappan, Justice and Correction 159-60 (1960).

21. O'Leary, supra note 20 at 186; Meyer, supra note 7 at 138.

22. See, e.g., Adult Felons, supra note 13 at 133 Nelson and Lovell found that because they found it impossible to maximize any single goal at the expense of others, prison administrators found themselves operating "arbiters of conflicting forces" Developing Correctional Administrators 58 (1969).

23. Id. at 16.

24. Cohn, "The Failure of Correctional Management," in Killinger, supra note 2 at 128-9; Adult Felons, supra note 13 at 125.

According to writers in the correctional field, the group caught first in the conflicts of institutional goals is the guard force./25 Not only are they caught in the conflicts of change when a new philosophy is being introduced but, generally "if they enforce the rules, they risk being disguised as 'rigid'" whereas "if their failure to enforce rules creates a threat to institutional security, orderliness or maintenance, they are "not doing their job."/26 Such contrary expectations and the confusion and conflict resulting therefrom are, at the least, frustrating./27 Insofar as the contradictory goal statements lack resolution oftentimes at the superintendent level, the actual making of choices is forced downward toward the level of operations at the guard level./28 Arguably, if clearer and more resolute goal standards were made by supervisory personnel, guards would be able to perform their duties with a clearer expectation of how such tasks were to be performed and with less friction.

It is possible, finally, that those who remain imprisoned under a system in which rehabilitation of the offender is a goal will become resentful rather than repentant./29 It has been suggested, in fact, that

25. See, e.g., McCleary, "Communication Patterns as Basis of Systems of Authority and Power," in Richard Cloward, et. al. (eds) Theoretical Studies in Social Organization of the Prison 76 (1960).
26. Cressey, "Limitations on Organization and Treatment in the Modern Prison," in Cloward, supra note 25 at 103.
27. See, e.g., Duttec, "The Correction Officer Subculture and Organizational Change," 11 Journal of Research in Crime and Delinquency 155, 156 (1974); Fogel, supra note 6 at 94-5, 102.
28. Correctional Administrators, supra note 22 at 5.
29. See, e.g., Marvin Frankel, "Lawlessness in Sentencing," 41 U. Cin. L. Rev. 1, 39 (1972); Jessica Mitford, Kind and Usual Punishment 82 (1973); Kates, "Days Without End in Prison," Wall Street Journal 12 (August 22, 1974); Struggle, supra note 1 at 27, 2940; Kilby "Doubts About the Indeterminate Sentence," 53 Judicature 63, 65 (1969).

the prisoner's realization of the contrast between the rhetoric and reality of rehabilitation has helped to trigger prison violence./30 There is, indeed, no reason to assume that rehabilitative programs are, within the correctional compulsory context, viewed as benevolent by inmates./31 Within such a context, for example, the rehabilitative process can be viewed as a "battle" against the inmate until he is able to correctly perceive and accept community standards./32 In such a setting, corrections may become "dysfunctional as an agency of justice."/33

On the basis of the above arguments, it seems well advised when reviewing the purposes of the State Penitentiary to consider John Conrad's conclusion that "it is not possible to continue justification of policy decisions in corrections on the supposition that such programs achieve rehabilitative objectives."/34 Neither should correctional institutions be evaluated on the basis of how well their clients perform in the community./35 A goals statement incorporating these pieces of thought could well result in an institutional pursuit of more realistic goals at less expense to all involved.

30. See, e.g., Hawkins, supra note 1 at 20.

31. See, e.g., Barnes, supra note 9 at 93-4. David Greenberg notes that "the desire to help, when coupled with the desire to control, is totalitarian: "Rehabilitation is still Punishment," in William Adler-Geller, "The Problem of Prisons: A Way Out?" The Humanist 24-33 (May-June 1972).

32. The analogy is drawn from O'Leary, supra note 20 at 189. The American Friends Service Committee asserts that this constitutes an illegitimate extension of power over individuals in order to achieve "indoctrination in White Anglo Saxon middle class values." Struggle, supra note 1 at 43.

33. Fogel supra note 6 at 84. The most serious problem about rehabilitation according to David Rothman is that is "simply legitimates too much" "Decarcerating Prisoners and Patients," 1 Civil Liberties Review 1, 24 (1973).

34. "Corrections and Simple Justice," 64 Criminal Law and Criminology 208, 209 (1973).

35. Philosophy, supra note 2 at 174.

III. INSTITUTIONAL NEEDS

A. Introduction

The ability of an agency to efficiently perform its duties is conditioned upon how effectively it draws upon its employees. It has been determined that the needs of all such employees exert a powerful influence upon the agency's operations and it "would do well to recognize and accommodate them."/¹ This section will briefly discuss this managerial concern and, in general terms, how it is accomplished. Following sections will analyze the Washington State Penitentiary in terms of those factors which restrain the fulfillment of that goal.

According to Yoram Zeriz, the objective of management must be not only the promotion of organizational goals, but must be directed "toward the satisfaction of personal needs for human growth, in order to increase the fit between organizational goals and personal requirements."/² In brief, the evolution of this requirement has been matched by a broadened concept of work incentive./³ Money, logically, was employed in the first instance as a means of motivating workers, but it was determined that it was effective only up to a certain point after which time it lost its value as an incentive./⁴ Studies demonstrated, for example, that psychological factors were important in determining levels of productivity./⁵ So-called organizational humanists then went on to develop

1. Elmer Nelson, Jr. and Catherine Lovell, Developing Correctional Administrators, 8 (1969).
2. "Is External Management Training Effective for Organizational Change," in Jay Shafritz (ed), A New World: Readings on Modern Public Personnel 152,157 (1975).
3. Broadly speaking, an incentive is anything which is offered to obtain a desired performance or behavior from an employee.
4. See, e.g., N. Joseph Cayer, Public Personnel Administration in the United States, 93 (1175); William Whyte et al, Money and Motivation (1955)
5. Cayer, supra note 4 at 93.

the approach stressing the need of organizations to meet the needs of the mature human personality./6 The approach draws upon the heirarchy of needs developed by A. H. Maslow which places significance upon self-fulfillment needs./7 Frederick Herzberg has suggested that such needs are best fulfilled by growth factors intrinsic to the job: achievement, recognition for achievement, be work itself, responsibility, and growth or advancement./8

Research suggests, then, that people derive their greatest satisfactions while at work from feelings of accomplishment related directly to the work they do. According to Peter Drucker one reason for the "sterility of Personnel Administration" is its misconception that people do not want to work./9 Work, in fact, satisfies a wide variety of motives/10 and the extent to which they are fulfilled is dependent upon the degree to which a job includes "planning and controlling as well as doing."/11

6. See, e.g., Chris Argyris, Integrating the Individual and the Organization (1964).
7. See, e.g., A. H. Maslow, Toward a Psychology of Being (1968). Maslow identifies human needs as being (in ascending order) physiological needs, safety or security needs, social needs, egotistic needs, and self fulfillment needs. As each need is met, it ceases to be a motivator and the next highest one takes its place.
8. Herzberg, "One More Time: How Do You Motivate Employees?" Harvard Business Review, 53,57 (January 1, February 1968) He asserts that too many organizations focus on so-called "hygiene" factors which pertain to physical surroundings, salary, interpersonal relationships and the like which all members of an organization expect. Work and the Nature of Man (1966).
9. The Practice of Management, 277 (1954).
10. Meyers lists the following: reduction of role ambiguity, socializing opportunity, increased solidarity, bolstering of security feelings, substitution for unrealized potential, escape from home environment, reduction of feelings of guilt and anxiety. "Job Enrichment," in Robert Golembiewski and Michael Cohen, People in Public Service: A Reader in Public Personnel Administration, 426-7 (1976).
11. Id at 4278. "The employees who have major control over and responsibility for their work . . . are likely to identify with the job and take pride in doing it well." Cayer, supra note 4 at 98. See also Tosi and Carroll, "Management by Objectives," in Shafritz, supra note 2 at 180., Meyers, supra note 10 at 420.

Kenneth Henning writes that a well managed organization is one in which the attitudes and values of the individual members be in:

substantial agreement with the organization's attitudes and values, and in which organizational positions are matched properly with the personalities and skills of the occupants of the positions./12

The point that self direction through identification with organization goals and processes yields more efficient individual behavior has been additionally made by other commentators./13 Similarly, many individuals have stressed the importance of providing for programs of job enrichment such that an individual's job is fitted to him or her as much is possible./14 Both such goals will necessarily be facilitated by fulfilling the individual's needs and motives, by allowing him or her to plan and control.

12. "Management Style and Organizational Climate, in George Killinger, et al, Issues in Corrections and Administration, 263 (1976).

13. See, e.g., Newland, "Personnel Concerns in Government Productivity Improvement," 32 Public Administration Review 807, 813 (Nov/Dec 1972), Golembrewski and Corrigan, "Planned Change Through Laboratory Methods," in Golembrewski, supra note 10 at 206-7.

14. See, e.g., Cayer, supra note 4 at 98.

B. Bureaucratic Organization Reviewed

The bureaucratic management organization employed at the state penitentiary arguably inhibits the kind of employee development discussed above and may through the use of a corresponding leadership pattern be restricting its ability to respond to situational change. This section discusses the general drawbacks of bureaucratic organization and an alternative kind of organizational construction.

Although several recent studies defend bureaucratic organization/¹ this rule oriented, position-focused, and downward directed structure/² has come under great deal of fire. In the first place, it is argued that it too often inhibits the development of competence and initiative on the part of individuals.³ To the extent a bureaucratic structure presumes an impersonal organization, people have difficulty in identifying with its goals. "Real organizational input is . . . restricted to those few people in high office. Consequently, reality feedback to the top

-
1. One such study argues that "bureaucracy is a form of organization superior to all others we know or can hope to afford in the near and middle future" Charles Perrow, Complex Organizations 11 (1972). Robert Fried states that this form of organization is most successful in engaging "the talents and energies of thousands and even hundred of thousands of people" to accomplish "otherwise impossible collective goals." Performance in American Bureaucracy 31 (1976). See also Francis Rourke, Bureaucracy, Politics, and Public Policy 117-18 (1969).
 2. For description in detail, see Fried, supra note 1 at 29-30.
 3. The bureaucratic spirit has been said to be oriented at developing a system to guard against man at his worst." Golembiewski, "Organization Patterns of the Future: What They Mean to Personnel Administration," in Jay Shafritz (ed), A New World: Readings on Modern Public Personnel Management 222 (1975). See also Kramer, "Public Accountability and Organizational Humanism," in Shafritz at 87.

from operating organizational levels is slow at best."/4 Organizations, then, modeled in traditional principles are inconsistent with the needs of the mature personality/5 will inhibit the growth of its employees and in the last analysis may operate inefficiently.

It is argued that bureaucratic organizations, to the extent they inhibit employee growth, also become less able to respond to situational developments. Especially those organizations "dealing with a rapidly changing environment . . . cannot be effective" if driven "primarily by command from above" without allowing for "greater internal equality, diversity, and autonomy."/6 The bureaucracy, under such conditions, is a poor system for analyzing the need for change, responding to it, and gaining and holding employee commitment to goal resolution./7 Too often this leads to the handling of management issues on an ad hoc basis in response to the current "crisis" other than on an "anticipatory, results oriented basis."/8 This weakens the ability of administrators to deal

-
4. Henning, "Management Style and Organizational Climate," in George Killinger et al (eds), Issues in Corrections and Administration 258 (1976). See also Anthony Sinicropis "Employment-Management Relations," in Managing Change in Corrections (Proceedings Correctional Administrators Workshop 1971), Micwald, "Conflict and Harmony in the Public Service," in Shafritz, supra note 3 at 40.
 5. See p. ____ supra and Robert Presthus, The Organizational Society (1962)
 6. Fried, supra note 1 at 33-4. See also Warren Bennis, Organizational Development: Its Nature, Origins, and Purposes (1969), Clayton and Gilbert, "Prospectives of Public Managers: Their Implications for Public Service Delivery Systems," in Robert T. Golembiewski and Michael Cohen, People in Public Service 156 (1976).
 7. Henning, supra note 4 at 259. Changes in policy tend to be "incremental in character" insofar as bureaucrats are ware of "sweeping innovations which may disturb existing programs. Rourke, supra note 1 at 103
 8. Brady, "MBO Goes to Work in the Public Sector," 51 Harvard Business Review 65,71 (March/April 1973).

with external entities upon which they depend for support as well as with employees within the organization./9

In response to the need for added flexibility and in order to extract from their employees the best work possible, organizations have introduced new concepts of management. Robert Fried states, in fact, that "we may be witnessing the gradual decline and such disappearance of many types of large bureaucratic institutions."/10 Based on the writings of the so-called organizational humanists reviewed above, a participative leadership style has been introduced which allows and encourages workers to participate more in planning and policy-making functions./11

The realization that people do not hate work and are capable of making intelligent judgments and that they are motivated to achieve objectives that they have a part in determining has led to advocacy of democratic or participative administration by many./12

The term participative management has many connotations, but implementation of such a concept has as its underpinnings the motivation of

9. Felix Nigro and Lloyd Nigro, The New Public Personnel Administration 57 (1976).
10. Fried, supra note 1 at 451. Management scientists such as Warren Bennis and Peter Drucker have predicted a radical new organizational style. See Warren Bennis (ed), American Bureaucracy (1970); Peter Drucker, The Age of Discontinuity (1968). See discussion of the "ad-hocracy" in Alvin Toffler, Future Shock, chapter 7 (1970).
11. See, e.g., Walton, "Contrasting Designs for participation Systems," in Shafritz, supra note 3 at 68.
12. N. Joseph Cayer, Public Personnel Administration in the United States 96 (1975). As reviewed above, the key to effective organization in part has become what McGregor called the Theory Y of organization, stressing the independence, creative ability, intelligence and willingness to perform what are viewed as useful tasks by employees. See Douglas McGruger, The Human Side of Enterprise (1960). Theory Y is distinct from Theory X which holds that people find work distasteful, need close supervision as a prod, and can be motivated only by carrot and stick prods.

employees through "true involvement."/13 The introduction of the concept often arises under the rubric of "organizational development."/14 Studies have indicated that introduction of these concepts have resulted in high employee performance./15

Correctional institutions such as the state penitentiary are classic bureaucratic organizations: the focus of power is resident in the smallest number of people./16 Kenneth Henning portrays the management styles most often employed in correctional institutions as being bureaucratic and idiosyncratic, neither "ideally suited to the administration of large, complex systems under conditions of rapid change."/17 When a superintendent becomes preoccupied with administrative requirements such that he loses sight of the primary organization goal, he or she may exhibit "trained incapacity."/18 According to testimony received by the House Institutions Committee, in the recent past staff meetings have

-
13. Sorcher, "Motivation, Participation, and Myth," in Shafritz, supra note 3 at 77.
 14. Chester Newland terms OD "systematic organizational change toward shared goals and processes, based in the continuous democratic search for reasonableness and in experienced behavior which stresses human values and open and confronting leadership styles." "Personnel Concerns in Government Productivity Improvement." 32 Public Administration Review 807, 813 (Nov/Dec 1972). See also Richard Beckhard, Organizational Development: Strategies and Models (1969); National Advisory Commission of Criminal Justice Standards and Goals, "Managing Correctional Organizations," in George Killinger et al (eds), Issues in Corrections and Administration 245 (1976).
 15. See, e.g., Likert, "Human Resources Accounting: Building and Assessing Productive Organizations," in Marc Holzer (ed) Productivity in Public Organizations 267 (1976).
 16. Tom Murton, Shared Decision-Making as a Treatment Technique in Prison Management 9 (1975).
 17. "Management Style and Organizational Climate," in Killinger, supra note 14 at 261. Both such styles involve little delegation of responsibility and the decisions are reserved to the superintendent.
 18. Cohn, "The Failure of Correctional Management," in Killinger, supra note 14 at 127.

been held at the State Penitentiary on only an irregular basis. Oftentimes, such meetings have served as forums through which policy changes have been dictated by the Superintendent. This has evidently resulted in resentment among some segments of the staff population who have been denied effective participatory input. Lack of a formal channel for effective input from all groups to the superintendent has in some instances resulted in groups working against others for his favors to the point where one such group became unaware of what others were actually doing. Insofar as employment of such management styles may tend to inhibit creative responses to changing needs and fail to maximize employee worth within any institution, the National Advisory Commission on Criminal Justice Standards and Goals has recommended that reliance upon hierarchial, authoritarian forms of organizations be stopped in favor of the establishment of "more creative systems." /19 The development of such "creative systems" in which input from many segments of the institutional population is maximized might forestall the need to resort to strikes and threats of strikes as a means to bring about change. The precipitation of such crises have occurred at the State Penitentiary in part because of the lack of effective communication channels. The Easter lock-down in 1977, for example, may have stemmed in part from a desire on the part of inmates to present certain grievances effectively; the strike threatened by the guards during the same period may have been sparked partly because that institutional segment was excluded from participating in negotiations between administration and inmates.

19. Task Force on Corrections 441 (1973). See also Elmer Nelson and Catherine Lovell, Developing Correctional Administrators 7 (1969).

IV. MERIT SYSTEM AND UNIONISM

A. Merit System

As this study earlier stated, the potential of a public agency to operate efficiently may be formed in terms of and be conditioned upon not only its ability to extract resources from its external environment but its ability to extract high levels of performance and commitment from its employees. In short, "effective manpower utilization requires that management have the flexibility to exercise discretion over a wide range of manpower decisions."/1 It is the purpose of this section to demonstrate the extent to which first the administration of the state civil service law and then agreements reached under the state's collective bargaining law may inhibit the necessary flexibility.

One of the consequences of the merit system administered under the state civil service law is that it weakens the authority of the supervisor./2 It is widely stated that most civil service and merit systems have, originally intended as instruments to protect against political abuse, "tended to degenerate into instruments for . . . weakening administrative control."/3 "The typical civil service system," according to

1. Charles Levine and Lloyd Nigro, "The Public Personnel System: Can Juridical Administration and Manpower Management Co-exist?" 98 Public Administration Review 98,102 (Jan-Feb 1975).
2. See, e.g., N. Joseph Cayer, Public Personnel Administration in the United States 31 (1975), Savas and Ginsburg, "The Civil Service: a Meritless System," 32 Public Interest 70, 72 (Summer 1973); Felix Nigro and Lloyd Nigro, The New Public Personnel Administration 52 (1976); Lipsky, "Street Level Bureaucracy and the Analysis of Urban Reform," in Robert Golembiewski and Michael Cohen, People in Public Service 319 (1976); Beaumont, "A Pivotal Point for the Merit Concept." 34 Public Administration Review 426 (Sept/Oct 1974); Committee for Economic Development, Improving Productivity in State and Local Government 75-6 (1976).
3. Committee, supra note 2 at 36.

Brian Rapp, "flies in the face of modern management techniques."/⁴ When the Washington State Productivity Council asked agency managers what was blocking productivity improvement to the greatest extent, the civil service system was named as the most significant inhibitor./⁵ This response was reiterated by findings of the Legislative Budget Committee in its review of the civil service system./⁶ In order to facilitate the effective operation of an agency's personnel function, civil service laws and regulations are often ignored or bypassed./⁷

The civil service system was originally established, in part, to make for a "neutral public service in which employees are chosen and dealt with on the basis of their competence and ability to perform."/⁸ The concept of merit, however, has never been incorporated fully into the fabric of the laws. While it has had a "rubbery texture, stretching or contracting to cover the prevailing ethos" at no time has the "ability to perform a specific job prevailed as the predominant or exclusive

-
4. Cited in Laing, "Civil Service Setup, Born as Reform Idea, Now Hit by Reformers," Wall Street Journal 1 (December 22, 1975).
 5. Zagoria, "Productivity in Bargaining," 49 State Government 248 (Autumn 1976).
 6. For example, sixty-four percent of agency heads responding felt that their authority to operate their organizations efficiently, and economically in light of the merit system process was only fair or unsatisfactory. Performance Audit, State Personnel Merit System 37 (November 19, 1976).
 7. Jay Shafritz alludes, for example, to the "nether world of public administration" in which such laws and regulations are frequently subverted. "The Cancer Eroding Public Personnel Professionalism" in Jay Shafritz (ed), A New World: Readings in Modern Public Personnel Management 21 (1975). See also Savas and Ginsburg, "The Civil Service: A Meritless System," 32 Public Interest 74 (Summer 1973).
 8. N. Joseph Cayer, Public Personnel Administration in the United States 31 (1975).

method" of selecting public employees./⁹ While often employed as a tool of public policy,/10 the merit system has never established an actual mandate for competitive excellence. According to some, it has been transformed into a "closed and meritless seniority system"/11 exploited by the "insider technician" who manipulates the system to his or her own advantage./12 This section will discuss how selection and promotion under the civil service system rules in Washington work counter to the goal of competitive excellence and inhibit management from effectively exercising manpower decisions. Three aspects of this system, testing, certification, and promotion, will be discussed in this regard.

Starting from the simplest of beginnings over 80 years ago, testing has evolved into an imposing, sophisticated mechanism used to ascertain an individual's suitability for a particular job. While arguably open, competitive, and objective then taken together with the state certification rules, testing may operate against the standard of awarding excellence in the areas of job selection and promotion./13

The State Personnel Board is assigned the responsibility by virtue of RCW 41.06.150 to adopt rules and regulations dealing with "examinations for all positions in the competitive and non-competitive service." The

-
9. Kranz, "Are Merit and Equity Compatible," 34 Public Administration Review 436 (Sept/Oct 1974).
 10. The veterans preference policy is one such example. See Feigenbaum, "Civil Service and Collective Bargaining: Conflict or Compatibility?" in Shafritz, supra note 7 at 44; McGregor, "Social Equity and the Public Service," in Golembiewski, supra note 2 at 356.
 11. Savas, supra note 7 at 80.
 12. Couturier, "Court Attacks on Testing," Good Government 10, 11 (Winter 1971).
 13. For general discussion on attributes of testing, see Mosher, "Features and Problems of the Federal Service: The Management of Merit," in Golembiewski, supra note 2 at 402-3.

merit system rules generally cover the policy questions not included in statute./14 The objectives of an examination process are not always easy to attain. Not only must a test be reliable such that the same persons taking it on different occasions make the same relative scores but a test must be valid in that it accurately measures what it purports to measure./15 According to Equal Employment Opportunity Commission Guidelines:

Evidence of a test's validity should consist of empirical data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being evaluated./16

A test may be validated, for instance, in terms of its content which would involve subject matter specialists determining that it is constructed to constitute a representative sample of the knowledge, skills, or behaviors making up a particular job./17 Examinations, however, are very slow in being validated./18 According to a memorandum prepared for the House State Government Committee on August 28, 1976, validity studies

-
14. MSR 356-22-090, for instance, requires that "examinations shall be practical in nature and of such character as to determine the capacity of the applicant to perform the duties of" a particular class' as well as the applicant's general background and related knowledge, and shall be rated objectively." According to the Legislative Budget Committee audit of the State Merit System, the predominant method of employee examination is the written test. Fred Hellberg, Personnel Testing (Memo to House State Government Committee, August 28, 1976).
 15. See, e.g., Felix Nigro and Lloyd Nigro, The New Public Personnel Administration 166 (1976).
 16. 29 CFR, Part 1607.
 17. Hellberg, supra note 14 at 6. Other types of validating include criterion-related validity in which test scores are compared with criteria of job performance and contract validity which demonstrates that a measurable trait is related to successful job performance. See, e.g., Nigro, supra note 15 at 176.
 18. See, e.g., Cohen, "Reassessing Public Personnel Systems," in Golembiewski, supra note 2 at 164; Savas, supra note 2 at 74; Rutstein, "Survey of Current Personnel Systems in State and Local Governments" 88 Good Government (Spring 1971).

which meet EEOC guidelines have been developed for an estimated 35 tests affecting the jobs of some 3,000 out of 17,000 employees taking written tests./19 This slowness may, in part, be attributable to the costs of validation./20

It can be argued that testing for correctional positions at the Walla Walla State Penitentiary are illogical. Correctional officers are selected through the so-called local list procedure. This process allows applicants to apply directly to the Department of Social and Health Services rather than go through the Department of Personnel. Applicants must only have graduated from high school or possess a GED equivalent. No written test is required./21 To the extent that the greater part of these individuals have never been employed in a correctional setting, such applicants might well be tested for psychological fitness. According to a 1974 study by the Commission on Correctional Facilities and Services by the American Bar Association, few states have any such detailed psychological fitness standards./22 According to Lieutenant Wayne Helgeson, Walla Walla training officer, introduction of such tests at the State Penitentiary for the purpose of selecting correctional officers would be desirable./23 Applicants for the correc-

19. Hellberg, supra note 14 at 6.

20. See, e.g. Peirce, "State Local Report Civil Service Systems Experience 'Quiet Revolution,'" National Journal 1643, 1647 (November 29, 1975). The average cost of developing a new, valid test in Washington state has been estimated to be \$4,000. Hellberg, supra note 14 at 6.

21. See NSW 356-26-010(4).

22. Cited in May, "Prison Guards in America," Corrections Magazine 3, 40 (December 1976).

23. Testimony at Institutions Committee Hearing, July 27, 1977.

tional positions of sergeant, lieutenant, and captain, however, are required to take a written test. It is generally agreed that there is frequently too much emphasis on written examinations./24 In the case of these specific positions, this may be all the more significant. Enid Beaumont writes that "a high proportion of jobs in the public service are different that they were a decade ago or will be a decade hence."/25 This, arguably, is especially true of the job of a correctional officer. In advancing to higher positions, experience which demonstrably measures the capacity to do the work required would be superior to a written test./26 Certainly, in light of the findings of the Legislative Budget Committee on the subject, this matter should be given careful consideration./27

Typically, lists of eligibles are prepared by the Department of Personnel from among those individuals applying for state employment. Agencies make their choices from these lists, often after interviewing those so certified. This process has been "the source of considerable mischief."/28 RCW 41.06.150 requires the State Personnel Board to adopt

24. See, e.g., Cayer, supra note 2 at 75.

25. "A Pivotal Point for the Merit Concept," 34 Public Administration Review 426, 428 (1974). See also Schein "Steps in the Selection Process." in Nigro, supra note 15 at 468-9.

26. This is consistent with the recommendations of the Joint Commission Of Correctional Manpower and Training. See Nigro, supra note 15 at 150.

27. The Committee concluded that "there is sufficient question concerning the validity of some elements of the state's testing program to warrant a detailed review by the Director, Department of Personnel." Audit, supra note 6 at 7. Forty-three percent of the agency heads and sixty-seven percent of the agency personnel officers responding to the audit questionnaire rated the validity of the testing program below average. About forty three percent of the state employees surveyed reported that tests taken did not accurately measure job requirements for their entrance into state government and forty-seven percent indicated that tests given for promotion did not fairly and accurately measure job requirements.

28. Golembiewski, supra note 2 at 53.

rules and regulations for certification of names for vacancies, including departmental promotions, with the number of names equal to two more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists. Although subsequent merit system rules have allowed some exceptions to the so-called "rule of three concept," it remains a dominant method of certification./29

Responses received from agency heads, personnel directors/managers and state employees by the Legislative Budget Committee reflect a general dissatisfaction with the "rule of three" as a method for electing applicants to fill vacant positions. Seventy-two percent of those agency heads responding, for instance, found it only fair or unsatisfactory as a means to replace personnel in a timely manner./30 Sixty-two percent of employees responding felt that when a job becomes available all names of qualified employees should be available to the supervisor for his/her selection./31 The Committee, having reviewed the situation, determined

29. Exceptions to the rule include a rule allowing the Director of Personnel to refer up to three additional names if the vacancy has been identified as part of an agency's affirmative action goals (MSR 356-26-060(6)); a non-competitive service rule allowing the Director to waive restrictions in the case of certain high-level positions or where examinations are impractical (MSR 356-22-230); a rule allowing the Director to refer more than three names for certain entry-level clerical positions (MSR 356-26-060(7)); a rule whereby the Director certifies only one name when referrals are made from a reduction in force or reversion register (MSR 356-26-060(1)); a rule allowing the Director to refer all names if certified exclusively from an open competitive register subject to the restriction that the agency not select from the top three names per vacancy to be filled (MSR 356-26-060(2)); a rule allowing the Director to break tie scores by lot (MSR 356-26-060(3)); a rule permitting an agency to stipulate to the Department of Personnel that special qualifications are needed to fill a job and that only those eligibles who possess such qualifications should be certified. If the Director approves, he then certifies the highest ranking eligibles who possess the special qualifications.

30. Audit, supra note 6 at 439.

31. Id. at 79.

that "current selection procedures do not allow sufficient discretion by agency heads to select the "best qualified" person for a vacant position./32 This critique is consistent with that of many other groups and commentators./33 The Advisory Council on Intergovernmental Personnel stated that:

It is inappropriate to place undue restrictions on the latitude of the appointing authority to exercise judgment on who would be most suited for a job from among the best qualified candidates selected by an open, competitive system./34

Certainly, the rule of three would appear to inhibit the exercise of such judgment./35

Many jurisdictions are reportedly abandoning the rule of three. In a survey conducted by the National Civil Service League, thirty-eight percent of the 338 large units of government responding stated that the rule of three was being abandoned in favor of broad bands of eligibility./36 Most states have liberalized their procedures to "allow certification of from five and six persons, including tie scores, up to 15 in the case of

32. Id. at 7.

33. See, e.g., Nigro, supra note 15 at 173; Cayer, supra note 8 at 77-8, Savas, supra note 2 at 74-5; National Civil Service League, A Model Public Personnel Administration Law (January 1971); Stanley, "Merit: The Now and Future Thing." 34 Public Administration Review 451, 451-2 (Sept/Oct 1974).

34. Cited in Audit, supra note 6 at 76.

35. Savas and Ginsburg assert that "no one seriously contends that a person who scores 92.463 on an examination of dubious validity is likely to perform better on the job than someone who scores 92.462, or even 91.462. This scientifically unsupportable custom . . . should be abandoned." Savas, supra note 2 at 74-5.

36. Cited in Audit, supra note 6 at 81. The League state that over 70 percent of the large governments in America have "not abandoned the unproved and artificial limiting of job to the "top three" who have "passed" unproved tests." Id.

Oklahoma."/37 One suggestion involves the use of "category rating" which means, for example, that the entire list of eligibles is referred in specific categories or that everybody above a specified minimum is classified as "qualified" and is certified./38 As reviewed above, the State Penitentiary at Walla Walla is already utilizing a local register with respect to its selection of correctional officers. In the case of supervisory correctional personnel, given the dynamics of the institutional situation, a selection process should be developed which will assure a determinative role be assigned to an individual's experience and performance. The "rule of three" would not appear to engender such a process insofar as a test score could preclude consideration of an individual who has demonstrated practical competence in the institution.

According to one review of the subject, "with regards to promotions, the civil service can be described more accurately as a seniority system than as a merit system."/39 Merit System Rule 356-26-070 directs that, normally, the Director of the Department of Personnel will certify names for position vacancies from ten personnel registers such that eligible names must be first submitted from the highest ranking register to the hiring agency before names from the next register can be certified.

37. Fred Hellburg, Merit System Certification Policies and Practices 5 (Memo to House State Government Committee, November 5, 1975). Methods include, for example, the certification of the scores such that individuals would be entitled to be certified by virtue of identical scores, the certification of all names which fall under the three highest scores after they have been rounded off, and certification based on the statistical reliability of test scores. Id. at 6-7.

38. See, e.g., Id. at 6; McClung, "Qualified" vs "Most Qualified," in Shafritz, supra note 7 at 115.

39. Savas, supra note 2 at 77.

Preference for promotional positions is given to individuals currently employed by the state, because they are on the high ranking registers./40 According to the Department of Personnel, frequently a person on the agency promotional register is certified for a position before a person with a higher score who is on the open competitive register./41 The Department of Personnel may, upon application of the appointing agency, broaden the competition for a job by determining that the initial certification be made from the names standing highest when the agency promotional service wide promotional, and open competitive registers are combined./42 It is certainly arguable that this style of certification should be the rule and not the exception.

Selection and promotion policies drawing chiefly from those already working within an agency may not necessarily produce the most effective service to the public. On the contrary, "self serving selection processes may work to the detriment of the public to the extent that like-minded bureaucrats are not likely to suggest alternative policies or strategies."/43 The desirability of lateral entry into an agency, on the other hand, has long been recognized./44 The need for encouragement of lateral

40. The registers are ranked in the following order: 1. agency reduction in force register; 2. service-wide reduction in force register; 3. dual agency reversion register; 4. agency promotional register, 5. service-wide reversion register, transfer register; 7. voluntary demotion register, 8. service-wide promotional register; 9 reemployment unranked register; 10 open competitive register.

41. Personnel Testing, supra note 14 at 4.

42. Audit, supra note 6 at 72.

43. Cayer, supra note 8 at 80. See also Cohen, "Reassessing Public Personnel Systems," in Golembiewski, supra note 2 at 165.

44. See, e.g., Golembiewski, supra note 2 at 52; Francis Rourke, Bureaucracy, Politics, and Public Policy 130 (1969); Nigro, supra note 15 at 208-09; Hatry and Fisk, "Local Government Productivity Improvement Possibilities," in Marc Holzer (ed), Productivity in Public Organizations 296 (1976).

entry from the outside has been especially stressed in the area of corrections. Recruitment of qualified personnel in that field, according to the National Advisory Commission on Criminal Justice Standards and Goals, is restricted by lack of opportunity for lateral entry./45 Lateral entry, to the extent it serves to bring in fresh perspectives, different perspectives, and added skills, is to be encouraged in that field./46 The proliferation of ranked registers coupled with the rule of three and testing has had a tendency, in the view of the Legislative Budget Committee, to "eliminate true consideration of merit in the merit system in form of predetermined rules. Individuals who are substantially more qualified for a job "may be passed over because they are on the wrong register."/47 This is yet one more instance, then, which the authority of correctional administrators to make the proper manpower decisions is being hamstrung.

45. Task Force on Corrections 473 (1973).

46. See, e.g., Elmer Nelson and Catherine Lovell, Developing Correctional Administrators 92-93 (1969).

47. Audit, supra note 8 at 80.

B. Salary Incentives

It can be stated that, at least for some employees, the salary system incorporated into the merit system law militates against the enhancement of employee performance. Like the elements of the system discussed above, the payroll mechanism appears to have little to do with merit. This section will discuss the current law and suggest problems attendant to it.

RCW 41.06.105 requires that the Personnel Board adopt rules providing for "regular increment increases, within the series of steps for each pay grade, based on length of service for all employees whose standard of performance are such as to permit them to retain job status."/1 The only criterion for such periodic pay increases is length of service with no regard to quality of service. This may work a form of discrimination against a superior employee and may inhibit the development of the kind of worker necessary to staff the increasingly complex state institutions such as the Penitentiary at Walla Walla.

Commentators have stated that because of its emphasis on seniority, civil service systems impede attraction of qualified personnel./2 Given the nature of promotion procedures, there are relatively few ways in which, because of the automatic pay increases, a supervisor can motivate

-
1. An employee whose performance is average or below average, but not to the extent to warrant dismissal from the classified service, is rewarded five percent yearly salary increases within each of the 55 pay grades of the salary schedule the same as his fellow worker who performs better than average or in a superior fashion.
 2. See, e.g., Wilmers and Reilly, "Decay in New York's Civil Service," 169 The New Republic 21 (November 10, 1973).

or penalize a worker./3 This may have a negative impact on some workers. One correctional officer who has requested to remain anonymous explained his reluctance to accept a promotion after four years employment at Walla Walla insofar as he was already guaranteed "regular pay increases" and that "the promotion would only give me a fifty dollars a month increase and that the added responsibility requires much more accountability." He sought and received, upon pain of receiving poor work assignments, a promotion but only with some resentment. One employee surveyed by the State Advisory Council on State Government Productivity reported "why should I work harder, smarter? Individuals involved received more work, more problems, but no additional remuneration."/4 This can, in turn, inhibit management from making the most effective use of employees and can impede efficiency and effectiveness of state institutions./5 The Advisory Council on State Productivity found that forty-three percent of agency responses named lack of adequate incentives and rewards to encourage superior employee effort as the most severe inhibitor affecting organizational efficiency, effectiveness and economy./6 Retention of the existing system of rewarding pay increases is, in part, attributed to union influence. To the extent that productivity reward systems tend to separate out efficient personnel for special awards, it

-
3. See, e.g., Savas and Ginsburg, "The Civil Service: A Meritless System," 32 Public Interest 70, 78 (Summer 1973).
 4. Cited in Neal Peirce, "State Local Report Civil Service Systems Experience 'Quiet Revolution'." National Journal 1643, 1644, 1646 (November 29, 1975).
 5. See, e.g., Legislative Budget Committee, Performance Audit State Personnel Merit System 6 (November 19, 1976); Committee for Economic Development, Improving Productivity in State and Local Government 39 (1976).
 6. Cited in Audit, supra note 5 at 49.

has been suggested that they conflict with the union desire to bring about improvement for large classes./7 A large percentage of workers, however, would appear to prefer that step increases be on the basis of merit rather than seniority./8

According to the Legislative Budget Committee, inherent in the concept of merit is that levels of employee pay should depend on the nature of the job and quality of performance./9 "Those who do their jobs well or with distinction," states N. Joseph Cayer, "should be treated differently from those who only do what is absolutely necessary to get by."/10 Several jurisdictions are developing new approaches to incentive pay within the merit system. Minnesota's personnel board is allowed, for example, to grant a performance award when an employee meets objectives approved in advance by the "appointing authority" which exceed "the expected performance of a person in" his position./11 Introduction of a similar kind of performance reward system might serve as a useful tool to a jurisdiction attempting to introduce a program of organization development or participative management.

-
7. See, e.g., Balk, "Why Don't Public Administrators Take Productivity More Seriously?" in Jay Shafritz (ed), A New World: Readings on Modern Public Personnel Management 188 (1976); Balk, "Decision Constructs and the Politics of Productivity," in Marc Holzer (ed), Productivity in Public Organizations 189 (1976).
 8. Audit, supra note 5 at 49.
 9. Id. at 46.
 10. Public Personnel Administration in the United States 81 (1975).
 11. Minnesota Statutes 1976, Section 43.069. For other examples, see The Urban Institute for the National Commission on Productivity, Managing Human Resources in Local Government: A Survey of Employee Incentives 6 (October 1973).

C. Classification Process

One inhibitor to implementation of an organizational development and/or a performance merit system within a state agency is the state classification system which is currently being implemented by the State Personnel Board. This section will briefly describe the purposes of this system and suggest weaknesses in its current operations.

RCW 41.06.050 states simply that the State Personnel Board shall adopt rules and regulations providing for a "comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position." Position classification developed in Chicago in 1969, spread to most other state and local governments and has since become "the basis of almost all other personnel activity in the traditional approach to public personnel administration."/1 In short, the process involves identifying the duties and responsibilities of each organizational position and then grouping the positions according to their similarities for personnel administration purposes. The resultant classification is used, for instance, in drawing up test examinations, setting compensation, and determining qualification of a job./2 Insofar as most

-
1. N. Joseph Cayer, Public Personnel Administration in the United States 56 (1975). For historical background see Robert T. Golembiewski and Michael Cohen, People in Public Service: A Reader in Public Personnel Administration 61 (1976).
 2. See, e.g., Cayer, supra note 1 at 56-7; Felix Nigro and Lloyd Nigro, The New Public Personnel Administration 114-15 (1976). According to Felix and Lloyd Nigro, the principal use of position classification has been in salary standardization through its tie in with the compensation plan. Id at 116. Merrill Collett claims that "we know that position classification has concentrated on wage and budget administration." "Rethinking Position Classification and Management," 32 Public Personnel Review 171, 172 (July 1971).

bureaucracies are still structured in the hierarchial form, position classification "is a natural compliment to such "organization."/3

According to Merrill Collett, "in the name of position classification, more sins have been committed against persons and the effectiveness of administrative operations" than in perhaps any other personnel management function./4 The fact that the classification process is replete with political implications has been the source of much of the criticism leveled at it./5 Resulting misallocation of positions can have monetary consequences, but also may affect the morale and performance of an employee who finds him or herself overqualified for a certain position and of the employee in a position similar to one which is mistakenly classified upward./6 To the extent that the current count of some 2,160 classes is considered to be too high to render effective control, these kinds of problems could currently exist./7

In addition to affecting job performance as a consequence of a poor administrative decision, it is more significant that the classification

-
3. Cayer, supra note 1 at 62.
 4. Collett, supra note 2 at 171.
 5. A classifier, for instance, may be trapped into overclassifying positions and losing uniformity between departments. See, e.g., Golembiewski, supra note 1 at 37; Baum, "Getting Caught in the Middle of Classification Decisions." in Golembiewski, supra note 1 at 108-09; Collett, supra note 2 at 173; Cayer notes that a classification may overclassify by looking at the most complex duty of the position as the basis for classification regardless of the frequency of its performance. Cayer, supra note 1 at 60; Thompson, "Classification as Politics," in Golembiewski, supra note 1 at 527.
 6. See, e.g., Legislative Budget Committee, Performance Audit State Personnel Merit System 31 (November 19, 1976).
 7. Id. at 30, 41.

process as a whole may inhibit effective organizational development designed to enhance employee performance. Classification emphasizes the job rather than the impact of the man on the job such that widely different performances of similar jobs will be similarly compensated./⁸ Often times, the more relevant elements of an individual's job performance will be ignored in developing a classification so that it largely becomes a compilation of largely wooden duties and factors./⁹ This would appear to be inconsistent with the stress on individual self initiative and flexibility reflected in the organizational development goals. Positions, because activities become so highly specialized, are "irrelevant to the type or organization we will need in the future."/¹⁰ N. Joseph Cayer states that:

The idea here is that people are hired for their expertise and ability to develop ideas and new solutions to problems, therefore, it is expected that the work situation will become more democratic and project oriented with people working in a collegial rather than a hierarchial relationship. In such cases, position classification is not very appropriate./¹¹

At any rate, positions change drastically sometimes without the worker or his supervisor even recognizing it. In such a potentially dynamic environment position classification is at best useless and at worst destructive to the extent it might limit organizational effectiveness as employees drift between what their job is on paper and what experience has shown it should be.

8. Golembiewski, supra note 1 at 62.

9. See, e.g., "Position Synthesis: A Behavioral Approach to Position Classification," in Jay Shafritz (ed) A New World: Readings on Modern Public Personnel Management 124 (1975).

10. Cayer, supra note 1 at 60.

11. Id. at 61.

The Legislative Budget Committee audit of the civil service system determined that a "comprehensive plan for firm guidance and control of the classification function does not currently exist for the efficient operation of the state's merit system."/12 When instilling some such "guidance and control" into the system, attention should be given so that it will be able to operate consistently with the principles of organization development outlined in this study. The emphasis might be more the rank in person rather than the rank in job approach whereby the abilities, credentials and experience of the individual are used as the basis for making various personnel decisions./13 The refocussing of the classification system should be such that it restructures positions and builds career ladders so that "dead end" jobs are avoided./14 Jobs must exist that allow for the potential of planning and control by the employee, for some kind of job enlargement./15 This, as suggested above, will make for better motivated workers and a more effective organization.

12. Audit, supra note 6 at 26.

13. See, e.g., Leich, "Rank in Man or Job? Both!" 20 Public Administration Review 92-99 (Spring 1960). Daniel Halloran states that the "personnel ranking system . . . is oriented to the personnel of an organization other than directly to the organizational structure. It is distinguished from the position classification by establishment of a rank hierarchy which exists apart from the administrative structure of the organization, whereas position classification adheres rigidly to organizational lines." "Why Position Classification," 28 Public Personnel Service 89-90 (April 1967). See also Cayer, supra note 1 at 61; Golembiewski, supra note 1 at 72.

14. Nigro, supra note 2 at 90.

15. See, e.g., Thompson, supra note 5 at 523. Thompson discusses how such job-related factors such as enlargement greatly impact motivation, much more than personality attributes.

D. Impact on Correctional Officer

The application of organizational development techniques to the state penitentiary must necessarily take into account the position of the correctional officer. The guard has been described as the "lynch pin" of prison operations,/1 the "key to riot prevention,"/2 and "the pivotal figure on which the custodial bureaucracy turns."/3 According to the President's Commission on Law Enforcement and Administration of Justice, "they may be the most influential persons in institutions."/4 Given this kind of responsibility, it is perhaps difficult to comprehend the high turnover rate of correctional officers at prisons and why many times such jobs have "gone begging."/5

In part, the correctional officer's problem may stem from lack of public acceptance and understanding of what his job is./6 To a greater extent, however, the correctional officer's difficulties may stem from the institution's "disasterous hierarchy."/7 One researcher found that the prison guard was to some extent being alienated because of the

-
1. David Fogel, We Are the Living Proof 64 (1975).
 2. Fox, "Why Prisoners Riot," in George Killinger, et al (ed) Issues in Corrections and Administration 453 (1976).
 3. Gresham Sykes, The Society of Captives 53-58 (1958).
 4. Task Force Report on Corrections 96 (1967). According to Daniel Glaser, "custodial officers can be said to have the greatest total impact everywhere" as opposed to treatment staff and caseworkers. The Effectiveness of a Prison and Parole System 134-44 (1964).
 5. May, "Prison Guards in America," in Corrections Magazine 3, 4 (December 1976).
 6. Corrections as a career falls at the bottom of the list among careers considered by teenagers and far down the list of careers recommended by adults to young people. Elmer Nelson and Catherine Lovell, Developing Correctional Administrators 39 (1969).
 7. Konopka, "Corrections and Human Dignity," in George Killinger (ed), Issues in Corrections and Administration 76 (1976).

unilateral flow of information received at the bottom end of the organizational ladder./8 According to Edgar May in his recent survey of correctional officers nationwide, "many . . . emphasize that they want and look for more than a steady pay check . . . many resent what they believe in their too limited role as jailors of America's convicts as well as the lack of encouragement from administration to work more actively with inmates."/9 On one hand, the correctional officer does need a clearer conception of institutional goals and policies./10 Too often they are, lacking little useful direction, left in something of a sink or swim situation. At the same time, there is no denying that the guard--essentially the lowest level employee in a custodial capacity--is both a manager and worker./11 To this extent, he or she should be allowed the flexibility to accomplish goals in the most efficient way possible.

At Walla Walla, for example, Lieutenant Wayne Helgeson, training officer, has stressed the necessity of extensive training for correctional officers in order to effectively develop problem-solving techniques. Current training at the penitentiary, however, would appear to downplay this facet of the correctional officer's role and administrative rule

8. Fogel, supra note 1 at 77.

9. May, supra note 5 at 47. See also National Advisory Commission in Criminal Justice Standards and Goals, Corrections 482 (1973).

10. See, e.g., Fogel, supra note 1 at 101, Gordon Hawkins, The Prison 101 (1976). Contrary or ambiguous job expectations may exacerbate the difficulties encountered by a correctional officer. See Lipsky, "Street Level Bureaucracy and the Analysis of Urban Reform," in Robert T. Golembiewski and Michael Cohen (ed) People in Public Service 314 (1976).

11. See, e.g., Cressey, "Adult Felons in Prison." in Lloyd Ohlin (ed) Prisoners in America 131 (1973).

has seemingly limited the extent to which a guard might be able to exercise such ability. While firearms, for example, are kept only in the prison towers, much of an officer's training is devoted to their handling and operation while relatively little time is devoted to developing basic communication skills. Administrative code regulations, further, generally prevent an officer from making an on site adjustment of a disciplinary infraction dangerous neither to the safety of an inmate or to others. Both this absence of training and lack of flexibility may result in a situation where potential harmony between some correctional officers and some inmates may be precluded.

Stanley Brodsky has suggested a vehicle for responding to the guard's need to be heard in the form of an organizational and interpersonal "bill of rights." He states that:

it is uncomfortable to be swept along in a process over which one has no control. . . . Correctional officers should serve on boards, committees, and decision-making structures at all levels within penal institutions./12

David Fogel states that a justice perspective "calls upon the maker of rules to share legitimate power with the enforcers . . . of the rules."/13 Certainly, something must be done to militate against the organizational atmosphere in which "too many labor in obscurity."/14 To date, no career ladders have been built to reward those guards who have shown

12. "A Bill of Rights for the Correctional Officer," Federal Probation 38 (June 1974).

13. Fogel, supra note 1 at 228-9.

14. Corrections, supra note 9 at 483. Norval Morris, The Future of Imprisonment 107 (1975).

particular promise on the job./15 This should be done, but in the first instance there should be a means devised where correctional officers can become "more actively involved in prison operation."/16

15. Fogel, supra note 1 at 95-6.

16. Henry Burns, Jr. Corrections Organization and Administration 375 (1975). This may improve the attitude of the correctional staff toward the inmate population. See Daniel Glaser, The Effectiveness of a Prison and Parole System 138 (1964).

E. Unionism

Parallel with the development of the civil service system, another mechanism has evolved which is ostensibly also aimed at protection of public employees. This, of course, is the rapid spread of public unionism with its attendant rise in collective bargaining./1 Unionism, which will be used here to cover all employee organizations whose objective in whole or in part is to become involved in bilateral decision making, is on the increase nationally in prisons./2 This section will discuss in the first instance the impact of unionism upon the merit system and, finally, problems posed to prison management by unions.

The first appreciable decline in the power of civil service commissions, generally, came with the spread of collective bargaining./3 The Washington state law specifically incorporates the rights of collective bargaining into its civil service provisions./4 The fact that this new system has grown atop--or alongside--civil service, has caused many commentators to proclaim a perhaps premature end for the merit principle. Muriel Morse, for example, claims that civil service and collective bargaining "employ different principles and they have different concerns.

-
1. Public unionism has become the fastest growing sector of organized labor in the past decade. In 1970 about 2.3 million government employees were members of unions, twice the number for 1960. Hodgson, "Productivity is Key Element in Government and Business," in Marc Holzer (ed), Productivity in Public Organizations 73 (1976). Coming at a time when, in the minds of many, the traditional labor movement was stagnating, the rise of public unionism takes an additional importance for the labor movement. See, e.g., U. S. Department of Labor, Collective Bargaining in Public Employment and the Merit System 4 (April 1972).
 2. May, "Prison Guards in America," Corrections 3, 46 (December 1976).
 3. See, e.g., Felix Nigro and Lloyd Nigro, The New Public Personnel Administration 81 (1976).
 4. RCW 41.06.340.

We can no longer believe that we can be half collective bargaining and half merit system."/5 This impression that collective bargaining and the merit system are incompatible and locked in a life and death struggle is found in a great deal of current literature./6 As they analyze the intentions of unions, many defenders of the civil service system are fearful that commissions and boards will eventually be stripped of all functions except recruitment./7

The fact that the impact of collective bargaining in the traditional civil service system may be to narrow its scope does not mean that the two systems are irreconcilable. Indeed, a clear reallocation of responsibilities is between the two systems could facilitate the operations of each. While civil service systems are originally created to provide the public employee with job security against political attacks and to achieve high standards of competence in the public service, they have evolved into bodies administering a wide range of personnel functions./8

5. "Shall we Bargain Away the Merit System?" in Kenneth Warner (ed), Developments in Public Employee Relations 154-160 (1965).
6. See, e.g., Committee for Economic Development, Improving Productivity in State and Local Government 52 (1976); statement of Douglas Weiford, Secretary of the Wisconsin Department of Public Affairs, cited in Collective Bargaining, supra note 1 at 43-4; Savas and Ginsburg, "The Civil Service: A Meritless System," 32 Public Interest 70, 79 (Summer 1973); E. Wight Bakke, "Reflections on the Future of Bargaining in the Public Sector," Monthly Labor Review 21-25 (July 1970); Helburn and Bennett, "Public Employee Bargaining and the Merit Principle," 23 Labor Law Journal 618, 619 (1972).
7. See, e.g., Nigro, "Collective Bargaining and the Merit System," in Robert Golembiewski and Michael Cohen (ed), People in Public Service: A Reader in Public Personnel Administration 433, 435 (1976); Feigenbaum, "Civil Service and Collective Bargaining: Conflict or Compatibility" in Jay Shafritz (ed), A New World: Readings on Modern Public Personnel Management 41, 48 (1975).
8. See, e.g., Collective Bargaining, supra note 1 at 20-1. Helburn and Bennett review this evolution whereby the merit systems "shifted from an overriding concern with political neutrality to include the goal of economy and efficiency in government." Helburn, supra note 6 at 620.

To the extent they have come to perform clearly managerial functions, it is not surprising that employees have come to view civil service systems as arms of management./9 It is arguable that the civil service systems return to their original mandates albeit in a manner designed so as not to unnecessarily interfere with required managerial discretion.

While it is important to adequately determine the scope of the civil service system, it is also quite crucial to better determine the scope of collective bargaining. Washington law merely states that collective negotiations involving public employees may pertain to "personnel matters, including wages, hours, and working conditions."/10 Certainly, the preservation of adequate salaries, pensions, working conditions, and fringe benefits are proper matters of consideration in the bargaining system. Since, however, "the dynamic of unionism is constantly to try to increase the scope of the bargaining, it holds potential dangers for the essential elements of a merit system."11 Perhaps the greatest danger is that because unions often insist on

-
9. See, e.g., Collective Bargaining, supra note 1 at 20-1; Michael Moskow et al, Collective Bargaining in Public Employment 88-9 (1970). Jerry Wurf, the president of AFSCME, asserts that "In my view, civil service is nothing more--and not much less than management's personnel system. Viewed as such, it fills an important role in government--as a tool of management" cited in Feigenbaum, supra note 7 at 47.
 10. RCW 41.56.030(4).
 11. Nigro, supra note 3 at 15. Some administrators fear, for example, that unions will eventually be successful in making the classification of individual positions subject to negotiation such that "a class of positions would no longer include those which are equal in duties and responsibilities." Nigro, supra note 7 at 437. Examples of instances where public unions have bargained classification matters and service rates are listed in id. at 443 and Nigro, supra note 3 at 124-5.

seniority as the basis for pay increases and promotions, merit may, in fact, be undermined./12 Rich Bolduc states that:

The government must not be placed in a situation where it may be tempted to be obliged by contract to respect some particular condition of employment (like seniority), which in fact, would constitute a compromise about the standards of excellence required to get and keep in the service the best qualified people./13

Occasionally, however, management has allowed seniority rules to impair needed flexibility with respect to promotions and work assignments./14 This may, in fact, extend to correctional institutions. Under the 1970 contract with the correctional department, prison guards in New York were allowed to bid for their posts according to seniority. By the fall of 1970 older officers were on wall posts and positions on night shifts while inmates were locked in cells. The inexperienced young officers, left with the daily supervision of the inmate population, were "totally unprepared for the jobs left to them by older officers."/15 In the Washington State Penitentiary itself post assignments are arrived at, by virtue of an agreement between the union and the administration, on the basis of a formula which gives primary emphasis to seniority rather than a person's competence. Management must be firm and preserve the "true merit concept and to the extent necessary, the legislature should anticipate these problem arising out of bargaining when enacting laws.

12. See, e.g., N. Joseph Cayer, Public Personnel Administration in the United States 118-19 (1975); Feigenbaum, supra note 7 at 45; Nigro, supra note 7 at 436.

13. "The Framework for Collective Bargaining in the Public Service: The Canadian Service," in Kenneth Warner (ed) Collective Bargaining in the Public Service 15-16 (1967).

14. Feigenbaum, supra note 7 at 46.

15. Henry Burns Jr., Corrections: Organization and Administration 378 (1975).

V. CONCLUSIONS

A. Purposes of Institution

This report, first of all, has established the need for the Legislature to better define the goals of the State Penitentiary at Walla Walla. The state should use a penal sanction as the legal cost for the violation of some laws and with it exact from an individual only the temporary deprivation of his or her liberty. It would be better off to call "a spade a spade" and not send individuals to prison for rehabilitative reasons./1 The prison should not be responsible for rehabilitating the inmate.

The prison is not, however, to "punish the offender."/2 The deprivation of liberty in and of itself is sufficient punishment. Rather than promotion of reform of the individual, in fact, the goal of the institution should be to prevent his deterioration./3 Implementation of this goal would generate the kind of prison reform the primary aim of which is to be humanitarian rather than rehabilitative./4 The criminal justice system taken as a whole can be fair, humane, and efficient, but

-
1. "Adult Felons in Prison," in Lloyd Ohlin (ed), Prisoners in America 150 (1973).
 2. Henry Burns, Jr., Corrections Organization and Administration 319 (1975).
 3. Rupert Cross, Punishment, Prison, and the Public 8586 (1971).
 4. Gordon Hawkins, The Prison: Policy and Practice 171 (1976). Hawkins states that for "those whom the full blooded rhetoric of rehabilitation retains its perennial appeal" this goal may seem uninspiring, but "to take that attitude is to forget how rarely even the modest objection of providing humane and decent material conditions of life has been achieved" within prison walls. Id. at 54-5.

it cannot save men from themselves./5 To attempt more can, as reviewed above and elsewhere, unnecessarily interfere with human volition and result in institutional discord. This change in the purpose of the institution must, of course, be accomplished within the context of system reform: The sentencing mechanism must be structured and the indeterminate sentence should be eliminated or limited in its application./6 House Bill 614 (45th Legislature), passed by the House of Representatives during the past legislative session, addresses these issues.

By reducing its aspirations, then, the responsiveness of the State Penitentiary to legislative goals should improve./7 To the extent that it accomplishes this and otherwise minimizes those kinds of discord stemming from imposition of a more rehabilitative oriented model, it will help to improve institutional efficiency as well.

What kinds of programs might be introduced on behalf of the inmates? Various treatment programs need not be abolished. Indeed, they should be expanded./8 Rather than being "purposive" in the sense that criminals are to be sent to prison for treatment, they should be made available to inmates on an entirely voluntary basis which is separated to the extent

-
5. National Advisory Commission on Criminal Justice Standards with Goals, "Corrections and the Criminal Justice System," in George Killinger, et al (eds), Issues in Corrections and Administration 95 (1976).
 6. See, e.g., Bob Naon, Redirecting the Sentencing System (Report to House Judiciary Committee December 1975).
 7. This is a legitimate way to coping with a "performance gap". See Robert Fried, Performance in American Bureaucracy 443, 421-2 (1976).
 8. Norval Morris, The Future of Imprisonment 14-15 (1975).

possible from the length of sentence and the conditions of incarceration./9
Although programs which have been developed within the existing coercive institutional framework have failed, "it does not necessarily follow that voluntary programs are doomed to the same fate."/10

To determine what services should be provided offenders and to enhance the inmate's volitional role within the institutional setting, a voucher system for their delivery could be implemented. Such a system could, on the one hand, be used by the state to assess the "payoff" of social programs and to improve upon them./11 By giving the inmate a "drawing right" for a specified amount of credit to purchase training, education, and other necessary services either from government personnel or in the open market community/12, it would increase the inmates role in their own destiny.

The measurement and the effectiveness of social services provided, insofar as their implementation usually incorporates no measurable activities or events, is a difficult but, consistent with the stress upon governmental responsiveness and effectiveness, necessary test. The state of California has undertaken the introduction of a "contract" method of service definition in its welfare system which could be

9. See, e.g., Hawkins, supra note 4 at 53.

10. Morris, supra note 8 at 84. See also David Fogel, We are the Living Proof 202 (1975); Hawkins, supra note 4 at 53.

11. Bledsoe, et al., "Productivity Management in the California Social Services System," 32 Public Administration Review 799, 800 (November/December 1972).

12. See, e.g., Leiberg and Parker, "Mutual Agreement Programs with Vouchers; An Alternative for Institutionalized Female Offenders," 37 American Journal of Corrections 10,12 (January-February 1975).

applied in a correctional setting. One article, for example, reviews how Los Angeles County implemented a system in which a welfare applicant or recipient and a service worker enter into a one-page "service contract" which includes the service desired by the client, a fixed length of time it will be provided, the clients level of participation, and what can be expected as an outcome./13 "A measurable product is defined and committed to by both parties to the contract. Perhaps, most importantly, whenever possible the recipient himself is involved in the delivery of his own service."/14 According to the authors, there was an immediate payoff to the county in reduced staffing requirements and a clearer definition of services to be provided. "Paternalism" was reduced between the social worker and client and the interest of both were thus "centered upon the provision and accomplishment of a specific service."/15

Correctional systems have developed programs analogous to that introduced into the California state welfare structure. Several states, for instance, have developed release programs involving the negotiation of contracts between prisoners, the parole board, and the relevant agency./16 More significantly, the voucher system has been demonstrated for prison inmates as being a "valid alternative to traditional services, as well as one which is cost effective and provides utmost flexibility."/17 This system in at least one way would "restore a measure of autonomy to prisoners...somewhat alleviating one of the "pains of imprisonment" and would encourage prisoners to develop realistic plans for the

13. Bledsoe, supra note 11 at 803.

14. Id.

15. Id.

16. See, e.g., Morris, supra note 8 at 44.

17. Leiberg, supra note 12 at 13.

period after release."/18 Allowing the inmate to select from among private as well as public services/19 would, at the least, serve as an incentive to institutional treatment personnel. David Fogel states that "administrators should immediately begin to zero-base budget all such program services not voluntarily chosen by inmates."/20

In addition to the provisions of treatment-oriented services, many commentators have stressed that the prisoner's right to work should be clearly recognized and that those inmates desiring work should be provided with such./21 Daniel Glazer found that "(1) prison work can readily provide the most regular employment experience most prisoners have had...; (2) relationships with work supervisors are the most rehabilitative relationships with staff that prisoners are likely to develop."/22 Currently, industries within the State Penitentiary employ approximately 325 out of 1600 prisoners./23 Most such work is currently devoted to so-called "state use" forms of employment such

18. Greenberg, "A Voucher System for Correction," 19 Crime and Delinquency 212, 215 (1973). Such individualized freedom may promote responsiveness to the actual and perceived needs of the inmate population Leiberg, supra note 12 at 13.

19. Increased use of the private sector by government has often been recommended as a means of infusing an "enthusiasm, flexibility, efficiency, and technical knowledge not to be found in government agencies." Fried, supra note 7 at 447. See also Committee for Economic Development, Improving Productivity in State and Local Government 64 (1976); Hatry and Fisk, "Local Government Productivity Improvement Possibilities, in Marc Holzer (ed) Productivity in Public Organizations 300 (1976).

20. Fogel, supra note 10 at 203.

21. See, e.g., Hawkins, supra note 4 at 114-5. Hawkins states that there is no justification whatever for imposing compulsory unemployment on the offender in addition to deprivation of liberty.

22. The Effectiveness of a Prison and Parole System 259 (1964).

23. Mike Kerr, Washington State Penitentiary: Some Preliminary Observations 7 (Memorandum to House Institutions Committee August 20, 1977).

as the production of automobile license plates which provide skills with little market value on the outside. And the lack of even these jobs with the attendant inability to provide "meaningful work to all inmates still plagues administrators."/24

One often cited barrier to the expansion of prison industries/25 is the federal prohibition of the interstate transportation of prison-made goods./26 Washington law, in addition, generally prohibits the sale of prison-made goods in Washington./27 One state, Minnesota, has circumvented the federal prohibition by classifying prisoners working within institutional walls working for private industries as being on work release and thus arguably outside the congressional prohibition./28 While Bill Collins of the Washington State Attorney General's office believes that the establishment of a work release program within the institutional walls would violate the federal law "regardless of what the program was called"/29 this is not necessarily dispositive of the issue. Joel Green, House Program Research legal intern, states that:

It should be noted that the intent of 18 USC 1761 is to prevent the use of convict labor to produce cheaply made goods that would then be introduced into interstate commerce and would hence create unfair competition for goods produced in the private sector./30

The Minnesota approach, then, might well be replicated in Washington state.

-
24. Barnes, "Penal Practice in America," in Kettinger, supra note 5 at 49.
25. See, e.g., Fogel, supra note 10 at 47.
26. 18 U.S.C. 1761.
27. RCW 19.20.020.
28. Minnesota Statute Section 243.88.
29. Interoffice correspondence, April 21, 1976 by Bill Collins to Hal Bradley, Director of Division of Adult Corrections.
30. 18 USC 1761 and the Minnesota Method for Skirting That Statute 3 (Memorandum to William J. Hagens, Research Analyst, August 3, 1977).

B. Management By Objectives

Setting a statutory goal for the State Penitentiary at Walla Walla, perhaps more appropriately termed an organizational mission, will ensure neither responsiveness or effectiveness within the institution. Standards of accountability must be developed such that these accomplishments may be more easily audited by the Legislature. As one commentator has noted, "managers in non-profit organizations should not be immune from strict accountability to those whom they serve and from whom they depend for their funds and support."/1 Although many problems have traditionally been encountered in trying to measure the responsiveness and effectiveness of a bureaucratic organization/2 this section will suggest a system of accountability which can also affect positive changes in organizational responsiveness and effectiveness.

Imposition of a formal accountability scheme, quite simply, need involve nothing more than an agency specifying its objectives precisely and reporting on progress in meeting them./3 Robert Fried states that:

1. University of Georgia, Institute of Government, "Management by Objectives in the Correctional Setting." in George Killinger et al (ed) Issues in Corrections and Administration 206 (1976).
2. See, e.g., Robert Fried, Performance in American Bureaucracy 61-2 (1976). Organizations prefer many times to dwell, for example, on outputs which are tangible, rather than on outcomes, which are imponderable. Id. at 72-3 when agencies speak of increased productivity they often dwell on cuts in services or budget ceilings which have nothing to do with output per dollar expended (Lucey, "Wisconsin's Productivity Policy," in Marc Holzer (ed), Productivity in Public Organizations 59 (1976)), and tend to do "a lot of things efficiently that...shouldn't" be done at all. Fisher, "Public Sector People Development," in Robert T. Golembiewski and Michael Cohen, People in Public Service 199 (1976).
3. Fried, supra note 2 at 441-2.

From the viewpoint of effectiveness, only gain can come from the idea of rationalizing administrative decision-making, bringing goal examination and achievement to the center of attention, putting into question current policies and procedures, striving to relate allocations of manpower, money, and authority to an organization's objectives, attempting to think ahead and to plan activities further into the future./4

Such planning and reporting has been given form and substance through development of the management by objective concept./5 This is a goal-oriented philosophy as opposed to traditional management's task-oriented approach which "emphasizes performance without adequate regard for results."/6 Through the establishment of objectives and performance standards, an agency "(1) develops a mutually understood statement regarding the organization's direction, and (2) provides criteria for measuring organization and individual performance."/7 Goals must, of course, be consistent with the organization's statutory mission. In reviewing such goals, performance standards, and results, a legislative committee could assess an agency's effectiveness and responsiveness. This system of goal setting and review has been introduced at all

4. Id. at 445. Theodore Lowi maintains that if for any activity, clear goals, strategies and procedures cannot be determined in advance, then the activity should not be undertaken at all. The End of Liberalism 71-72 (1969).

5. The term management by objectives was coined in 1954. See Peter Drucker, The Practice of Management 1954.

6. National Advisory Commission on Criminal Justice Standards and Goals, "Managing Correctional Institutions," in Killinger, supra note 1 at 252.

7. Id. at 253. See also George Morrissey, Management by Objectives and Results in the Public Sector 150 (1976); Gustafson, "Management Type Accounting," in Holzer, supra note 2 at 223-3.

governmental levels and those systems have been reviewed extensively in literature./8

If properly conducted, the "management by objectives process may be as important as the objectives themselves."/9 As one individual has stated, its overall success depends on what goes on beneath the surface./10 It is possible to use planning as a "motivational tool" for shaping the performance and development of employees./11 As reviewed earlier, modern theorists urge that problem solving should be generated throughout an organization and decisional power should be shared among a maximum number of individuals./12 Management by objectives can be used as part of a program of organizational development whereby employee motivation and effort and therefore institutional effectiveness is increased.

One aspect of this facet of organizational development involves some degree of mutual involvement in the determination of institutional objectives./13 As reviewed above, organizational effectiveness may turn

-
8. See, e.g., Joint Federal Productivity Project, "Encouraging Effective Measurement," in Holzer, supra note 2 at 139; Malck, "Managing for Results in the Federal Government," Business Horizons 23, 25 (April 1974); Brady, "MBO Goes to Work in the Public Sector," Harvard Business Review 65 (March/April 1973).
 9. Commission, supra note 6 at 253.
 10. Patten, "OD, MBO, and the RIP System: A New Dimension in Personnel Administration," Personnel Administration 14, 16 (March/April 1962).
 11. Hampton, "The Planning-Motivation Delemma," Business Horizons 79 (June 1973).
 12. See, e.g., Elmer Nelson and Catherine Lovell, Developing Correctional Administrators 9 (1969).
 13. Douglas McGregor, The Human Side of Enterprise 868 (1960). See also McConkey, "20 Ways to Kill Management by Objectives," Management Review 4, 5 (October 1972); Levinson, "Management by Whose Objectives," Harvard Business Review 125, 131 (July/August 1970).

to some degree upon the extent to which organizational goals are shared by it both top management levels and at the level of line personnel./14

"In the best run public personnel system there is no breakdown of communication, no hiatus with line management."/15 Management by objectives can help to achieve this./16

Management by objectives, as another level, can help the individual employee better contribute to the achievement of institutional goals. In other words, in addition to becoming appreciably better motivated in terms of meeting goals, the system will assist the worker in actually meeting them. Management by objectives and goal setting for individual positions go hand in hand./17 To the extent that an individual clearly establishes an idea of what he or she wants to accomplish, the greater the chances of accomplishing it./18 Simply knowing what the organiza-

-
14. O'Leary and Duffee, "Managerial Behavior and Correctional Policy" in Killinger, supra note 1 at 1911. See also Knudson, "Enter the Personnel Generalist." in Golembiewski, supra note 2 at 97.
 15. O. Glenn Stahl, The Public Personnel Functions: Two Issues 2 (1971).
 16. According to George Morrissey, it encourages commitment rather than compliance. Management by Objectives and Results in the Public Sector 171 (1976). See also Robert Ford, Motivation Through the Work Work Itself (1969); N. Joseph Cayer, Public Personnel Administration in the United States 97 (1975); Tom Murton, Shared Decision Making as a Treatment Technique in Prison Management 53 (1975). In the words of Douglas McGregor, "man will exercise self direction and self control in the service of objectives to which he is committed" cited in Management, supra note 1 at 202.
 17. Felix Nigro and Lloyd Nigro, The New Public Personnel Administration 203 (1976).
 18. See, e.g., Brady, supra note 8 at 66. McGregor writes that "the essential task of management is to arrange organizational conditions and methods of operation so that people can achieve their own goals best by directing their own efforts towards organizational objectives." Cited in Norton, "Management by Results in the Public Sector," Public Productivity Review 20, 21 (Fall 1976). A review of the literature on evaluations concluded that "the goal setting and review approach" is most consistent with "behavioral science research factors associated with success or failure in reaching the goal of employee development." See Burke and Kimball, "Performance Appraisal: Some Issues in the Process." Canadian Personnel and Industrial Relations 26,32 (November 1971).

tional goals are may help an individual to perform at a higher level./19 Rensis Likert has discussed how the concepts of setting both organizational and individual objectives interweave and facilitate the achievement of each other./20 Generally, high performance can be associated with either individual or group goals./21

It should be stressed that management by objectives, even to the extent that it incorporates the tenets of participative planning, does not involve the absence of leadership or the abdication of management. The degree to which a chief executive's style of managing can affect the implementation of the program has been discussed in several articles./22 In a study of management by objectives in a correctional setting it was pointed out that this approach's underlying philosophy is that "it is the manager who is ultimately held responsible and who bears the greatest burdens of pointing the direction...and ensuring that (the organization) does indeed go in the designated direction./23 If anything, stronger leadership must be exerted under a management by objectives system than under a traditional model.

Employee appraisal systems have often been described as being potentially valuable/24 as a means of determining whether an employee is

-
19. Hampton, supra note 11 at 82-3. The author notes, then, that participative planning can have cognitive as well as motivational effects.
 20. "Human Resource Accounting: Building and Assessing Productive Organizations," in Marc Holzer (ed), Productivity in Public Organizations 280-1 (1976).
 21. See, e.g., Tose and Carroll, "Management by Objectives," in Jay Shafritz (ed) A New World: Readings on Modern Public Personnel Management 180 (1975).
 22. See, e.g., Brady, supra note 8 at 71; Managing, supra note 6 at 252-3.
 23. Management, supra note 1 at 202.
 24. See, e.g., Golembiewski, supra note 2 at 70.

performing well with the overall objective of improving performance./25 In general, the history of such evaluation programs in the public service has been dismal./26 The state civil service system's employee performance program/27 has similarly been criticized as to its effectiveness./28 The system, further, is inconsistent with the notion that career advancement should be based on merit and quality of performance. The practice of using a performance evaluation as a component of all promotional examinations was discontinued four years ago reportedly because of a lack of consistency in the use of the process and in application of performance standards./29 The National Civil Service League, among other groups, has suggested that performance evaluations be used and considered in determining salary increases and job promotions./30 It is possible that a management by objectives program might be used to serve as a framework for a more successful job performance appraisal program.

-
25. Studies have demonstrated that "relatively clear, unambiguous feed back...improves the performance of individuals." Tosi, supra note 21 at 180.
 26. See, e.g., Nigro, supra note 17 at 198; N. Joseph Cayer, Public Personnel Administration in the United States 82 (1975).
 27. Under RCW 41.06.150 the State Personnel Board is required to adopt rules relating to "regular increment increases within the series of steps for each pay grade, based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service." MSR 356-30-300 sets forth performance evaluation procedures to be followed by agencies."
 28. About two-thirds of state agency heads surveyed note existing rules and procedures for employee performance evaluation is below average in effectiveness. Legislative Budget Committee, Performance Audit State Personnel Merit System 46 (November 19, 1976). The Committee, in addition, determined that "there is evidence in many cases that employees are not being evaluated against established performance standards. Id. at 50.
 29. Fred Hellberg, Background Information on Employee Performance Evaluation 3 (Memorandum to House State Government Committee July 26, 1976).
 30. Id. at 5.

"By its very nature," argues John Jackson and Robert Mathis, "MBO seems to be a promising vehicle for linking performance to the evaluation and reward process."/31 Most organizations adopting a management by objectives approach simultaneously implement an appraisal by results program as a means of reinforcing objectives./32 By providing a basis for objective rather than for subjective performance evaluation, management by objectives can remove the threat of those arguments traditionally leveled at performance appraisal programs./33 Like planning, the appraisal process under a management by objectives system stresses the need for employee participation in the process. Douglas McGregor, for example, has outlined a system whereby subordinates first take the initiative and develop clear statements of the major features of their jobs and come to an agreement with their supervisors on them. After six months, they would appraise their own performance and then meet again with their supervisor to discuss their self-appraisals and to reset work targets./34 With management by objectives and appraisal by results as its focus, a personnel system could--and some have devised--a procedure whereby merit pay increases for superior performance are awarded./35

31. "Management by Objectives: Promises, Pitfalls, and Possibilities," Personnel Administration/Public Personnel Review 72,73 (September/October 1972). See also Tosi, supra note 21 at 182.
32. Heier, "Implementing an Appraisal by Results Program," Personnel 24 (November/December 1970).
33. See, e.g., id at 26; Delate, "MBO in the Personnel Process," 1974 Eastern Region Conference 20 (1974).
34. "An Uneasy Look at Performance Appraisal," 35 Harvard Business Review 89-94 (May-June 1957) Richard Prather suggests a similar system in "Job Profiles, Performance, Evaluation and Career Programs," Personnel Journal 513,515-517 (July 1969). For a general discussion, see Cayer, supra note 26 at 81.
35. The city of Los Angeles Police Department, for instance, created multiple pay grades within the same position classification. Promotions to higher grades within a given job classification are "made on the basis of performance, ability, and potential." The Urban Institute for the National Commission on Productivity, Managing Human Resources in Local Government: A Survey of Employee Incentives 22 (October 1973).

In addition to providing a mechanism whereby monetary awards may be granted, management by objectives provides an excellent opportunity for utilizing non-monetary incentives through a job enrichment program. Job enrichment includes such things as "participation in management, the redesign of individual jobs to provide more varied and satisfactory assignments, and job rotation."/36 It is a means whereby an individual's position may be changed without his or her job being redefined or his compensation necessarily being changed./37 Many studies have shown how job enlargement, for example, fosters intrinsic satisfaction./38 Management by objectives, of course, provides an obvious means to bring about such results. First of all, an individual has the opportunity to participate in the planning of organizational goals and policies. Second of all, he may, through the setting of personal objectives and the performance appraisal process, in essence create a horizontal career path for him or herself such that his or her career can in reality be advanced without the necessity of a promotion./39 To the extent possible, this system allows for the organization to be fitted to the employee./40 This, studies have suggested, is something best

36. Id. at 10. This study lists numerous examples of instances where local governmental jurisdictions have implemented such programs. Id. at 23.

37. See, e.g., Tosi, supra note 21 at 182; Herzberg, "One More Time: How Do You Motivate Employees?" 53 Harvard Business Review 53, 59 (January-February 1968). Thompson, "Classification as Politics," in Golembiewski, supra note 2 at 520.

38. See, e.g., Id.

39. For examples of horizontal career paths see Institute, supra note 35 at 25-6.

40. Cayer, supra note 26 at 98.

accomplished between an individual and the organization without the intervention of a third party./41

Management by objectives is an especially appropriate process for correctional institutions. "Planning," concluded the National Advisory Commission on Criminal Justice Standards and Goals Task Force on Corrections, is "even more important at a time when an organization's basic assumptions and objectives are being critically questioned."/42 The Task Force, among other reforms, cited management by objectives and accountability for results as techniques which could be introduced into a corrections system./43 It specifically recommended that each correctional agency should engage in a process of long, immediate and short-range goal setting./44

It has been recognized, for the reasons outlined earlier in this study, that there is a need to redefine the role of line personnel in prison work so as to upgrade their self esteem, morale and therefore their performance. Correctional management, it is argued, will be most effective if it seeks to develop approaches to staff based on the assumption that they are capable of self actualization through participating in a broader range of organizational activities./45 In the first

41. For example, see study of system allowing for indirect employee participation through unions in the Tennessee Valley Authority. Commentators assert that "most of the employees are relegated to a relatively minor role compared to what could be achieved by emphasizing direct employee participation." Kramer, "Public Accountability and Organizational Humanism," in Shafritz, supra note 21 at 83. See also Murton, supra note 16 at 57.

42. Corrections 457 (1973).

43. Id at 498.

44. Id at 448, 457.

45. Elmer Nelson, Jr. and Catherine Lovell, Developing Correctional Administrators 10 (1969).

place, staff can be involved in a system in which they share in "identifying problems, finding mutually agreeable solutions, and setting goals and objectives." /46 The National Advisory Commission on Criminal Justice Standards and Goals and the Task Force on Corrections of the President's Commission both recommended this approach. /47 Second of all, the prison should be a place "in which the staff can grow along along decent career lines of opportunity for their own self development and self advancement." /48 Certainly, as described above, management by objectives can offer such growth potential for employees.

A recent report noted that "MBO has been slow in coming to corrections" and suggested that this may be the result, in part, because of the "persistent conflict and confusion" in society about the proper treatment of criminal offenders. /49 The setting of an institutional mission by the legislature could work to alleviate this particular problem. Notwithstanding this difficulty, however, quite a number of correctional institutions do appear to be implementing a management by objectives program.

Dr. Alan Ault, Vice Chairman of the National Institute of Corrections and currently employed by the Mississippi Department of Corrections, is familiar with the experience of implementing management by objectives

46. Corrections, supra note 42 at 485.

47. Id. and Norvall Morris, The Future of Imprisonment 108 (1975). The aim thereby is to give all persons in the organization a "stake" in the direction of the institution. Corrections, supra note 42 at 486.

48. Morris, supra note 47 at 111.

49. Management, supra note 1 at 203.

techniques both in that state and in Georgia. In a conversation with Kevin Gallagher, House Program Research Office Legal Intern, Dr. Ault explained that "Management by objectives rather than management by crisis is our goal here in Mississippi." He continued in saying that:

"Management by objectives is a very useful and important tool in eliminating many of the problems that occur in corrections systems. I've seen a great deal of progress in just the short time I've been in Mississippi (8 months) and while I was in Georgia. The system works."

The concept of management by objectives explains Dr. Ault, "...is a matter of setting realistic objectives. The objectives are placed in time frames and then, simply, the employees accomplish their objectives during these time frames. Everyone in the corrections systems is involved and everyone from top to bottom is held accountable. If an employee doesn't reach an objective, we want to know why. We want to know why things work well or why things go awry. You must understand your capabilities to set realistic objectives."

Examples of the objectives met in the Georgia Corrections System are the development of pre-release and release programs and also the creation of a restitution center. "More importantly, though," states Dr. Ault, "there were many intrinsic objectives met. When every employee understands what he is doing and why it is important, a very healthy atmosphere is created. In corrections institutions, confusion usually reigns. We're cutting down on the confusion and trying to solve problems before they happen."

The state of Wisconsin's corrections system is currently in the process of implementing a management by objectives program. Like Dr. Ault of Mississippi, Frederick E. Schwehr of the Wisconsin State Division of Corrections has stressed the importance of this task. He wrote that:

It's decision time in the field of corrections. Many organizations continue to operate under the Management by Crisis concept. Few are willing to stop the world and plan. Rather, it's business as usual--putting out fires and mending fences. Yet, the name of the game today must be participative management and accountability./50

Already, that agency has developed a new missions statement and a detailed set of division goals./51 Schwehr notes that "the selected style most likely to accomplish overall division of goals had to be participative with built-in accountability. Therefore, a Management by Objectives system is currently being implemented."/52

At least two other state corrections divisions are currently implementing management by objectives techniques for planning purposes. Minnesota's Department of Corrections, for example, holds routine unit meetings to work out problems and develop goals and objectives for future implementation./53 "In Illinois, I guess you could say that we've gone a step beyond MBO with Zero Based Budgeting," remarks Joel Caughlin, instructor at Southern Illinois University and formerly of the Illinois Department of Corrections./54 Established in Illinois in 1973,

50. M.B.C. OR M.B.O.--It's Your Decision 1 (Office of Management Services, Wisconsin State Division of Corrections report, 1977).

51. Id. at 1,2.

52. Id. at 2.

53. Conversation with Ted Spencer, Head of the Minnesota Department of Corrections Personnel.

54. Conversation with Kevin Gallagher, House Program Research Legal Intern.

zero based budgeting is a system in which the managers of each division of the Department of Corrections (there are 11 divisions) propose budgets for their divisions. They make a number of proposals (packages). The first package proposed by the division managers always requires fewer funds than are presently being used. The manager states exactly what would be done with the money. Packages are then created for increasing amounts of money. Each package, like the first, explains just what the money will be used for. Explains Mr. George Grundel of the Illinois Department of Corrections, "With these package proposals, we are given an explicit description of the program and the amount of money needed. From all the packages that are submitted, we have a clear understanding of our alternatives."/55

Mr. Gundel maintains that, "If you use Zero-Based Budgeting strictly as a budgeting process, it's just a waste of time. There are many other important elements involved in it. For instance, it includes management by objectives, incremental budgeting, program budgeting, resource management and most importantly, participation. The participation of the division managers insures that we aren't running the Department with a master plan drawn up without direction. We have input. We know our available alternatives. Zero-Based Budgeting is actually 80% planning and 20% budgeting." Professor Caughlin states, "Each manager defines his objectives and all the money in his budget is accounted for. The divisions and the budgets are easily and frequently evaluated." Thus he believes, "It is an excellent management tool. We've been able to make budget cuts without being hurt. It is a very efficient program." Zero-

55. Id.

Based Budgeting appears to be working well. Mr. Grundel comments, "The first year took a little selling. Everyone was a little hesitant since it was a new program. Now, though, I really think it's working well. It keeps running more smoothly as we gain greater understanding of it and refine it."/56

Several states, in addition to implementing the general planning aspects of the management by objectives philosophy, have utilized its principles with regards to employee development in correctional institutions. Minnesota, for example, actively employs management by objectives at the level of setting role identification and job performance standards./57 Staff, together with supervisors, determine yearly goals; performance evaluations are subsequently based on the degree to which the goals are reached. These evaluations, in turn, are in some part relied upon in making promotions within the division and in awarding merit pay increases. Alternatively, when a correctional officer is disciplined because he fails to comply with a particular duty, any such discipline is based upon the management by objectives system. The states of Wisconsin and Oregon, in addition, have implemented performance

56. Mr. Gundel and Professor Coughlin have provided the state of Oregon with a good deal of information on their state's program and it is now being implemented in that state as well.

57. Conversation with Ted Spencer, Minnesota Department of Corrections Personnel.

appraisal programs based on the management by objectives concept./58

Finally, some state correctional institutions have incorporated job enrichment programs into their corrections systems. According to Ted Spencer, head of the Department of Corrections Personnel Division in Minnesota, that state's MBO emphasis is currently on doing innovative work. To some extent, this sometimes results in normal job duties being forgotten at the expense of such innovation. Mr. Spencer believes that these two areas, innovation and outlined duties, should be combined satisfactorily such that equal emphasis might be given to each of the two factors at promotion periods. Innovation in one period, of course, might be incorporated into subsequent objectives statements.

In Connecticut, finally, the Corrections Department has implemented a program consisting of the establishment of task forces correlating to specified subject areas./59 All staff levels are represented on such task forces including correctional officers who are selected on the

58. The Wisconsin Civil Service Law states that "in cooperation with appointing authorities the director shall establish a uniform employee work planning and progress evaluation program, incorporating the principles of management by objectives, to provide a continuing record of employee development, and, when applicable, to serve as a basis for decision making on employee pay increases and decreases, potential for promotion, order of layoff and for other pertinent personnel actions." cited in Fred Hellberg, Background Information on Employee Performance Evaluation 5 (July 26, 1976). According to Noble Deckart, Oregon personnel Division, the performance appraisal system was built around the MBO concept. Work plans are required as well as process of work plans. These are discussed with the supervisor in whatever area the work plan is done. (Conversation with Joel Green, House Program Research Office Legal Intern).

59. Conversation with Bob Brooks, Chief of Program Development, Connecticut Corrections Department.

basis of interest and appropriateness. The task forces have dealt with formulating recommendations concerning such sensitive policies as the institutional disciplinary codes. It is possible that such a task force concept could be woven into a management by objectives program while at the same time providing for job enlargement on the part of a correctional officer. An officer's performance on such task forces could be considered in such situations as determining merit pay increases and promotions.

C. Involvement of Inmates

While a correctional institution implements a management by objectives program, the situation may be opportune to more actively incorporate the views of inmates into agency planning. More precisely, the views of inmates might be considered alongside those of staff by the agency's administration as the two constituencies attempt to arrive together at issue resolutions instead of individually pressing for the favor of the superintendent. The implementation of such a process could have at least two beneficial results: interaction between correctional officers and inmates could be facilitated; and inmates would be granted the experience of attempting to shape their own destinies.

"Often at the nub of officer confusion and uncertainty is department policy governing relationships with inmates."/1 The distrust and social distance between the guard and the inmate was firmly established in the American correctional system./2 It is desirable that the current uncertainty on the part of correctional officers be resolved in the direction of increasing contact with inmates, preferably in the area of resolving common institutional problems. Studies suggest that, in addition to resolving some amount of dissonance in the minds of some correctional officers, inmate-inmate relationships could be radically altered for the better./3 It could, for instance, ameliorate the

-
1. May, "Prison Guards in America," Corrections Magazine 3,36 (December 1976).
 2. Barnes, "Penal Practice in America," in George Killinger, et al (eds) Issues in Corrections and Administration 40-1 (1976).
 3. See, e.g. Daniel Glaser, The Effectiveness of a Prison and Parole System 122-3 (1964).

attitude of some inmates toward staff--and by extension, society--termed as "rejecting the rejectors." /4 Identification with antisocial or criminal values might thereby be reduced.

Perhaps more importantly, allowing the inmate population a well defined role in the solution of common institutional problems could--for those who chose to avail themselves of the opportunity--provide a positive experience which points to the offenders ultimate return to the community. /5 Currently, argues David Fogel, both the treaters and custodians end up "juvenilizing the convict" /6 and he calls for the implementation of a justice perspective within the institution in which both "the keeper and the kept" work together to their mutual benefit within the prison walls. /7 In a review of institutional resident councils, Tom Murton classified most as "quasi-governmental" with little responsibility and usually with little contact with correctional officers. /8 Like Fogel, he recommends that staff, administrators and inmates should work together to operate

-
4. Gordon Hawkins, The Prison: Policy and Practice, 90 (1976).
 5. Harry Burns, Jr., Corrections: Organization and Administration 320 (1975). Burns notes that "The prisoner conforms in prison but conformity often disappears in a free society where the individual must make his own decisions. While in prison all his decisions have been made for the prisoner." Id.
 6. We Are the Living Proof 98 (1975) Vincent O'Leary and David Duffee point out that under the current system, the break between society and the inmate is attempted to be overcome through a "battle"--either through enforced compliance or by treatment of the "deviant until he is able to correctly perceive and accept community standards." "Managerial Behavior and Correctional Policy," in Killinger, supra note 2 at 189.
 7. Fogel, supra note 6 at 205-06.
 8. Shared Decision Making is a Treatment Technique in Prison Management 43 (1975). Murton found this generally to be the case of the Resident Government Council at the State Penitentiary at Walla Walla. Id. at 111.

the institution and share in making decisions affecting each other./9
He states that such participation will constitute much more realistic
treatment than "the other 'programs' which proliferate the institution."/10
He writes that:

Those devices are but the means for reaching the
ends of developing responsibility within the inmate.
It is this responsible view of self and others
which hopefully will be transfered after release
to new situations./11

It could also alleviate conditions of discord within the institution:
"men who can negotiate their fates do not have to turn to violence as a
method of achieving change."/12

These policies as recommended by Fogel and Murton are consistant
with the institutional mission set forth in this study. Because of this
and for the reasons outlined above, the State Penitentiary in estab-
lishing a management by objectives program might do well to include
inmates in the planning process. The task forces established in
Connecticut with the additional of inmate input might constitute an
excellent model for such a program.

9. Id. at 29. Murton states that from initially delaing with "crea-
ture comfort matters" residents should then be allowed to deal with
affairs constituting more basic problems in the institution such as
"disciplinary classification, and work assignments." Id. at 138.

10. Id. at 130.

11. Id. at 131.

12. Fogel, supra note 6 at 206.

D. Civil Service and Unions

There is, according to many commentators, no reason to believe that any potential conflicts between the merit system and collective bargaining./1 The crucial task to be accomplished in this regard, however, is to insure that both systems serve the same goals of governmental responsiveness and effectiveness. To provide for this, a redirection of the nature of merit is arguably needed. This section will discuss this redirection which, if accomplished, will allow the merit system and collective bargaining to complement the changes already advocated in the area of agency restructuring and management reform.

As discussed above, merit has not been clearly defined in the law. There is a "prevailing belief that the merit concept is good, but that the way it is practiced is not."/2 It is perhaps necessary that the civil service system, at least in the instance of the Washington State Penitentiary, cease to engage in a broad and complete program of personnel management and begin, simply to enforce the merit principle. Such a principle has been alternatively defined as "the concept that public employees should be selected and retained solely on the basis of merit,"/3

1. See, e.g., Feigenbaum, "Civil Service and Collective Bargaining: Conflict or Compatibility." in Jay Shafritz (ed), A New World: Readings on Modern Public Personnel Management 47 (1975); N. Joseph Cayer, Public Personnel Administration in the United States 122 (1975); U.S. Department of Labor, Collective Bargaining in Public Employment and the Merit System 46-7 (April 1972).
2. Beaumont, "A Pivotal Point for the Merit Concept." 34 Public Administration Review 426 (September/October 1974).
3. 1967 National Governor's Conference, Report of Task Force on State and Local Government Labor Relations 18 (1967).

that system encompassing the concepts "(a) that any type of discrimination is incompatible with the principle of merit, and (b) that the most capable people should be hired, promoted, and retained in office,"/4 and the concept that "an employee's selection assignment, promotion and retention should be based upon his ability to perform his duties satisfactorily rather than upon his political affiliation, race, religion, or other considerations extraneous to ability to perform."/5 Relative competence, then should be the controlling factor in decisions including personnel movements.

Many state and local political jurisdictions have recently made extensive changes in their civil service systems. Jonathan Laing reported in the Wall Street Journal that:

about 100...state, county, and local governments, while not abandoning the system, have overhauled it extensively in the past four years. Among other things, many have replaced written hiring and promotion tests, the bedrock of the civil service "merit system," with more general selection standards such as job experience and educational qualifications. Some localities that still rely on written testing have changed their rules so that vacancies no longer have to be filled by strict ranking of test results./6

4. The Council of State Governments, State-Local Employee Labor Relations 23 (1970).
5. Report of Advisory Commission on Intergovernmental Relations cited in Helburn and Bennett, "Public Employee Bargaining and the Merit Principle," in 23 Labor Law Journal 618,619 (1972). See also Cayer, supra note 1 at 25-6; Feigenbaum, supra note 1 at 619-20, Stanley, "What Are Unions Doing to Merit Systems?" Public Personnel Review 104 (April 1970).
6. "Civil Service Setup, Born as Reform Idea, Now Hit by Reformers," Wall Street Journal 1 (December 22, 1975). He reports that "Chicago, Minnesota and Oregon recently abolished their civil service boards and switched such functions as hiring, firing and promotions back to elected officials." Id.

Placing increased emphasis upon such factors as job experience and educational qualifications need not, and likely would not, signal a return to any "spoils system." The National Civil Service League has pointed out that both modern political realities and the dependence by a public official upon effective and efficient delivery of public services would obviate this possibility.^{/7} Although a great deal of debate has been engaged in concerning whether or not personnel management should be made more a part of the executive function by eliminating the commission form or organization,^{/8} good and poor personnel administration can be found under both commission and executive type organizations.^{/9} O. Glenn Stahl is persuasive in his argument that improvement on specific conditions within the civil service system would be much more productive than "hoping for the millenium by superficial tinkering with structure."^{/10} Certainly, a commission--or personnel board as we now know it--would be the appropriate institution to police anti-political and anti-discrimination rules and administering related appeals provisions. Other functions of the board and the Department of Personnel are set down below.

It should be the responsibility of the civil service system to see that public employees are "recruited, selected, and advanced under conditions of political neutrality, equal opportunity and competition on the basis of merit and competence."^{/11} Its procedures need apply only

7. A Model Public Personnel Administration Law 3 (January 1971).

8. See, e.g., Id.; Municipal Manpower Commission, Governmental Manpower for Tomorrow's Cities (1962).

9. O. Glenn Stahl, The Public Personnel Function--Two Issues 9 (May 1971).

10. Id. at 11-12.

11. Wurf, "Merit: A Union View." 34 Public Administration Review 432 (September/October 1974).

to personnel movements "into, within, and outside the organization, certainly to appointments and promotions."/12 This mission should clarify the system's role and is consistent with the advice of the Legislative Budget Committee's recommendations./13

More emphasis, then, should also be placed on creating a system for hiring and promoting the "best qualified" individuals for state jobs. As pointed out above, this could be facilitated by making specific changes in the hiring, certification, and promotion areas. With respect to, in the first place, hiring, the Department of Personnel would retain the responsibility of determining qualified candidates for a position. More appropriate weight might be given, however, to relevant work experience and job performance. In the area of certification, the rule of three should be eliminated. The recommendation of the National Civil Service League that

the director of personnel...shall categorize those persons eligible for a position as being qualified. The appointing officers shall then make their selection from such persons. If the list of qualified persons is excessively long, the jurisdiction may consider only certifying a workable number of persons to the appointing authority/14

-
12. Helburn, supra note 5 at 618-29.
 13. Legislative Budget Committee, Performance Audit State Personnel Merit System 8 (November 19, 1976). The Committee concluded that there should be some emphasis on "merit" in the civil service structure and that the powers and duties of the State Director of Personnel should be "clarified." Id.
 14. Model Law, supra note 7 at 7. Such an approach would be consistent with the EEDC "Guidelines on Employment Testing Procedures" which recommends the use of "a total personnel assessment system toward the attainment of equal employment opportunities for all Americans." cited in O'Leary "Is Employment Testing a Thing of the Past," Personnel Journal 170,172 (March 1972). See also recommendations of U.S. Civil Service System cited in Performance Audit, supra note 13 at 74-5.

should be considered as an alternative to the current system. Finally, with regards to promotions, the principal determinant should be a performance appraisal and potential assessment system. The use of examinations for other than entry level positions should be minimized.

William Enners believes that:

It is unethical to use tests to determine suitability for promotion of present employees, unless the nature of the test is such that it can clearly demonstrate that some workers would be a danger to either themselves or those around them or that they would be definitely incapable of performing the job to which they might be promoted. An employee's work history is a more reasonable indication of probable success in a higher job./15

This system should be aligned with the management by objectives system described earlier in this study. Seniority, of course, may be a more appropriate consideration for some jobs than others./16 Appointing authorities could be required to specify where such a factor would be considered in making an appointment. So that the civil service system would have greater opportunity in appropriate cases to employ individuals from outside the system in middle level jobs, the appointing authority should have the discretion to combine the open competitive and promotion examination registers. Consistent with recommendations made in an earlier section, the civil service system should provide for a performance award program.

15. Cited in Felix Nigro and Lloyd Nigro, The New Public Personnel Administration 209 (1976).

16. Feigenbaum, supra note 1 at 45.

One writer has concluded that "insuring a modicum of job security is crucial to motivation."/¹⁷ Such security has to some extent become equated with civil service. Under the current law, the appointing authority may demote, suspend, reduce in salary or dismiss an employee for (1) neglect of duty; (2) inefficiency; (3) incompetence; (4) insubordination; (5) indolence; (6) conviction of a crime involving moral turpitude; (7) malfeasance; (8) gross misconduct; or (9) willful violation of the rules and regulations./¹⁸ Failure to substantially reach job objectives as set by the appointing authority and employee might also be incorporated into this list. A further matter pertaining to job security concerns reductions in force and later reemployment. Such personnel movements are often based primarily on job seniority such that some "better performing" individuals are terminated while marginal employees with greater service remain./¹⁹ Appointing authorities, such as in the case of promotions, should be allowed to specify in what instances and to what extent seniority will be considered in such cases.

Restricting the civil service system to matters of personnel movements will operate so as to broaden the scope of collective bargaining. Insofar as much of the union objection to merit systems has stemmed from its unilateral nature/²⁰ the extent to which they will gain extended bilateral negotiations over matters of vital interest to employees should be of significance to that institution. Any such extension of bargaining rights, however, must be concluded to the extent that

17. Walter Balk, cited in Beaumont, supra note 2 at 427.

18. MSR 356-34-010.

19. See, e.g., Beaumont, supra note 2 at 427; Nigro, supra note 15 at 271.

20. See, e.g., Nigro, supra note 15 at 12; Helburn, supra note 5 at 623; Department of Labor, supra note 1 at 42-3.

public employee organizations determine that they are participating with management for the same ends: the responsive and effective operation of the government.²¹

It is desirable that the legislature specifically delineate what is and what is not bargainable.²² In the first place, essential elements of the merit principle must be excluded from the scope of bargaining. The Advisory Commission on Intergovernmental Relations recommends that state labor relations laws stipulate that public employers retain the right:

(a) to direct the work of their employees; (b) to hire, promote, demote, transfer, assign, and retain employees for proper cause; (c) to maintain the efficiency of governmental operations; (d) to relieve employees from duties because of lack of work or from other legitimate reasons; (e) to take actions as may be necessary to carry out the mission of the agency in emergencies; and (f) to determine the methods, means, and personnel by which operations are to be carried on.²³

The effect of specific exclusions in a statute would not, of course, eliminate from bargaining all important subjects. Such matters as compensation plans, grievance procedures, classification plans, training,

-
21. Miewald, "Conflict and Harmony in the Public Service," in Shafritz, supra note 1 at 39.
 22. See, e.g., Hansell, "Role of the Legislature in Collective Bargaining," in 49 State Government 221 (Autumn 1976). Rehmus, "Constraints on Local Governments in Public Employee Bargaining," Michigan Law Review 926 (March 1969).
 23. Advisory Commission on Intergovernmental Relations, Labor-Management Policies for State and Local Government 102 (1969). The Connecticut bargaining law, for instance, includes all terms and conditions of employment except: (1) conduct and grading of merit examinations; (2) rating of candidates; (3) establishment of eligible lists; (4) appointment from such lists; and (5) any provision in a municipal activity of municipal employees. Department of Labor, supra note 1 at 76.

labor-management relations, safety, and morale./24 Such bargaining, as in the case of determining position classifications, should be made consistent with the management by objective program of job enlargement described earlier in this report.

The involvement of unions in the bargaining process, finally, might given some attention to negotiation of increased "productivity". The union, for example, can frequently suggest "alternative efficiencies" acceptable to employees and able to contribute to the effectiveness of the agency./25 Improved worker benefits can be used to trade for increased productivity./26 Combined with management by objectives, this system can help to "provide job enlargement for those trapped in tedious positions, offering new challenges...facilitating participative management, and taking greater account of the individual capabilities of employees."/27 In some instances, productivity has appeared to increase after the conclusion of such agreements/28 and one might be implemented at the Washington State Penitentiary.

BN:pH/4

-
24. See, e.g., Id. at 55-6.
 25. See, e.g., Haber, "The New York City Approach to Improving Productivity in the Public Sector," in Marc Holzer (ed) Productivity in Public Organizations 164 (1971).
 26. See, e.g., Balk, "Decision Constraints and the Politics of Productivity." in Holzer, supra note 25 at 183; The Effect of Collective Bargaining in Municipal Personnel Systems: A Research Review 21; Zagoria, "Productivity in Bargaining," 49 State Government 249 (Autumn 1976).
 27. Lucey, "Wisconsin's Productivity Policy," 32 Public Administration Review 798 (November/December 1972).
 28. Research Review, supra note 26 at 22.

E. SUMMARY

This study has attempted to touch upon and draw together what, at first impression, might appear to be several separate areas of concern which pertain to one part of the state corrections system. The concerns are, however, interrelated and should be addressed with the aim of assuring that each part of the system will operate to the benefit of the entire enterprise.

Of the several areas discussed, the matter of first importance is the need for legislative determination of correctional goals for the Washington State Penitentiary. Other recommendations suggested in this study would, it is hoped, provide mechanisms by which the legislatively determined goals might be better attained.

The study suggests a system which would, by allowing correctional administrators more flexibility to accomplish their job and by providing workers with additional incentives such that they will better perform their tasks, accomplish a more efficient corrections operation at Walla Walla. It would also allow, not incidentally, for better review by and accountability to the Legislature.

We live in a society in which men and women expect to succeed by hard work and to better themselves by making themselves better. This study argues that the corrections system should, simply put, provide workers with the chance

to work and succeed. Not all workers, as suggested throughout this report, respond to the same incentives. Monetary incentives, these, as well as the opportunity to participate indirectly in institutional decision-making through unions and directly in those operations should all be provided.

Recommendations made in this study would provide administrators with the ability to exercise additional discretion over a wide range of manpower decisions so that such decisions would be made more effectively. The decisions would be made, in large part, on the extent to which workers had availed themselves of institutional opportunities and contributed to organizational goals.

As discussed in this report, incorporation of a management by objectives and goal setting for individual positions system into the Walla Walla State Penitentiary would not only make for more efficient and effective work by administrators and workers but would also provide an ongoing institutional barometer for the Legislature such that elected officials could better assess the extent to which state goals are being implemented.

The implementation of the suggestions outlined in this study, would obviously not come without some initial roughness. The change from a bureaucratic to a more participatory model of organization, for example, is a significant change. The investment of time and effort into such a direction according to John Manson, Director of Connecticut's Department of Corrections, is worth it. Increased accountability on the part of workers to administrators and administrators to the Legislature would represent at least in degree a departure from the current system.

Changes in the directions outlined in this study, in sum, could lead to a more efficient and effective state penitentiary. Although the changes may not, at first, come easy, the process if successful could serve as a beginning point in the examination of the delivery of other state services.

END