



**NEW DIRECTIONS
FOR CORRECTIONS**
Creative Concepts for Future
Criminal Justice Planning

X
"Rehabilitation: What Part of Corrections?"

Albuquerque, New Mexico
May 2-5, 1977

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REHABILITATION: WHAT PART OF CORRECTIONS?

Division of Public Administration

University of New Mexico

May 2-4, 1977

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This is the last of a five (5) volume set of conference proceedings produced as an aspect of a Law Enforcement Assistance Administration (LEAA) grant. The project goal is to enhance citizen efforts to address criminal justice issues. The conferences in this series were designed to be a dynamic research process which encouraged input by criminal justice professionals and practitioners, as well as the lay public and ex-offenders.

The people responsible for the success of this conference and preparation of this volume are numerous. Mr. Joel White, University of New Mexico, coordinated the physical arrangements for the conference and made sure we were comfortable. Dr. Leonard Stitleman, Director, Division of Public Administration, U.N.M., served as the Conference Convenor; working long hours to secure a balance of professionals, ex-offenders, practitioners, and lay citizens for our sessions.

Brenda Bradshaw and Peter Eck managed the preparation of these presentations, working with the material which Brenda Bradshaw had transcribed and drafted. Isabelle Collora and I did the final work on concept retrieval and clarity while Barbara Neylon labored over manuscript design, proofing, and production. If this sounds like a confusing situation, please consider that the other four volumes were in various stages of the same process. I am grateful to have been associated with these people.

One final note. The proceedings are intended to paraphrase the presentations instead of reproduce them word-for-word. We strived to remain faithful to the concepts which were shared in the conference while conveying the nature of the interaction. Human and machine fallibility may have caused some mistakes, for those we apologize. However, overall good fortune has aided in the high quality of this publication.

Douglas W. Denton
Project Director
NEW DIRECTIONS FOR CORRECTIONS

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REHABILITATION: WHAT PART OF CORRECTIONS?

Division of Public Administration
University of New Mexico
May 2-4, 1977

May 2, 1977

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Antonio Rivera, Chairman, New Mexico Parole Board

May 3, 1977

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Discussant: Robert Valdez, Director, Laguna Rehabilitation Center,
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- Introduction: Jo Ann Eastham, New Mexico State Corrections Commission
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National Alliance of Businessmen, Washington, D.C.

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Center, Galveston

EDDIE CASTILLO

Mr. Castillo works with employment programs for unemployed Mexican-American veterans and assists with problems and questions of civil rights with his organization's constituents.

My name is Eddie Castillo and I am here representing the American GI Forum. The American GI Forum is the largest Spanish Speaking Veterans organization in the United States. Since its inception in 1948 in Corpus Christi, Texas, the GI Forum has been in the forefront in the fight for equality, human rights, and human dignity.

We became involved in this project because of our concern for seeking solutions to the problems of crime, law enforcement, and the criminal justice system. As Mexican Americans we have too often been victimized by the three sectors just mentioned. As ethnic minorities we have too often been the recipients of a brand of justice dealt out by the law enforcement sector under the guise of law and order. This alone has done more to discredit the justice system in this country; a justice system which allows a police officer to be "judge, jury, and executioner".

A case in point is the Ricardo Morales' case in Castroville, Texas. Morales was murdered in cold blood by the sheriff of Castroville. The sheriff was tried on charges of involuntary manslaughter and received a sentence of less than 5 years in prison. His wife and daughter, who had transported the body some 400 miles and buried it, received fines of \$49.50 each. Our efforts must not only focus on the criminal elements in society but also on the criminal elements within our enforcement

system.

It is here that the average citizen comes in contact with, and therefore forms an opinion of the justice system in the country. We must never lose sight of our objectives by the enormity of the task. We must resolve to develop essential and feasible alternatives and at the same time strive to maintain and preserve the ideals upon which our system was founded.

Thank you and once again welcome to the state of New Mexico.

REHABILITATION: DEFINITIONS AND REASONS

Antonio Rivera
New Mexico

Antonio Rivera is Chairman of the New Mexico Parole Board.

There are many factors which determine the ability of an inmate to be rehabilitated: criminal history; adjustment and confinement; time spent in confinement; what self improvement programs are available within the confines of the institution or outside of the institution; responsibilities which the individual has to meet on the outside, such as wife, children, and other dependents; whether these dependents are on the welfare roll; and workable skills of the offender and what type of work the individual is trained to do. At what is the individual going to work if released? What are his/her role plans? What is the proper employment to fit the skills of that individual? What family, friend, or professional support is the inmate going to receive on the outside? Does the inmate have drug problems or suffer from drug addiction? (The psychological unit of the penitentiary in New Mexico estimates that approximately some eighty percent of the prison population are in confinement for drug-related offenses). Under the present and existing law, an individual must show evidence of employment or evidence for self-support before release.

An individual who has been in confinement for many years has lost contact with the outside world. The ideal situation for the release of an individual in this category is a slow information and resocialization process. How is this process achieved? By being able to establish contact with the outside world through work release programs or school release programs where the individual is permitted to work or attend school on the outside during the day and return to the institution at the day's end of this activity.

This programming is presently available at three of the satellite units that this system contains. Does this type of resocialization enable the individual to see some of the difficulties that he will encounter while he is outside on parole? With these concepts in mind, the Parole Board is able to review the inmate and see what he/she has done. This also affords the individual an opportunity to send the family money. He is able to save money necessary to start life anew. The individual has money that he or she has worked for, dignity and pride at having accomplished something on his or her own, a tremendous asset that goes into motivating an individual to "make it" on the outside. Also available is the continuing resocialization process that the inmate has met the requirements of parole.

The Board can utilize community-based programs geared to assist the parolee. Some of these programs in New Mexico are the National Indian Youth Council and the National Alliance of Business (I am mentioning a few to illustrate) which are interested in helping those individuals who want to avail themselves of these opportunities. To quote from Supreme Chief Justice Warren Burger, "We must have an administration in our criminal justice system that believes that human beings make mistakes and having made mistakes, that individual can change for the better."

In the fiscal year 1975-1976, the total number of persons under parole supervision was 1,280; the total number of parolees is 175. The cost of parolees supervised is \$816,485; representing an approximate welfare state the cost is \$282,912. The implication reflects that men on work-release turn \$66,000 gross earnings. Of course the inmates pay Federal, state, and Social Security taxes, and in addition, pay at the rate of two dollars a day for their room and board, which totals \$6,000 income returned to the Department of Corrections.

Presently there are 1,800 inmates in custody in the penitentiary system, including those in the boys' school. By 1989 there will be a projected number of adult inmates in penitentiary incarceration totalling 2,600 men. By 1985, they expect an increase to 4,700 adult inmates. The current budget is 13 million dollars. The 1985 projected operating budget is 110 million dollars. These are projected figures from the Chairman of the Corrections

Commission. The current population figure in the penitentiary system is now 1,442 people. Construction is soon to start on a new facility called the Los Alamos Correctional Center to house an additional 284 men, at a cost of \$13,012,020 for a cost of \$27,676 per bed space. Equating these figures to a section of this new unit at the Los Alamos Correctional Center if it were completed tomorrow, it would probably be filled to capacity.

The type of situations that I have discussed here are even more serious when viewed from the standpoint of the female population. They have less of everything. It is projected that this population is going to rise dramatically. So, in the final analysis, we come down to a discussion of commitment, and commitment to what the taxpayers and legislators of this state want to invest in money for the next few years. Do we want to invest millions and millions of dollars to build new facilities, or do we want to invest in the possible rehabilitation of the already existing penitentiary population? The issues that I have raised on the surface appear to be profound, but the issues are here. The issues are not being met, and the issues must be resolved. The citizens of New Mexico deserve nothing less than that.

I appreciate the opportunity to appear here this evening. Thank you.

-----DISCUSSION-----

Doug Denton: I want to open up the floor for discussion and dialogue for a number of you professionals in the field, who know what's going on. Take a second to reflect on Rivera's presentation. He says that corrections can give a person a chance to change. But they will have to learn to deal with another social situation when they are released from the penitentiary. I certainly hope that conferences like this and the awareness of what is needed in corrections can foster needed development. When we look at the definitive analogy of community corrections in the penitentiaries, you see it is obvious that we need to develop even further. Tomorrow we are going to have a number of the judiciary here. One shortcoming that I have seen in this whole series of conferences is that the judiciary is not going to

hear a number of the things that we are saying. Flat sentencing is the newest fad. Flat time is supposed to give a person basic stability. I've seen it happen too many times, particularly in the Federal system, where a person goes up every six months or so for a parole hearing; six or ten weeks later that person gets his acceptance or rejection. There are a lot of people who need this information. Does anybody have any question?

Question: Mr. Rivera seemed to be talking about flat sentencing. He was also talking about work-release. Aren't these two things incompatible?

Answer: I think there is a real danger of equating flat sentencing with lack of control. I haven't seen a flat sentence proposed or passed yet that didn't include some sort of "good time" provision. In New Mexico, if a man gets a supposed ten year flat sentence, he can get out in five.

Question: Do you have any statistics regarding education and the rate of recidivism?

Answer: We are reasonably sure that there are some statistics available in that area. If you start compiling statistics, for example, on ethnic background, we don't want to be accused of racial discrimination. I'm not sufficiently versed in that to even try to discuss it.

Answer (female): When we were in Newgate, which was totally under LEAA funding, our recidivism rate ran about 38%.

Question: Is there a figure for those who go through the institution, as opposed to those who do not?

Answer (female): We don't keep a figure for the institution, although if I remember correctly, the recidivism rate was 52% or 58%, something like that.

Question: We all know that presumably the more favorable inmates anyway are going to get into the educational program, and will have a lower recidivism rate. Was there any attempt to get a control sample of the same kinds of inmates in the educational program?

Answer: I don't know for sure, but the rate is very small.

Comment: We are making an erroneous presumption, because we start with the most difficult, violent, potentially violent, disturbed inmates. It's not necessarily the most favorable inmates who take advantage of educational and psychological programs.

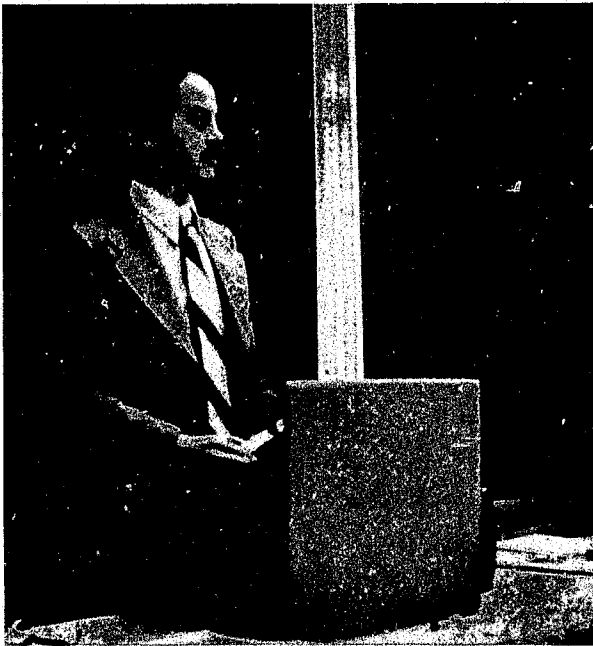
Comment (female): In Salem, I work in a county jail where we have a lot of programs going on. The only people who can be in that program are those who are going to be there for at least three months. One program is career training. People can do community service rather than going to jail.

Comment: My name is Artis, and I spent twenty years in the Texas Department of Corrections from 1946 through 1967, and I was paroled in July of 1967, with a full pardon. I think we need additional release. I think the only time that there can be changes in thinking is between the indictment and the incarceration. Then a person can be released on a conditional bond which requires him to do some positive action, and he is required to appear in court on such and such a date. We are not utilizing the resources that we have in the prison system. Everyone, even the blind, works in TDC, but no one is told why they are doing something; they are just told to do it,

We have witness after witness who testified that the crime problem is hopeless. That is wrong. There's hope. Get tough with the group, get tough with the criminal, they say. Cause and effect. Train the offender. There are a lot of resources. I'm an ex-convict from Texas; there is a program in Texas. No matter what we practice in the treatment of the so-called criminal thinking, we must change his thinking. The chairs you are sitting in were a thought in someone's head at one time. The store that was robbed yesterday was a thought in someone's head. The process is to change the thinking. What we need to reform is the thinking of the prisoner, the attitude of the convict, and the treatment units are the worst units in the Texas Department of Corrections. We don't change the prisons by striking or burning the prisons. We change the system one man at a time. Everybody got in the program of complete behavior. They thought we were digging out of tunnels. But we weren't. Somebody asked, "What is success in rehabilitation?" Success in rehabilitation is reaching the human within. When you're not afraid anymore, when you have discovered who you are, what are

your capabilities, what are your limitations, and can move in the full confidence that no one else (not the system, not the white people, not anyone) has any control over what you do, then you have success in rehabilitation.

I think that was my 65 seconds. One other thing that I wanted to mention very briefly. There is a system that we have not tried. Each criminal should set his own sentence, and if you'd like to talk about this sometime today, I'd like to talk about it. Thank you a lot.



Allen Reed opens the morning session, "Perspectives on Rehabilitation".

INTRODUCTION

Allen Reed
Albuquerque

Allen Reed, who is the Moderator for the session on PERSPECTIVES ON REHABILITATION, is a Professor in the Public Administration Division and Albuquerque City Council.

First, this morning, I would like to introduce David Schmidt, who is the State Director of the New Mexico Organization for the National Council on Crime and Delinquency, who will speak on "Rehabilitation in the Criminal Justice System." Second, we are pleased to have with us The Honorable Gene Franchini, who is the State District Judge in Albuquerque, New Mexico, speaking on "Judicial Rehabilitation." Our third presenter will be William H. Sandweg, an attorney, of the Offender Aid and Restoration (OAR/USA) from Annadale, Virginia. Our discussant will be Robert Valdez who is Director of the Laguna Pueblo Rehabilitation Center in Laguna Pueblo, New Mexico.

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REHABILITATION IN THE CRIMINAL JUSTICE SYSTEM

David Schmidt
New Mexico

David Schmidt is the State Director of the New Mexico Organization for the National Council on Crime and Delinquency.

There is no way that I can cover the subject of "Rehabilitation and the Criminal Justice System" in twenty-five minutes, so I will limit my remarks to the specific areas of criminology as they have developed in the United States over the last 200 to 300 years. There have been some significant changes, some insignificant; generally they could be divided into three classifications. In actuality, we have two codes in the criminal justice system. We have a criminal justice code that has been passed down through either common law or statutory law that defines for society exactly into what category a crime may fall, and then we fit our offenders into these classifications and deal with them accordingly. But we have a much larger group which includes about 100% of the population, who fall into the second code. Actually, only about one percent of the population falls into the first code.

I would like to speak briefly of the second code. Most researchers and most criminologists regard crime and delinquency as an act, something specifically done by some specific person called an offender. But exactly what it is that he does that distinguishes him from the non-offender is difficult to define. Generally he comes under the classification of an offender because he comes among that certain group of people who are reported by or to the chief of police. They are charged, tried, sentenced, and punished. Then there are those who are not convicted of an offense; these people fall into the second code. I think we in criminology and sociology, those interested in criminal justice, must take a close look at

the first code and the second code. Of those who belong within the spectrum of what we call criminal justice, we must look at how we deal with them and how we do not deal with them, who we deal with or who we do not deal with, how we deal with them and how we treat them. There is desirability among our society for those who would fall into the second code to be included in the first code. I call this empirical law, this greater law, those that are excluded from the actual sanctions of our criminal justice section, the second code. Knowledge of it is much more basic to the criminal justice and criminology society than that of the first code. The entire process of accusation, of trial, etc., is well known to all of us. But what goes on in our everyday life? These hidden crimes that you and I have perpetuated and engaged in are much better known to all of us than are those which actually fit under the primary or the first code.

I will go from that premise into breaking down three classifications of criminology. The first school of criminology was the Classical School. This was the development of the sanction of what is code and what is not code. The Classical School maintained that punishment is determined, and goes back to "an eye for an eye, a tooth for a tooth," and returns to the premise that punishment should be humane, reformative, and responsible for the substitution of imprisonment for corporal punishment or torture. I am speaking basically of the 17th century development of prisons. Rather than going for torture, maiming, or branding, we developed a school of criminology which stated that punishment should be humane. The belief that punishment should fit the crime, and the criminals should be made to pay for their crime but in a humane way is the development of the penitentiary. Penitentiaries developed primarily on the religious perspective, where a man was placed in the institution to do penance (thus the name penitentiary), where he could reflect on the sins that he had perpetrated in society. First he was placed in an isolated cell and given a lot of time to think about the wrongs that he had perpetrated. But the basic belief from the Classical School of criminology that the punishment should fit the crime and the criminal should be made to pay for the crime, also demanded the crackdown of criminals but protested against "mollycoddling" by the courts and the penal system.

The Classical School still exists today and is becoming even more prevalent. There is clamor, if not a demand, for increased institutions, for harsher sentences, for getting tougher with our criminals. As I move from Criminology I to Criminology III, I find that there is a mixture of all three schools in our society today and frequent reversal because of the frustration that we have experienced not to be able to deal effectively and cope with the increasing rise in crime. Criminology II, which is also known as the Positive School, began late in the 19th century as a reaction to the abstract justice of the Classical School. Criminology II challenged the idea of free will and supported treatment or rehabilitation of the criminal rather than the belief that the punishment fit the crime. Sentencing laws were reversing back to the classic, which is even older than the Positive School of criminology. The treatment must fit the criminal, but the role of penology is to provide for the offender the treatment and a cure for his deviance. The understanding and acceptance that an offender is a deviant, that he has deviated from the norms of society and therefore must be rehabilitated, must be cured, must be treated, must move away from the concept of the classicists, that this was a bad person, that this is a sick person, and so now this sick person must be treated. It is often an excuse that the offender is the product of a disfunctional society, or we have to cure the individual because he is disfunctional in the society in which he is living. The essence of what rehabilitation consists of is: change the individual or his life situation to prevent repetition of his criminal behavior. Of course, the most common method of attempting to achieve this is through the incarceration net, through our jails, through our penitentiaries, and our reform schools.

Criminology III is gaining widespread acceptance more in the Scandinavian countries than it is in the United States. But it is slowly gaining ground in the United States. Criminology III would state that it is rejecting the hypothesis and the practices of Criminology I and II, and I and II have proven that they are ineffectual and that they are non-productive. They put people in prisons who return to prisons. We have a select few in our society who may go to prison, yet sixty to seventy percent of those who are in prisons have been in jails or in prisons before. We need

to look at this idea of rehabilitation taking place in our criminology methods and ways of dealing with offenders. Most important, the idea of pre-emption of the offender is being rejected because of studies made. We now know from victimization studies that less than one in five crimes are ever detected and that less than one in five crimes are ever reported to the police. Why do very few people ever enter the system? What is the selectivity that is going on? Why the selective basis? Who is making the decisions as to who should go to prison and who should not? The hidden or undetected crime of the past decade has challenged the classical theories of criminology. There's a distinction between criminals and non-criminals, and criminals are only those who are caught; non-criminals are those in society who have perpetrated an unlawful act as defined by our statutes, but have never been caught.

The studies of Criminology III show that those who become officially known as criminals are really a small, biased sample, selected to fulfill in many cases a scapegoat function of the universe of persons who have committed crimes. It is common knowledge among most students of crime and delinquency that the officially designated criminal is the final product of a long process of selection. You have diversion from the very beginning of our criminal justice system, from a policeman making a decision about whether he is going to arrest, from legislators deciding what is going to be a law or not, on prosecutors deciding who to take to court and who not to take to court, judges deciding who to sentence and who not to sentence, when to defer a sentence and who to sentence to the institution, so that we have a large selective process which occurs. Generally, those we find in our institutions are the poor, the lower class, members of minority groups, immigrants, foreigners, and persons of low intelligence, and others who are in some way disadvantaged from the standpoint of their life situation. The criminal justice system has spent most of its resources on trying to rehabilitate the individuals who have passed through the long selective process. This is not to say that those who have passed through the selective process should not have the opportunity to avail themselves of some sort of "rehabilitative process," of some ways to improve their life situation if at all possible, to upgrade their education, to learn a new skill, to learn more about them-

selves so that they may not enter into the same patterns that brought them into the system in the first place.

We are addressing such a minute portion of those in our society who should fall within the spectrum of what we are attempting to do as a criminal justice system. We are wasting the vast majority of our resources. What the criminologists of the new criminology school have in common is the emphasis on the importance of the individual offender and a focus on the role of society in creating and maintaining crime and criminals for a necessary function. But what are the functions? Society is operating at a cross-roads and with cross purposes. Society apparently has a need to designate certain individuals as criminals, and certain behavior as crimes. We attempt to look at causes, and we attempt to look for cures, but this is basically a waste of time, because what we are addressing is such a minute portion of those who engage in crime. The new criminology concentrates not only on the officially designated criminal as we know in our statutes and common law, but also on the definition of crime. What should constitute crime? What should not? Should we do away with the moral implications and the moral values that led to the development of many of our statutes? Are we wasting time sending the non-dangerous offender to an institution? Should institutions be reserved only for those who pose a serious threat to others around us? And the other portion of the new criminology is the addressing of this whole selective process. Who should be within the purview of the criminal justice system? What is happening with the selective process? Why are the tired, the poor, the teeming masses, the uneducated, the ones who are entering and exiting the criminal justice system because of the selective process that is being employed today? These are the issues that have to be addressed. Are our institutions in fact serving the functions that they were designed to address? As you know, there are counter movements in the United States. There are groups that are calling for moratoriums on the construction of prisons. The prevalence in our society is to build more institutions, bigger and better institutions. The Crystal Street Bill recently passed by the legislature (New Mexico) has put 23 million dollars for this current fiscal year into capital improvements for our institutions: thirteen and one half million dollars to build a new minimum security institution at

Los Lunas; close to a million dollars to renovate the penitentiary; 250,000 dollars to build a new cottage at the boys' school; more money to improve the diagnostic center in the girls' school. Are these the things that we need? More institutions?

What are the functions of our institutions in today's society? Certainly, as they were originally designed, for reformation - to reform, to rehabilitate, to incapacitate, to get the person off of the street, to protect society. That may still be a valid function, but only on an extremely limited basis. Even the American Correctional Association, which is made up of wardens and correctional personnel, estimates that 25% of those in our institutions really need to be there; the other 75% pose no danger to our society or to other persons. They pose a danger to the monetary value of other persons, but not a physical threat.

Retribution is another reason why institutions have been built and perpetuated. A poor excuse, which is perhaps not an excuse, is deterrence. Most studies that I have read can actually prove that sending a man to prison is an effective deterrence. It is an effective deterrent to the individual, based on one of the other three that I gave you, incapacitation. He cannot perpetrate any more crimes while he is incarcerated. As far as deterring others, I would question the validity of that for the construction and maintenance of an institution.

More valuable and more relevant are the latent reasons for having institutions within our society. I'll give you some of them:

- 1) The maintenance of the crime school - people learn from each other while they are in the institution,
- 2) Politicalization - people tend to get together in political groups when they are released from prison.
- 3) Self-enhancement - fulfilling the individual's perception of himself while he is in the institution. The dehumanizing effect of an institution has the effect on a person of making him think, "I have wronged society; I might as well live out this self-propelling prophecy that society has placed upon me."
- 4) Provision of jobs - there are over 70,000 people employed in our institutions themselves. If we closed down our institutions, what would happen to those 70,000 employees? There are over 300,000 people working in corrections. What would happen to those 300,000 people? We have developed one hell of an industry called

Criminal Justice, that is worth billions and billions of dollars a year to the taxpayers of this country.

- 5) Satisfaction of the authoritarian needs of those who work in the institution themselves.
- 6) "Slave labor" - we get a lot of labor performed within our institutions (license plates) for minimal or no wages at all. I believe that in New Mexico the maximum that a prisoner can make is 25¢ a day. This could be vastly improved within our criminal justice system by a movement toward either a prevailing or a minimum wage for inmates.

The money paid to the inmate could be used to:

- 1) Improve his self image, that he is earning something, that he is doing something.
- 2) Attract some agencies that might affiliate with the institution to bring in some more viable types of training alternatives for the inmates themselves, so that they might be trained for a skill once they are released.
- 3) The minimum or prevailing wage could go to the family to help keep the family together, and let the inmate know that he is still a participating member of that family, and therefore cut down some of the welfare rolls.
- 4) It could be used for repayment of the victims of the crime.
- 5) It could be used to offset some of the cost of room and board while the man is institutionalized.
- 6) It could be used for building up some sort of reserve for once the man is released, rather than just giving him his \$100 and his suit of clothes, and say "Go make it in the world." It could be used for many therapeutic reasons.

Another latent reason for prisons in our society is:

- 7) The reduction of unemployment rates. We house about 250,000 people in our penitentiaries and prisons today. We have close to half a million people in our jails. They are unemployed. Their being in jail provides jobs for other, but they can't be doing those jobs. As you can see, I'm saying some of these facetiously, but they do have an impact on our society.
- 8) Scientific research. Companies and medical researchers have for years used inmates as "guinea pigs" to try out new drugs. Inmates who volunteer for these programs generally get a reduced sentence, and if they are considered ideal prisoners, they are sometimes considered for parole. Thankfully, the U.S. Bureau of Prisons and other forward looking prisons are cutting down on the use of prisoners as guinea pigs for drug experiments and medical experiments.

- 9). Prisons are used a safety valve for racial tensions.
- 10) Birth control. As long as people are in prison we are cutting down on the birth rate.

These are some of the latent facts of our penitentiaries.

I'd like to read in conclusion the sentence of Jose Maria Martinez by Judge Benedict of the New Mexico Territorial Supreme Court. As a discusser of ridicule and irony, Judge Benedict knew no peer. About 1865, Territorial Supreme Court Judge Benedict presided at a murder trial in a northern New Mexico county, and the jury found the defendant guilty as charged. Obviously, the defendant was on trial for a most vicious and unwarranted killing, under circumstances that held no appeal for the judge. The death penalty which he proposed is a masterpiece of irony. And this is the transcript:

"Jose Maria Martinez, stand up. Jose, you have been indicted, tried, and convicted by a jury of your countrymen for the crime of murder, and the court is now about to pass upon you the death sentence of the law. Now the usual thing, Jose, is the pitiful duty for the judge and the court of justice to pronounce upon a human being the sentence of death. There is something deplorable about it, and the minds of the court naturally revolt on the performance of such a duty. Happily for us your case is relieved of all such unpleasant features. The court takes positive delight in sentencing you to death. You are a young man, Jose, apparently of good physical condition, and robust health. Ordinarily, you might have looked forward to many years of life. The court has no doubt that you have a right to experience to die at a ripe old age. But you are about to be cut off in the concert functions of your own act. Jose, it is now springtime, and in a little while the grass will be springing up green in these beautiful valleys, and in these broad mesas and mountainsides flowers will be blooming. Birds will be singing their sweet carols, and Nature will be putting on her most gorgeous and attractive robes, and life will be pleasant for those who will want to stay. But none of this for you, Jose. The flowers will not bloom for you. The birds will not carol for you, Jose. When these things will come with the sentence of death, you will be occupying a space

about 6' by 2' beneath the sod, and the green grass and the beautiful flowers will be growing above your lowly head. The sentence of this court is that you be taken from this place to the county jail, that you be kept there safely and securely confined in the custody of the sheriff, until the day appointed for your execution. Be careful, Mr. Sheriff, that he get no opportunity to escape, and that you have him at the appointed place and at the appointed time, that you be so kept, Jose, until ("Mr. Coroner, what day of the month is Friday, about two weeks from this time?" "March 22, Your Honor.") Very well, until Friday, the 22nd of March, when you will be taken by the sheriff from your place of confinement to a safe and convenient spot within the county. That is in your discretion, Mr. Sheriff. You are only confined to the limits of this county. And that you be there hanged by the neck until you are dead. And the court was about to add, Jose, 'May God have mercy on your soul.' But the court will not assume responsibility of asking the All-Wise Providence to do that which a jury of your peers has refused to do. The Lord will not have mercy on your soul. However, a few, in fact any religious beliefs, or if you are connected with any religious organization, it might be well for you to send for your priest or your minister, and get from him such consolation as you can. The court advises you to place no reliance on your loved ones, or reliance on anything of that kind. Mr. Sheriff, remove the prisoner."

Then there is an added statement. "Hapless Jose, having no desire to play the leading part in the performance scheduled for Friday, March 22, at some safe and convenient spot, promptly broke jail and was never apprehended."

I question whether the rehabilitation might account from the deterrent effect on others by his being hanged, or by the fact that he escaped and was never apprehended. Probably because he never engaged in another act against the law.

And with that I shall close.

JUDICIAL REHABILITATION

The Honorable Gene Franchini
Albuquerque

The Honorable Gene Franchini is State District Judge for Albuquerque, New Mexico.

I am supposed to talk about judicial rehabilitation, and I don't know if they're talking about rehabilitating the sentence or rehabilitating the criminals they send to jail. There is something to be said on both ends, and you're right about rehabilitating the judges. I don't want to give a particularly long talk to you this morning, but I wanted to ask you questions about what I say, rather than the other way around. That is to say, any of you who have any questions in regard to the judiciary of this state or the judiciary of the jails, are very free to ask all the questions you want about them. What about judicial rehabilitation? This would be even a shorter talk than I anticipated, because there isn't any. Rehabilitation, as far as the judiciary is concerned over the past ten years or so, has assumed a ranking of third in those areas which are more important when it comes to sentencing of defendants accused and convicted of criminal acts. Third, where it used to be first not too many years ago. There are three things that the courts are looking at most strongly in the order of preference: 1) punishment; 2) protection of the public; 3) rehabilitation. Why should that be after such a few short years? I think the main reason for it is fear. Absolute, unadulterated fear on the part of the community at large. I'm not only talking about the community of the state of New Mexico; I'm talking about this community that we call the United States of America. Fear of what? Fear of a couple of things: fear for your own

individual safety; fear for your goods and assets. And when people are afraid as they are in this state and this country today, they are willing to do almost anything so that they can feel more secure. I'm not saying that they don't have a right to feel secure. I'm talking about 95% of the people in this country who have this fear. The only trouble with it is, that when fear gets to the point where it simply takes over our lives and our individual feelings, we are liable to do, as human beings, some very dangerous things.

The first ten amendments of the Constitution of the United States are what we all refer to as the Bill of Rights. Not too many years ago, either NBC or CBS went down the streets of New York City, and placed these propositions on a piece of paper, not as they are written in the Constitution, but in ordinary, everyday language that the people could understand. They took a poll, and said, "How many of these propositions are in your favor? (There are things in there like the right to a jury trial, the right to remain silent in the face of your accusers, your right to be free from unreasonable searches and seizures, little things). Fifty-six percent of the people who were in the poll thought that all of them were kind of "cock-amamy."

When people get afraid, they want simple answers to a very complex question, and this whole area of corrections and rehabilitation is a very complex question. I don't know what the answer is, but the question is there, and I'll give you some figures to show what I mean. Simple answers to these complex questions do not work. If they have not worked in the past, they are not working in the present. What do you do with a violent criminal? I'm not saying that nobody should go to prison. I am not saying that we should expand with millions and millions of dollars our rehabilitative facilities, or rehabilitation process, because there are people who are dangerous and violent in this society today. The only answer for those people is to put them away from society. I submit to you that there are a lot of people in our penitentiaries who are not dangerous, and who are not violent, and who should not be in penal institutions as such. I submit to you a problem for the future which is greater than trying to solve the present problems.

Our concept of punishment for protection of society is second, and rehabilitation third, but so far medical treatment and attention is down the line and nobody thinks about it. In 1972, five years ago, our penal population in the state of New Mexico was 263. On April 29, 1977, it was 1394, just a weekend later, we have 1444. We have a new sentencing act just passed by our legislature. The difference between that sentencing act and what we are operating under now is as follows. Now we have what we call an indeterminate sentencing act. For the degree of felony (you start with fourth degree felony, which is not less than one and not more than five years; third degree, which is not less than two and not more than ten; second, ten to fifty; first, life imprisonment). But then we also have a parole system in the state of New Mexico where you become eligible for parole when you have served one third of the minimum of the sentence. For example, if you got one to five, you are eligible for parole in four months. Two to ten, you are eligible for parole in eight months. Ten to fifty, you are eligible in about three and one third years. What we're doing in that respect (I've never been for indeterminate sentencing) is pulling a farce on the public. We are saying one thing in the newspaper, and saying an entirely different thing to the public when we look at them. The new sentencing act gives us what we call "determinate sentencing." The years in sentencing are the same in the new sentencing act, except that I as the judge or any other judge in New Mexico, when it says not less than one or more than five, I can say five, four, three, two, or one. In ten to fifty, I can say forty. You know, when you say ten years in prison, you're talking about 120 months. Cut that down to days, then to hours, and we are talking about a lot of time. Three years is long time. Two years is a long time. But this new sentencing act, besides creating this new type of sentencing, is creating it in a time (at least in the history of New Mexico) where we simply cannot cope with it. Because, again, talking to the secretary of the Department of Corrections, they fed the information on sentencing over the last ten years over judges in the state of New Mexico, to come up with some figures on what we're looking at in the future. Whether these are valid or not, I for one question, because nothing is constant in this area.

Assuming for the sake of discussion here this morning that this new sentencing act takes effect in 1979, with no other changes, and the judges of the state of New Mexico, withholding these sentences, take advantage of this act, then assuming further, that the judges are on the low side or the lenient side of sentencing, the computer, when this information was fed to it, came up with the following figures. I told you we have 1444 men and women (I'm talking about adult offenders now, not juvenile offenders) in some kind of a penal institution. Of the 1444 inmates now in various penal institutions around the state, calculate that more than half of them do not belong in that maximum security facility. Where a problem exists today, a greater one will exist tomorrow. In the state of New Mexico today we have one maximum security facility, Sante Fe State Penitentiary. We have no minimum security facilities at all in New Mexico. As you were told earlier in the day, there has been a 23 million dollar appropriation to build a minimum security facility in Las Lunas, New Mexico. The bill provides space for 282 inmates. But if you send an 18, 19, or 20 year old man to that place you call the state penitentiary, the chances are very heavy that you are creating a bigger problem for yourself than if you had handled it a different way. We have had, like most states, a lack of facility, a lack of personnel, a lack of money in tackling this kind of problem. And the problem isn't going to get less; it is going to get greater, just from an historical point of view. I think we have seen over the last 200 years that this is what happens; it gets worse instead of better.

What is the answer? I don't know, but some of the things we can use are as follows: the use of probation by a judge, or suspending sentence in those instances where it is called for. Again, there are cases where the use of deferring or suspending sentences, probation terms up to five years, can be and has been, in my experience, more effective to serve the end of the criminal justice system; and those ends are, again, punishment, protection of the public, and rehabilitation. It has worked and it can work, and if used by judges, generally these other methods that are within their possession and control is a part of an answer to a problem that is getting to be tremendous. As far as the criminal justice system and the penal institution is concerned, it has been recommended with some degree of

credibility that work release programs such as we have at Camp Sierra Blanca in the southern part of the state (48 inmates who sleep there, are there every day, but are released during working hours to work for private employers) can be very effective. In the month of April, 1977, 56 inmates at Camp Sierra Blanca on work release earned \$67,000 from private employers. If any individual feels that he or she is productive, and work release is one of the ways that can be used, then you are going a long way toward "rehabilitating" that particular individual. One of the worst things that anybody can do to any human being is to make him feel insignificant, unproductive, and see that he is kept in that state forever. In our state penitentiary, we have no work release. It is not permitted. We have a Las Lunas honor farm for those who can work on that farm, but at a very reduced rate of income. We have an education program in the state penitentiary where it is possible that the inmates can work toward a degree in the college of Santa Fe, and there have been quite a few who obtained that degree.

What I am trying to show you is rehabilitation is not cutting off a human being for long periods of time and releasing him with no education, no vocational training, and nothing that is going to do him any good when he gets out. You can't have, under our present facilities, 1444 human beings incarcerated and think that 1444 are going to stay there. They are going to eventually get out. And the problem is once they get out, what do you do with them? They are potential misfits of society, and unless and until we are looking at this problem the way it is rather than the way that we wish it was, and until we do away in large part with these unfounded fears for our own personal safety and for the safety of our goods, we are creating more problems for ourselves than we are solving.

The highest cost to taxpayers is incarceration and the cheapest is rehabilitation (such as our work release program). State Trial Judges Book says that (before you go to the judicial college in Reno, which I went to last year, they send you this book) there are ten commandments for a new judge. The only one I am going to read to you is number 8, but I will tell you briefly what the rest of them are: 1) be kind; 2) be patient; 3) be dignified; 4) don't take yourself too seriously; 5) remember that a lazy judge is a poor one; 6) don't be dismayed when you burst; 7) remember there

are no unimportant cases; 9) don't forget your common sense; 10) praise the Divine Guidance. The important one for today's discussion is: 8) don't pull long sentences. This is to say a short sentence will most likely accomplish the same effect. It is primarily the fact of incarceration and not the length of it which best serves criminal justice. Long sentences may well over-punish a man and so embitter and discourage him that he loses his desire for rehabilitation. If you are debating between the wisdom of imposing a prison sentence or placing the defendant on probation, then use probation. There is at least some chance it will work. Just decide each case on its merits and uphold the decision which your best judgment dictates, then the pattern of your action will shape the recognition that you probably deserve. To a great extent I agree with what the Book says. Believe it when I tell you that a judge knows more about a criminal defendant than he is sentencing than the defendant knows about himself. I know all the background; I know if they have any psychological problems, any physical problems, past records. All I have to do is read the tremendous pre-sentence reports that I receive from our local records. A judge has to exercise his or her judgement as to what is best for this particular defendant under this set of facts. What is best is: what punishment, the protection of the public, and rehabilitation. I submit to you that if you can accomplish that end with all three by deferring or suspending the sentencing as well as putting that particular individual in a penitentiary then that judge not only has a right to do that, but he has a moral duty to do that because when it gets to the point in this country that a state judge like I am has to run for election, if his decision in this or any other area is based upon political consideration rather than judgement, then the whole system collapses. So before you start chastising any of these men or women who are in this ungodly position, try to remember just those few things; we are not always right. A lot of times we are wrong, but one thing we should not be is in doubt. But if the media and people keep pounding for stiffer sentences, death penalties, these things I have tried to show you do not work, we are going to do what Ben Franklin warned us about in 1781, we're going to be losing literates for the sake of illiterates.

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RESTORATION AND REHABILITATION

William H. Sandweg
Annandale, Virginia

William H. Sandweg is an attorney in Annandale, Virginia, and is with the Offender Aid and Restoration (OAR/USA) program. OAR is citizen volunteer involvement one-to-one with prisoners and ex-inmates and their families for the hope of giving them the assistance they need to restore themselves. Mr. Sandweg represents the National Council of Catholic Laity, one of the coalition members of the "New Directions for Corrections" project.

I would like to start my presentation with a quote from a well-known philosopher "We have met the enemy and they is us." I live in Fairfax County, Virginia, a colony of 650,000 people where the median value of homes is \$62,000, and I will bet that 99.55% of my neighbors have never seen the inside of Fairfax County Jail. In looking about the audience here, I know of one former inmate who is here. I am looking at this well-dressed, mainly white, middle class group talking about the problem of prisoners, and I wonder how many of you have ever been inside your local jail. In most communities your local sheriff is your local jail. Basically he has two jobs, to maintain prisoners and to serve warrants. What we in Offender Restoration are trying to do is to give a hand to the man in jail (talking basically about jails). In Fairfax County and many other communities, because the jail is crowded, a number of the available space is taken up by prisoners awaiting transportation to the penitentiary. So you have a mixture of misdemeanors and felonies in your local jail. Our organization is Offender Aid and Restoration (the initials spell OAR).

Let me give you a little background on OAR. In 1968 there was a prison strike in the penitentiary at Richmond, Virginia. Participants from the judiciary, penal institutions and private citizens came together to discuss what is wrong in the penitentiary that would motivate a strike, and what

can be done. Not much emerged except the idea of a federated restoration reform. Ninety-nine percent of the people who violate the law are not adjudged criminal because they are not caught, get out of it somehow, or are not reported. Many inhabitants of jail do not need to be there.

Restoration has two major objectives. The first is the one-to-one citizen volunteer relationship to the jail inmate. In addition to that jail inmate, we attempt to provide services for ex-inmates and their families. The second and maybe the most important aspect of OAR is to expose to the general public, insofar as possible, the conditions of their jail. The jail in your county or city is not the sheriff's jail; it's not the chief's jail. It's yours, and it will only be as good as you demand it to be. When a man is brought into the criminal justice system, many times that is the first opportunity that he or she has to learn that there is an organization of concerned citizens who want to help him help himself.

We have a training program for citizen volunteers which teaches him/her as much as we can about what happens to a person who is in jail. We cannot, however, make him a good volunteer. He will be put in touch with someone in the jail system who has expressed a desire for help. We are not psychologists, psychoanalysts, or psychiatrists; we are just interested people who feel that if we can take an inmate, or someone in difficulty with the law, and help him to see that maybe he doesn't have to continue in that way, we can thereby eliminate the need further on for prisons and for the large expenditures of public funds.

What is the difficulty in changing the jail system? In the initial stages, federated restoration began in 1971 with the basic idea, "let's go into jails and see if we can do anything to help people." The first person you have to convince to let you in the jail is the local sheriff; that is his jail as far as he is concerned. And until you get support from other systems you are not going to get into that jail. If you would be interested in this type of work, what would you do to start an OAR program? You would start by generating interest within the community of responsible, persuasive, influential people, starting with the judiciary, the local police, the sheriff, your Jaycees, the Bar Association. All of these people generally make up a board of directors for an OAR program. They set policy.

They determine just what can and cannot be done, and how the program works. Has OAR worked? Yes, it has. Where we began OAR, in Virginia in 1971, there are now seven separate communities that have OAR groups.

Richmond has a similar OAR program; the Richmond OAR has a halfway house. Fairfax County OAR has what they call transitional services and child placement. Something for these types of programs initially started from LEAA. You have to have your local community put up the matching funds, and after ten years, you are out of funding. In every community in Virginia now we have a viable OAR program. The local community has become quite impressed with it. For those of you who are interested in volunteer programs, to me the most untapped resource we have in this country today is people who are young and interested. I'm a volunteer. After working in Civil Service for 33 years, I retired three years ago. Seventy-five percent of my time is spent on Offender Restoration. I take some cases from the court on assignment, mostly juvenile cases because I am more interested in juveniles.

I want to comment on the mind of the criminal, or the person who is in jail. I spent the last four years of government service in appellate court writing opinion papers. I enjoyed research. Like many people who have changed their direction in life, I spent the first seventeen years of my life since I graduated from law school putting people in jail; I expect to spend the next twenty years trying to get them out. I had a very definite opinion about something called "insanity." Insanity rules if at the time the offense was committed, a person charged with the crime could not distinguish right from wrong. Insanity might be caused by mental defect diseases. Yesterday, on the way, I bought a book called The Criminal Personality by two psychiatrists. They conducted a number of tests related to the idea of mental defective derangement and crime. They started with a control group of people who had been committed, not guilty for reasons of being mentally unsound. The answers were not satisfactory. They then switched to another group who had been sentenced for evaluation to find out whether they had some mental defective disease. Even there the responses were not fully satisfactory; however, if validated in time, they might very well change attitudes and ideas that crime basically is a result of poor

environment, lack of education, ethnic origin, welfare. You start with a basic premise of why he got to prison in the first place. Maybe we're wrong. If so, much of our effort toward rehabilitation is wasted.

WE HAVE MET THE ENEMY AND THEY IS US. Ask yourself. Have you every seen the inside of your local jail? Can you imagine what it would be like with one of you on the toilet in front of twenty men? There is no privacy. Local jails are so crowded there isn't even a chance to go out in the yard during the day, so they stay in there all day long. In offender aid and restoration, we in Fairfax County process inmates to Camp 30, a prison roadwork camp. Those men go out under contract from the State Bureau of Roads. Bureau of Corrections says we must get this money from the Bureau of Roads to run the camp. I was interested in the pay scale. These men receive 25¢ a day for this work. The authorities justify on the grounds that they can't be sitting "on their can" all day long and we'd better get them out and work. I ask you to think about it. WE HAVE MET THE ENEMY AND THEY IS US.

PERSPECTIVES ON REHABILITATION
DISCUSSANT

Robert Valdez
Laguna Pueblo

Robert Valdez is the Director of Corrections of the Laguna Rehabilitation Center of Laguna Pueblo, New Mexico.

I am the Director of Corrections on Behalf of the Laguna Rehabilitation Center in Laguna Pueblo, New Mexico. We have a population of about 6,000 plus, overall, about 10,000 in various communities. It is true that we have spent enormous amounts of money in the criminal justice system. The question is, how well is it working? Is it worth the taxpayers' money? Is there a sincere desire for volunteers in that system? We have a relatively new program and we want to thank the LEAA for recognizing our needs and helping us to develop that system. We are going on our second year and it is a great experience to our reservation, to our tribe, to establish such a system within our reservation. I have been involved with law enforcement aspects for about fifteen years. I have been on both sides. I was on the enforcement side, but now I am on the rehabilitation side. We have a unique problem in our reservations. We try to develop a system where it will fit the particular needs of that reservation. We have nineteen Pueblos in the state of New Mexico, plus the two adjacent Apache tribes and every one of those tribes in a different way is having a problem. Our Pueblo has its own traffic code,

and we have gone from a four man police force to about twenty at the present time. With the help of LEAA we have been able to develop a change in the criminal justice system, and we're still making it more effective in many ways through more training, more personnel, and now we are beginning to recognize the needs of our other young communities.

Has the money been well spent? Concerning the overall recidivism rate, I do not know. I think there is a lot of potential within our institutions, whether it be long-term or short term sentence. Rehabilitation and probation does work if you have the sincere desire to educate our general public. We have seminars such as this, workshops, yet we often overlook primary contact with the potential criminal or offender. Law enforcement officers have very minimal training. Community services, public relations, more preventive measures have to be looked at very seriously. How much of our judicial system has resources? Very few. We have an average of sixty-five inmates per month on our reservation, with a total of 916 incarcerated in 1976. We have a recidivism rate of about thirty percent. We have just initiated inmate counseling. We have a work release program. Fifty percent of the time it is working. We have just recently developed a DWI school. We have known that over ninety percent of crimes committed on the reservation are related to alcohol. It takes a maximum six month sentence to be able to work in rehabilitation and develop some skills, education, through whatever resources we have to offer. Here the problem is that over fifty percent of colonies on the Indian reservation do not have jurisdiction. It is a problem. There is a lack of knowledge, and a lack of experience in many of the law enforcement agencies. More preventive measures, more public relation, and more community services are needed, as well as enforcement if it is necessary.

-----DISCUSSION-----

Comment: My name is Moses Sanchez, and I am with the National Alliance of Businessmen, and I work exclusively with ex-offenders. I am quite impressed with Gene Franchini, one of our natives of Albuquerque, God's Country, who made a comment on the pressures of the media. We are skirting around the subject of costs for an offender to remain in prison. Some figures that have been gathered indicate that the cost is \$40,000 for an individual in prison for one year. Recidivism is one of the major causes of costs in prisons. Eight out of ten who come out of prison will return. Now that is another \$40,000 a year for an individual. A lot of recidivism can be avoided with the provision of vocational training in prison. In this case, gentlemen and ladies, they are nothing but warehouses, and that's all they are. So we need to train these individuals when they are released, put them into some remedial occupation, so that they can reintegrate with society. In here we have a lot of "Archie Bunkers," who do not feel that the prisoner should be helped. We have recognizance of the first stages of a job. For, in this state, you have to have a job in order to be paroled. There are some (and I happen to be one, too) who will hire a man sight unseen, and put him on the job. Maybe I can reach that person. I like to "eyeball" this individual before I hire him. He may not be experienced; I may be able to use him later. But I feel that it is my prerogative to look at this individual. The parole board says, "No, he's got to have a job guaranteed." So what do we do? We do not discriminate against ex-cons. We have a family problem for each ex-offender who comes out. The wife is not taking over the role of the married man. She's not making the decisions. The "macho" has gone. We have a third problem which is very minimal psychologically. Once inside those walls, one is faced with perverts, filthiness, and the laws of personal pride and integrity are undermined.

I want to thank many of those from the Department of Corrections for their splendid cooperation. We came to the Law Enforcement Assistance Administration and got an on-the-job training program for ex-inmates. It pays \$2.75. We teach them a meaningful trade. He's going down the street, looking for a job, he can't pay the rent or eat. They say he's a criminal.

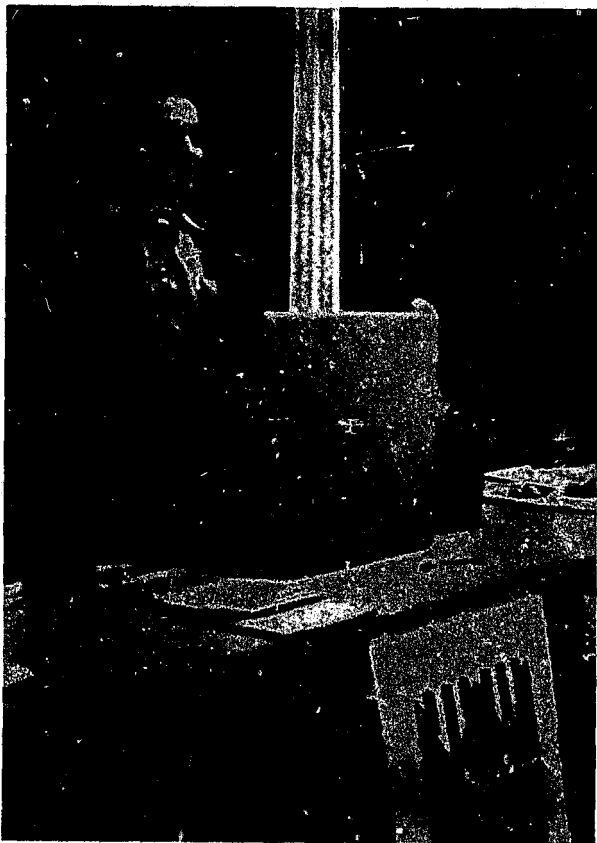
The reason he's a criminal is because he never got the chance to become anything else. Society has prevented it. . yes, the great American public. People that go to church every Sunday morning.

This training program has done more good for them. If you need a job, it is very important to us. We need the general support of the public, and we're not getting it. Many of us talk about it, but not many are doing anything about it. When you start talking about prison, they'll tune you out in about three minutes. Wait until their kid gets caught with grass, then suddenly it's a little different story. The biggest problem lies right here in this room. How many know the legislature? I'll bet there is one, including myself. I will give a job, but I will not guarantee a job. These are questions I'm posing to you. Let's do something about the legislative end. I respect this state. Let's get general public education, and let's be conscious of why everyone of us who is present here today has presented a problem. I haven't heard any solution. I feel that when an inmate is released, and he has a job, he will become a member of our society.

Comment: You have to realize one thing, that you can't take on one state by yourself. I can be about as successful in pointing out this point of view as the man in the moon. It's just not going to work. And the only way that it will work is when you have a news media that is as independent as each one of you are, and as independent as the judiciary is supposed to be. But the news media will kill you in the short run. The dangerous thing about all of this is that public pressure that you get from about two to three hundred thousand people. What we're doing most of the time is talking to each other. But you run into a state legislator who personally doesn't believe in long prison sentence, mandatory sentencing, death penalties, and who feels that if he goes up and votes on that bill, he'll get "killed" in the next election. And you're right. I'll probably get "killed" in the next election. I think there is a great deal of skepticism in all aspects of law enforcement when they are speaking about their own institutions. There must be some source that they view as being as fair as possible. I think one of the problems is we don't have good consistent spokesmen right now who are trusted by the public. I don't know where those people are, but we need some of them.

Comment: We have the responsibility, once these conferences are over, to go back to our respective communities and attempt to organize some workshops and seminars on this same vein, so that we can educate people.

Comment: I think we've done more than sell the public a bill of goods on rehabilitation. I think we've sold ourselves to the public.



Robert Valdez discusses the impact of crime and justice on the Native American.

INTRODUCTION

I am substituting for Julia Lopez, Deputy Director of the Governor's Council on Criminal Justice for New Mexico, who is unable to attend this afternoon. This afternoon, our topic will be Rehabilitation: If, When and Where. We have two speakers, who each have 20 to 25 minutes, then there is a respondent, who will have 15 minutes. Then I will open the floor to the audience for any questions.

Through the Governor's Council on Criminal Justice Planning Division process, we found that there are many citizens throughout the state of New Mexico who are very concerned with our correctional system, which offers mental protection to the public and maximum harm to the offender. This showed that a large segment of the offenders return to the community within five years. There is also evidence that many persons in prison do not need to be there. What is the proper function of corrections? Is it to correct criminal behavior, as the name implies? Is it to punish offenders, to deter crime? Many issues in this particular area have surfaced. In the correctional system in rehabilitation, the people were concerned with, for one, the release on recognizance while waiting for trial to reduce unnecessary detention in the jails, as an alternative to incarceration. They are interested in the development of a proper social environment in the institution to help the offender to change his behavior, and participate on his own initiative in programs intended to assist him in integrating into the community.

Our treatment programs are for special offender types (alcohol users, emotionally disturbed, etc.) to address their needs. Should women offenders in the institutions have available to them all the programs made available to male offenders? Should non-victimless offenders be released, under supervision, into the community, when sentenced to partial confinement, with liberty to work or participate in training and educational programs? What about diversion programs? Is suspending criminal proceedings against the offender before trial, directing him or her into a program outside the criminal justice system, a viable alternative?

At this point, I would like to introduce Mr. William Matthews, who is the Director of the Forensic Systems, New Mexico Department of Hospitals and Institutions, to present his side of the situation.

WILLIAM MATTHEWS

The topic I am supposed to talk about is diversion programs. It is generally a more difficult alternative for the individual than the process that he goes through to be sentenced. That is, he has to work harder. I am going to show you some slides of a diversion program, a program that we have in New Mexico, and one that I consider to be an outstanding program. By the way, it is an exemplary program to be through the LEAA, and you will see an article in Parade magazine probably in the next week or so on it.

I want to tell you a little about what I think diversion is, and whether it does or does not work effectively. I will also tell you about some programs that I am aware of.

These slides are on a program to determine how particular individuals adapt to stress situations. In other words, what happens to a person when he is included in situations of stress, anxiety, or fear, and how does he respond? There have been a lot of correlations between the program and how people react to stress situations on the streets, and the correlation is very high. So if a person is able to adapt to this experience, chances are very high that he can adapt to stress situations in the streets. The second reason that we do this experience is as an initiator of a treatment program, usually used as a catalyst. There is a particular course that was brought here a few months ago from the Grand Canyon. This experience is a survival experience in basic black or white, life or death situations. Individuals here are embarking on an 18 day course of survival experience in the Grand Canyon. These people were selected from the criminal justice system both in diversion, and people coming here from Forensic Conferences, or from the penitentiary on parole. This was the first sight of the Grand Canyon that the individuals had. Let me say, to begin with, that the need for diversion is really obvious. I've heard a lot of people talk this

morning about the problems in the criminal justice system, the problems of the penitentiary, the problems of alternatives, the problems of the cost of the present system, the cost in relation to future institutions or institutionalization (i.e. the need for more institutions, and the cost of housing individuals in these institutions once we get them). The system does not work as we have it now, and that is reflected by our exorbitant recidivism rates. Probably the most important concern here is the problem of what happens to the individual in the institution.

What I am going to talk about is some alternatives to our present system. Specifically, I am going to talk about a parallel system, or an alternative system that is not only more cost effective, but does a better job with people.

This program is only one part of the Forensic System. The Forensic System is a series of evaluations and treatment programs for offenders. One of the keys to diversion is appropriately screening and evaluating individuals at the outset. For example, we are taking people into the diversion program on a pre-prosecution basis. What kind of program do they need? What are their needs? What causes their problems to start with? What can we project are going to be the problems in the future? Are they motivated? If so, what are they motivated to change about themselves? Most diversion programs have not been successful because we did not match the appropriate person with the appropriate program. Sometimes we didn't have the programs, but in cases where we do have the appropriate program (Albuquerque, for example) we didn't match the individual with the appropriate program. The initial concern is successful screening and diagnostic process, at whatever level the criminal justice system is: the prosecution, the sentence, probation, or even after they come out of the institution on parole. The process is to resocialize, or reorient (whatever you want to call the process we go through).

One of the things we have in New Mexico is a state-wide system of evaluation and screening of individuals, and these particular teams serve every agency in the criminal justice system: the district courts, the district attorney's office, the defense attorney for probation and parole, police agencies, and so on. Any of these sources can make referrals to

individuals in our evaluation teams. They provide a comprehensive evaluation of the individual, and by this I don't mean just a psychiatric type of evaluation. We do social history, investigative work, we make statements at conferences about our responsibility, but beyond that, we make statements of alternatives. What are the persons' names? What can we offer them? What can we do for them? Many times we think we can't offer anything, because there's nothing to offer. But at least we know where the person stands, and we know that he knows where he stands. We have a process that is done for a person, and a process that is done with a person. In other words, he has input into his own evaluation, along with us, doing assessments in both social work, investigative work, psychological, and psychiatric work. We go back to the source of referral. It's a comprehensive type of situation, and includes recommendations for what programs are appropriate. One program is the Wilderness Experience.

The second phase of a successful diversion program, in my estimation, is what you do with a person after this type of diagnostic process happens. What we try to do is allot a person into a lead agency, and in addition to that, our evaluation team works with this lead agency to help to form a contract with the individual. This is not only a lead agency, but also a criminal justice agency of referral. For example, we get referral from the free sentence agency, which is primarily probation officers in New Mexico. We do a report. We give them the report; we also give them examples of the kind of programs a person should be involved in. We all get together with the individual, and develop a diversionary contract. This contract specifically states, in objective terms, what is expected of the person who is going to be involved in this diversion program. The contract is negotiable, or renegotiable, depending on changes in situations, but generally this is a guideline for what the person can expect to be involved in if he is diverted from the system.

The contract is then locked in to his legal status. His prosecution and a contingency of continued deferment of his legal proceedings is based on his success in the program. Now I think an important concern here is that not everyone is appropriate for a given program. We have to match up the person with the program, and usually you cannot expect one program to serve

all an individual's needs. For instance, a person has a drug problem. He probably has other problems too. He may have vocational problems; he may have family problems. He may have problems in doing budget management. He may have individual concerns that need to be dealt with. So the idea is, if you are going to divert someone, look at the total person, not at one isolated concern. If the person is busted on drug charges, chances are he has other problems, too. And we need to take a look at those; we need to match him up with the appropriate program to deal with those. Once again, the lead agency's responsibility is to monitor and track the individual, to ensure the criminal justice system, to ensure the community, and also to aid the individual in knowing how he's doing. One of the major concerns of divergent programs in the past has been a very nebulous process; the individual never knew where he was, what would happen if he did this, or what would happen if he did that. One day someone comes along and says, "Hey, your probation is being revoked. You didn't follow this outline." What we're saying is that the more objective we can be, the more up-front we can be, and the more comprehensively we can deal with the individual's needs, the more successful the diversion program can be.

There is usually a catalyst, which is the first part of the person's program. The reason it works is because it breaks down an individual into a very basic black and white process. The decisions a person makes here are "win or lose", and the consequences are immediate. You have to work as a group. You're testing yourself; you're in an environment that for most people is totally alien. There is no point of reference so, therefore, fears and distresses, and concerns that an individual has about society are very visible here, and can be dealt with directly. What we find is that people learn their strengths on this type of program; they are much more powerful than they thought they were. They go back into the community, and they are regenerated. They have a better image of themselves; they know what they can do, or at least they know they have much more potential than they thought they did. And they also learn to work with other people. They're going to socialize, maybe sometimes for the first experience in their lives. They are put into stress experiences that test them; they can go beyond limits that they never thought they could, and they accept them. In every

course that we ran, we have had people who have not been successful. This is also one of the objectives of our program, to screen out individuals who physically can deal with stress, but who are not psychologically or emotionally able. Something like 85% of the people who have dealt with these experiences have been successful.

Let me go on a little further with the concerns of a person who is referred to a treatment program. Most treatment programs are not inter-related. In other words, there is no transfer between programs in understanding objectives, and so on. Some of what we are attempting to do is to work with community base programs in creating services, identifying what types of programs do for what type of person, putting him in the appropriate program, and then monitoring him not only for his benefit, but also for the benefit of the criminal justice system and the community in terms of how he is doing. And then, if other needs come up, we go on. Our diagnostic process is far from reliable. We channel him into other programs, but the idea is to stay with the individual, not turn him loose and expect him to survive. Staying with him, helping him through the experiences, and monitoring and tracking is involved, and getting the evaluation back to him so he will know how he is doing. Learning this experience constantly reprocesses the other person's experiences. After every major experience, we get together and talk about what has happened. What worked in a situation? How did you feel about this situation? What did you do? What was the relationship with this other person? Why did you make this decision? It is a constant question of the individual's behavior. What part of the learning experience is a solo? The individual is put out for two days in a wilderness environment. He goes out there with a bottle of water and a little plastic sheet that he can make shelter with. Nothing else. This is an opportunity for an individual to process the experiences he has had. This was done by an individual who had spent 18 years in our institutions, came by one of our courses, and went through a period of revelation. When the instructors came to pick up the individual (and by the way, they are placed out in various areas throughout the course by themselves) he had written next to a little cave that he had dug, "Welcome all my brothers to my pad, but please keep down the noise." This was in the Grand Canyon.

For many people, this is the first experience of a social nature that they have had. This is one of the reasons that it is so dynamic. I think one of the concerns that we generally have in the diversion program is one of community support, as many people have mentioned. The program is not going to work unless we have community support, unless there is cooperation, an understanding of what we are trying to do, and take into consideration the legal concerns, the political concerns, the administrative concerns, and bureaucratic concerns, along with the therapeutic or the treatment or rehabilitation concerns that are your initial job.

I think there are a number of programs that are exemplary in relating to community support. One such program is Delancey Street in San Francisco. This, by the way, is one big Forensic System, and we're hoping to do it in New Mexico as a residential experience. It's a model program from the standpoint of the way it is set up. Delancey Street has over 350 offenders in residential, long-term placements, for a minimum of 18 months. Individuals come there from all facets of the criminal justice system on a voluntary basis, but there are a lot of contingencies here. In other words, you volunteer to go to the penitentiary, you volunteer to stay in the penitentiary, so on and so forth. It has had tremendous success. In the six years that it has been operational, they have expanded to a 350 bed capacity, distributed throughout San Francisco in a maze of facilities. They themselves operate ten businesses. They are totally supported by their businesses; there is no federal or state money. They have an operating budget of \$90,000 a month. They own restaurants, they own real estate firms, they own credit unions, they own construction companies, they create things. And the significant point is, there's no staff. It's all run by the offenders themselves. Nobody is salaried. All the money goes back into the organization, except for the phase where the individual is phasing back out of the organization, and then a portion of the money he is earning goes to him, and a portion goes back into the organization.

We're concerned about what we are going to do in the future. We're concerned about money. We're concerned about recidivism. They've never had a violent incident in Delancey Street in the six years that they have had the system. And they've taken everybody and anybody with one con-

tingency: they had to be motivated and had to express motivation.

The Forensic System will eventually include a diagnostic team that we are talking about here. They will include experiences in innovating programs that will develop a residential experience like Delancey Street. They will include non-residential diversionary programs for first-time offenders, for individuals who are phasing out of the residential phase for continued input, and will include a day assistant who will pull all of this together. Analysis of the program is necessary, by data systems analysis and feedback from the criminal justice system, through the programs, and once again, the individuals.

By the way, one thing we did in relation to community support was to take people from the criminal justice system, form treatment programs and make short courses, and we're in the process of doing that again this spring with two or three day experiences. So what we're doing is to experience what the offender experiences in kind of a modified form in the short course. In addition to that, the goal is to develop communications between these people. And one of the biggest concerns as I said, was "How do you get together? How do you understand what's going on with another person or another agency?" We usually know little about what the offender is doing. So one of the things we are doing is providing these types of seminars along with other types of seminars with criminal justice agencies, treatment programs, and offenders.

Another phase of the Wilderness Experiences is that they fought a lot a rapids. This is the Rio Grande (slide). Individuals have to work together in this type of experience. If they don't, it's an uneven contest. If you don't, what part you play, or what part you don't play, and believe me, when you hit a rock (like the one in the foreground) because you weren't paddling, the consequences come back to you strong from the other people in the boat.

I think it is important to look at what this particular concept, or diversion in general, can mean. We talked about five objectives. A diversion program that is non-residential generally costs approximately \$700 to \$800 a year per person. A residential experience, like the Delancey Street experience, initially costs about \$4,000 to \$5,000 a

year, and eventually assumes the cost, so there is decreasing cost as the years go past.

A year or so ago we collected all evaluations of competence in the responsibility regions in the penitentiaries and the Forensic Conference. This approximately cost me \$1,200 per evaluation, primarily because of the residential concern. The same evaluations do a much more comprehensive job because we are dealing in a community where all the information is available for about \$200 per person. So these programs are quite effective, as we have shown to the legislature and to other people. They are effective in terms of recidivism. Recidivism rates in the types of programs that I am talking about for the non-residential, first offender type programs, are around five percent. The residential experiences that take offenders with more severe crimes, multiple offenders and so on, have recidivism rates of 30% to 40%, as compared to 70%, 80%, 90%, depending on what figures you look at in the institutions. I think beyond that, it's a matter of what you're doing for the people and what you're doing for the community. These people are working; they're involved in the community. Generally they're not a danger to the community. 9.2% of all the offenders are violent offenders. This needs to be so, and believe me it's an effort to sell it, but it needs to be a prerequisite before you can expect to get the programs to work. Not all our courses are run in the deserts and the canyons; this one is in the Pecos wilderness area, which is in northern New Mexico.

I think the biggest concern, if I can wrap it up, is the human concern. Putting resources, time and energy, and our hearts into the programs. There are concerns. It must be at a systems approach; we must take a look at all the concerns, and all the needs of the individual, and without the help of the community, we cannot expect these things to work. I would hope that we are successful in this endeavor. As an alternative to the present criminal justice system, in every respect, I think that we're in a position to do what needs to be done.

Thank you.

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CRIMINAL JUSTICE VS REHABILITATION

Eugene Czajkoski
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Dr. Czajkoski has been the Dean of the School of Criminology at Florida State University since 1974. Prior to this appointment, he served as a Professor in the Criminology Department at Florida State. Dr. Czajkoski received his DPA in Public Administration from New York State University. His many publications have covered such topics as: Correctional Reform, Probation and Parole, and Drug Abuse. He co-authored a book on drug abuse and control which was published in 1975.

People at conferences like this are used to hearing the usual rehabilitation rhetoric. The main point of my presentation is that rehabilitation, as we know it recently, is not consistent with our view of value or justice. We are experiencing a sort of renaissance now. Since earliest times, say, about 600 A.D., we were accustomed to having specific punishments for specific crimes. If you will look at the early criminal code, for example the criminal code of King Ethelbert of England in 600 A.D., we see just how specific the world was in dealing with specific offenses. It was very narrowly calculated by the specific punishment for a specific offense. In those days, most first offenses were handled by fines. If you were a second offender, you were probably subjected to death and mutilation. First offenders were generally handled by fine, and the criminal code had a kind of menu: assault with the result that a man loses his ear might result in a fine of 25 schillings; if he lost an ear then because deaf in the other ear, the fine doubled. This was a fair system until it became corrupted so that people were sentenced on the basis of their social class or their influences; judges would distribute sentences on an arbitrary basis. After many centuries of this abuse, a man named Acariot in the 18th century reaffirmed the ideas of the previous centuries, that is, the relationship between crime and punishment. This reaffirmation in the

18th century was known as the "liberal documented criminal law." What Acariot argued was that sentences should be proportionate to the crime committed, as was an age-old custom, but he said that it was much more important that everyone who committed the same crime got the same punishment. He came up with two other ideas that are very useful now. He set down the formula for effective punishment: it should be sure, swift, and severe enough to deter. He also argued that deprivation or rehabilitation, if you will, could not be compulsory. This idea was later articulated by a number of social philosophers. We went along for a time with the establishment of a nexus, the relationship between crime and punishment, and Acariot became convinced that the fairest way to do these things was to give everyone the same punishment for the same crime. As a matter of fact, that idea was more or less included in our own Constitution. We talk about "equal protection under the law."

Now the criminal laws are an instrument for social control. It is a mistake to believe that because we have a criminal law that what we are controlling are the people, ordinary citizens. But what criminal law really does is to control controllers. Criminal law does not control the potential offender. What it does is define a crime and exact a punishment. Let me give you an illustration where (are there any lawyers here in the room?) we are watched through the law. Keeping in mind that this is the first time that I have ever been in New Mexico, one of the first things that I did not do is sit down and read the 1976 criminal statutes of the state of New Mexico. So much for fair warning as it applies to the ordinary citizen, but we expect our controllers to know what the criminal code is. We expect our controllers to know all the procedures, and to be up-to-date on what our criminal procedures are. That gets back to still another way in which our criminal law operates. It operates imperfectly. Even though we design a good law, and have a good and a just law, there are many instances where application of ordinarily good and just laws brings about the situation of injustice. It is a recurring phenomenon in our everyday life. The way our law has dealt with this natural imperfection of criminal law is basically in two ways: 1) discretion in the application of the law; and 2) to heavily burden our law with procedures. We are overly impressed

with procedures. Another way to ameliorate the harsh consequences of the law is to occasionally forgive the transgressor. We have procedures such as clemency which do that; the most recent case of clemency is the Nixon trial.

If criminal law is an instrument for social control, it is an imperfect model, and has the serendipitous effect of controlling the controller. We have one other aspect of the way the law is not operating, and that is the rehabilitation aspect. Rehabilitation is an insidious means of social control, because it does not have the procedural safeguards that the more overt criminal laws have; we don't have the control over the controllers that we need to have.

Let me get back to tracing for you this shift in the way we do things in criminal law. Around the turn of the century there was a rise in public schools and housing, and we became very interested in changing events. We were not very concerned about changing the criminal system. We used so-called census models. If a person was deviant, there must be something wrong with him, so let's concentrate on changing him in some way. And we proceeded in this century to embark upon some absolutely bizarre procedures for dealing with the offender. We had as an impetus to our procedures the iron grip of Freudianism in the help of professionals and in our literature as well. Those of you who have had any professional training, such as psychology or human relations, can recall your training which imbued you with Freudian principles. We were so enslaved or enthralled by Freudian principles that those of us who were early practitioners of rehabilitation in the criminal justice system were fearful that we did not have the narrow esoteric training to enable us to effectively deal with the offender. If you were someone who did not have a Ph.D. or an M.D. degree in psychiatry, if you "tore up" the offender or tried to analyze his problems you might damage his psyche. So the best we could do, especially in my day, was to do a social history, not make any judgements, and refer them to the psychiatrist or criminal psychologist. But we were convinced that the Freudian approach was the perspective that tried to correct criminal behavior; it has been proved to be a locally deficient tool for corrections.

We spent a lot of our time some years ago delving into the early childhood development of the offender. It is still being done. In the diagnosis of the offender, we try to find out what happened to the person as a child, who stole what when he was two years old, how were his toilet training or his school experiences, and we were diverted from doing anything about his real and present problems by having him recount for us in sensational detail the lurid aspects of his early problems. We were particularly anxious to uncover sexual hang-ups. As I said, Freudianism invaded the art and literature; it was impossible ten or fifteen years ago to come across a review of a novel or a movie or a play without some kind of Freudian or psychoanalytic perspective as to what was going on. Paintings were treated in the same way. (I remember the famous analysis of the "Mona Lisa" which said that the "Mona Lisa smile" was a seductive smile of a mother, as reflected in Oedipal problem situations). But this was during the heyday of the rehabilitation model, the medical model. The offender was sick, and his sickness could be directed through psychoanalytic technology. But not everyone was equipped to do it.

The idea of having therapeutic communities involving the offenders and peer group treatment techniques was anathema to the Freudian dominated rehabilitation model of a generation ago. So what we did was to borrow a lot of medical terminology. It creates the illusion that we are treating the offender in the same way that a doctor or a physician treats a physically ill patient. When you stop to think about it, consider all of the medical jargon which we have taken into our correctional lexicon. That borrowing of medical jargon perhaps leaves us a little fatigued; it also obscures what we do in the process of thinking about fairness and due process in dealing with the offender, in proportion to the offense that was committed. In extreme cases we came up with terrible things that we were doing to the offender. We did not think they were terrible, because we were not punishing them, we were treating them. We sent them to diagnostic centers, (almost every state in the union participates in diagnostic testing of their prisoners). We spent a lot of time and a lot of money in developing what we called diagnostic centers. But we really got going. We got to them before the end of their sentence, which meant that the offender was not controlled by the

act that he committed against society; he was controlled by a prediction of what his future behavior would be. So we were punishing people, not on the basis of what they did, but on the basis of what they would do in the future. We would lock them up for a period of study for psychiatric evaluations. The perfect "Catch 22" system was working.

The person locked up for an indeterminate period gets very nervous about the uncertainties of his specific punishment. The more nervous he becomes, the more of a behavior problem he becomes; the more of a behavior problem he becomes, the longer the period of incarceration. Let me illustrate that for you. There has been an outstanding documentary film done by Weissman called The Pitticut Problem. I recommend it to all of you. I think it was filmed in a Forensic hospital in Massachusetts. There is one scene there where a man (there is no narrative, only a camera eyeing what goes on in the institution) is following the director around, saying, "Look, I'm not nuts. You've got to let me out of here. If you keep me in here, I'm going to go nuts. So, for my own good, let me out of here." After the guy was "badgered" around the exercise yard for weeks, he finally decided to "staff" the patient, which means the staff would have an evaluation of his character by social workers and psychologists. A man comes in, and he knows that he has to look as "normal" as he possibly can. His anxiety to look "normal" makes him look less "normal." Anyway, he does a pretty good job of it in the film, and one of the social workers says (after smoking cigarette after cigarette), "Yes, he did behave rather well. Yes, he does seem to be in a state of remission. But the fact that he is acting 'normal' is concrete evidence that he has the Ganges Syndrome." (This is a mental disturbance marked by periods of normal behavior and periods of abnormal behavior). So this poor guy, by trying to act normal, was pronounced by the psychiatric group to be abnormal.

We went into rehabilitation techniques in countless numbers. In the state of Florida, we had a program by LEAA that I refer to as "hunter therapy," where money was given to hundreds of juveniles on the theory that if they had a motor machine, they would not steal cars. And we sent people (delinquents) out on ships, called "maritime therapy." We showed slides of juvenile delinquents running down rapids. We had "directive therapy,"

"reality therapy," "mock therapy"; everything had attached to it the word "therapy." And no one questioned you if you used the word "therapy." It was all right as long as we used terminology that made us sound like experts.

In relation to criminal justice, I argue that the extremes of incarceration and rehabilitation are really undermined by the concept of justice. The epitome of rehabilitation models is manifest in the American penal code, the American Law Institute, and the Model Sentencing Act of the National Council on Crime and Delinquency, which structures sentencing on the basis of how you diagnose the individual, and not on the basis of the crime that he committed. So the Model Sentencing Act, for example, has the model of the ordinary felon who will be in that category regardless of the crime which he committed. Conversely, if he were classified to be a "dangerous" felon, his diagnosis would show him to be a "dangerous" person. One thing we are trying to do in criminal justice and corrections is to predict "dangerousness," although we have not been able to do this so far. The rehabilitation model has gone to court principles of justice in two other ways: 1) we fail to recognize what we do to function; 2) we are working with the concept of deprivation of liberty. We have taken more and more liberty away from more and more people.

I would like to say a word about diversion, which I suppose is good in theory. But the way I see most diversion programs is that they really do not divert people from the criminal justice system, they simply transfer them into a newly created appendage of the criminal justice system. They are placed in the control of the state. There are strings attached. One string is "If you don't do what they say, we're going to prosecute you." If you're not following your probation, they'll revoke your parole.

Rehabilitation provides us with the means and opportunity to exact non-legal standards for sources of behavior. A criminal law is relatively explicit about what you can do and what you cannot do. You cannot rob a bank. For once again with the rehabilitation apparatus, we expect so many other things that are not mentioned in criminal law. What could be a clean-cut super citizen coming home at a reasonable hour, supporting his dependent, having a good job, not having sex with someone that is not

his wife, staying away from alcohol, are all things that are ignored by the criminal law, so that the rehabilitation apparatus becomes an instrument for maintaining the moral status quo. The moral status quo of the controllers may or may not represent the consensus of the rest of the system. There are many examples of laws that become obsolete and which are no longer in tune with what society practices.

It comes to a point now where we are beginning to move away from the more extreme types of rehabilitation: allowing psychiatric testing to take control of a man's life; removing the social justice model, backed by our sentencing, and arguing that extreme is the best solution. I think it does attenuate some of the more bizarre and horrible types of principles of the rehabilitation laws.



A representative from the Governor's Council on Criminal Justice and Eugene Caajoski respond to questions from the floor following their presentations.

DISCUSSANT

The discussant is a representative for United Ex-Offenders for Higher Education in New Mexico.

They had a diversion program that they called "behavior modification," which was actually involuntary. You had no choice. Prison strips a man of everything that he has ever been. An alternative to prison life is community-based programs. Here we have a problem. If you need a base, institutions provide community support. A man who has been in prison does not want an institution around, or anything that might remind him of the institutions. Administrators take the action; prisoners react to the action. Most end up living beyond their economic means after they get out of prison. This is a failure of the administrators to prepare us for the outside world. People will put a man under stressful conditions just to find out if he will break down or not. This kind of training is supposed to be 85% successful. But what about the other 15%? If they break down, they might never be brought back again. A prisoner needs a blueprint of how he should act in a group situation. For one thing, it is hard for a man to act without a woman. Men are like animals without mates.

More and more ex-offenders have to get involved with high-ranking officials. If rehabilitation is going to work, if a man is going to change, then conditions in prisons are going to have to change. Of all the help that we get (federal, state, agencies, universities) if you really want to help, then prison is the last place for a man to go, especially first offenders. The environment in the prison will not permit rehabilitation. We recommend that the prison and personnel will have to change. Conditions in prison might not really be important to anyone who has never been there.

There are financial obstacles to the person who gets out of prison. He needs housing, food, and clothing. Other recommendations by the inmates are minimum security and community based institutions. There should be at

least minimum wage for work done by prisoners. A prisoner should have the chance to obtain higher education.

-----DISCUSSION-----

Question: I would like to address this question to the man from Florida State. You made the remark that you find rehabilitation insidious. Would you care to elaborate on that?

Answer: I will try to make that clear. I feel that rehabilitation is insidious because it does not really indicate the values that we are operating with. We try to impose our middle class standards, without the authority of the law, but with the authority of this ambiguous rehabilitation idea that we are working with. So we expect the offender to conform to standards with which the law does not exactly conform. We impose our own ambiguous standards in the name of treatment and therapy. It is also insidious because we con the inmate. We say, "It's all right to lock you up, because it's for your own good. We'll treat you, we'll give you an education, we'll give you a trade, we'll straighten out your sex life, we'll counsel with you." See, a doctor does not give you due process, he gives you a prescription. That's what we're doing in rehabilitation.

Comment: In most states, you don't find statutes for conditions of behavior. These are usually imposed by professionals in the prisons. Maybe there are some exceptions, but they are still in a minority. Some juvenile courts insist that their juvenile charges cut their hair, and that they go to church. Well, that is all right, because they do not say which church, just that they go to church. But we lose sight of the concept of individual freedom, of individual rights, of individual choice.

Comment: I feel that Congressmen need to come up with a law so that an employer cannot deny a person a job because he is an ex-offender, for that is denying a person his individual rights.

Comment: I think that the problem with this country right now is that we have too damn many laws. The day we make a law that an employer has to hire an individual, then we have lost the Bill of Rights. But, the day we

can educate the employer that this ex-offender is a worthwhile man, who is willing to contribute, and is more honest than the man who hasn't been "popped" yet, and who will be more subservient to him than the guy who has never been "popped" yet, then we have accomplished this without the law. If we make this law, then we have tied up everything that we have tried to do in this country. I am totally opposed to making this a law. We have so-called laws that we should not discriminate in state and county. They had that little question at the bottom of applications, "Have you ever been convicted. . .?" They took that off. But does that deny the employer the right to deny you employment? How can we take him to court and say, "You violated this law." The only way that we can do this is to use either the gentle approach, the reasoning approach, and make him realize that maybe one of these days his kid is going to be "popped" for grass, and then this criminal situation will look a little different to him. But we have to look at it that an employer still has the right to hire you and to fire you in this country.

Response from other commenter: I think you may have misunderstood what I said. I did not say that we should have a law to force an employer to hire someone. I said that we should have a law to make it a violation for an employer to refuse to hire a person solely because they have a record. Now, in the state of Connecticut, there is such a law making it a violation for any state agency to refuse to employ a person. Now, the law that we have for anti-discrimination against sex and things of that nature constitute protection of one's rights, and if we didn't have those laws, I could look around the room and say, "There is someone who should not have the job he has." And that's a fact.

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MODERATOR

Charles Roberts

Charles Roberts is the Associate Dean of Students from the University of New Mexico.

During this session we are going to be dealing with the subject of "Rehabilitation and Incarceration." And as our first speaker, we have with us Gene Surber, who up until a month ago was Director of Programs for the New Mexico Pre-Release Center for the Department of Corrections. He is now Chief Programmer of the Los Lunas Honor Farm of New Mexico.

X

REHABILITATION AND INCARCERATION

Gene Surber

Up until a month ago, I succumbed to the bright lights of the business world, and was no longer in this particular area. However, when Joel called me and asked me to speak here, I was working on a paper and am still working on it, and it has something to do with this particular area. So I hope my credibility will not be questioned. I look around and I see several people that I recognize. I do not recognize everyone, so I don't know the total audience here, and I would assume that it is a very knowledgeable one. So I am going to start out by saying something that is very naive for someone who is addressing an audience of this stature. I really wrestle with whether or not I should do this, but walking in during the last presentation made me figure perhaps I should. I do this mainly because during the last year or year and a half I have read articles and periodicals in the newspaper,

have seen television presentations and whatever, where the concept of rehabilitation was being discussed and addressed. I was always amazed at how it was discussed and how it was addressed. A good example is a television program that was aired some eight or nine months ago. CBS News went to Marion, Illinois, to the detention center there, and talked about rehabilitation and what it was not doing. But it is hard to go into an institution and talk to the inmates and the inmates say, "Ah, yeah, they ain't rehabilitating me worth a damn." But what really amazed me was that they also interviewed the warden and the people in psychological services (or whatever his title was) and other administrators, and they agreed they were not rehabilitating the inmates. If you work it in that particular vein, you're not going to rehabilitate anyone. What the hell is rehabilitation anyway? I made a crude analogy, but I cannot address the subject in any other form. If you, or someone that you know, or someone that you don't know, has a person in their family whose behavior is erratic (they say "Hey, you're nuts, you know") they can drive them down to undergo psychotherapy, or whatever. They can drive that person down there, and can pay \$100 million dollars over a period of fifty years, and until that person decides to participate in what's going on, ain't much that's going to happen. And it's the same with rehabilitation. You can provide programs until they're running out of your ears. You can provide every program that's known to man, and some that aren't, and will be. And until that inmate decides to say, "Hey, I'm going to do something about this", you are not going to have rehabilitation.

One thing that always puzzled me, with regard to rehabilitation, is "What is the criteria for success? What is a successful rehabilitation program?" Given the prison population, given the society in which they live, what is the step in rehabilitation? I don't know. We have an inmate at the University of New Mexico on school release. His professors say he is doing an excellent job; he has a good future and aptitude. He is staying on campus when he is not in class. He's going to the library, he's studying, he's doing what he is supposed to do. We say, "Hey, he's doing a great job. Let's let him have a furlough for eight or ten or twenty-four hours." He goes to visit these people and comes back with beer on his

breath, and we say, "That's the hazard we take." I don't know. I really don't know. I am reminded of a comment made by Dr. Roger Smith, and for those of you who don't know Roger Smith, he's a leading criminologist, and very knowledgeable in the area of drug abuse. He was a federal parole officer on the west coast, and he went one time to check on a person who was on parole after having served federal time for sales of marijuana. He went up to the man's house (it was a very nice house, very immaculate). Roger knew that he had a very good job. He rang the doorbell, the man said "Come in", and here was the guy sitting cross-legged in the middle of the living room smoking a joint. Did the guy fail? I don't know.

I think if we ever decide that someone should have a program that will have a meaning for rehabilitation, we must first decide what is success and what is failure. We must really decide this when we look at people who are in the penitentiaries. I'm not talking about inmates. I'm talking about the staff. What makes a criminal mind what it is? The conclusion is that criminals think differently than other people. Perhaps in the book they allude to the fact that it is genetic factors that have something to do with it. (Although they do not come right out and say it, I get that feeling very strongly). The other side of that particular premise might perhaps be the one that we are more familiar with, which is that it is socio-economic. I think that if there is some genetic reason for criminals, there must also be some socio-economic reasons.

We could quote any number of authorities in this particular area. I choose to quote Dr. Oscar Lewis, the noted anthropologist. Dr. Lewis did most of his research in Latin America, but there were some striking similarities, more than 90% of similarities, between the poor people of the United States and the poor people of South America. As Schweitzer and others have commented, 85% to 90% of the people who inhabit our prisons in our nation, not just in Mexico, are of poor origin. There are all sorts of striking similarities between cultural properties. I will address some, only three as a matter of fact. There are three main considerations of striking similarities between behavior, as has been expressed by Dr. Lewis, as being characteristic of this particular culture, and the behavior that we see in penitentiaries: 1) immediate gratification, which alludes to the fact

that people do not consider for long periods of time (savings accounts are not necessarily their "bag"; long range goals are not their "bag"); 2) strong anti-police and generally anti-establishment attitudes are a factor; and finally 3) strong humanistic margin. It is society that gives the success label to their accomplishments. I don't criticize this fact, I just address it. In addition to these three considerations, we have a grand problem when a person moves from freedom into the "total" institution. Many things happen. One thing that I would like to address is that there is, among this grand trauma, great hatred for those people who put you where you are in an incarceration situation. There is great hatred for the police; great hatred for whoever turned you in; great hatred for the entire system; and finally great hatred for those who administer the system. They have to consider this. I'm hopefully dealing with reality.

So we have as a majority of our penitentiary population a person who is angry, untrusting, and suffers from generally an extremely poor self-concept. This is the person who we have to motivate to think a middle class value. Most of these people have never thought in middle class values in their entire lives. They know what it is; they are aware of it; they may even give it lip service, but they have never participated in it. These are the persons who we are trying to rehabilitate. Everyone thinks differently, whether the genetic or the socio-economic factors are more important.

The thing that upsets me the most is that most prison officials, probably an equal amount percentage wise of prison officials, are also culturally deprived. They also think initially the same way the prisoners do. They tend to not give a great deal of credence to immediate gratification. These people find themselves in this type of job for two reasons: 1) they have aspired to middle class values, and have a legitimate reason for getting the job; however, they are unskilled, quite often are functionally illiterate, and I know of prison guards who cannot read and write. Quite often they are related to the inmate. Their thought processes are basically the same. 2) Today, the median rates for a prison guard in the United States are \$8,700 a year. That's going into consideration of the fact that Alaska pays almost \$600 a month, and California almost \$1,400. Really, it's just

a step or two above poverty level. You might expect to get a person with a Master's degree in Sociology, or a Ph.D. in Clinical Psychology, You get a guy who is sitting overhere guarding someone sitting over there, and the difference between them is the pistol. Quite often these people who are guards are uneducated. We have people who have never known middle class values, and we say we are going to rehabilitate them, and we initially throw roadblocks in their way. Roadblocks come in two different areas: primarily guards and other administrators; and secondarily the penal system itself. Guards seem to (policemen do this also) get a power syndrome. They have been no one all their lives, and now they are someone. They can dominate another human being. I can tell you story after story after story, not only in New Mexico but in other states, where guards shove people around, make them do ridiculous things, threaten to jail them (accusing them of bringing dope in and threatening them with solitary confinement). For example, a man going to the University of New Mexico, on spring break, was put on a work crew which was not yet able to work on the outside, and was forced to work in isolation so that he would not "contaminate" the rest of the crew. How many of us could work under that type of pressure?

For example, here are two men who were raised together. One is in prison, the other is outside. The one in prison is provided opportunities to go to college, to go to work, to have the state pay for the majority of his maintenance while he saves money and while he is working. And here is this guard who is working for \$500 a month, has six kids, is working and spending all of this money, and is not getting a damn thing from it.

The other block to rehabilitation in an incarceration situation is the difference in society itself. It's pure hell. I could go on forever about the pressure in the incarceration system. Anyone who is genuinely trying to improve himself is faced with a lot of pressure. He is told that he is too close to the administrators; he's being pushed from within to bring in contraband, and he is pushed from without as being suspect. It is a one-way situation.

Let me tell you about a man who I hope has made it on parole by now. He wanted to come to the University of New Mexico for four months during the summer session. He was harassed by the inmates to the point where

they tore up his notes, they tore up his books that he checked out of the library, and they tore up the books which he himself purchased for the course. They smashed his religious articles. You know he made it. He got out and lived under 24 hour school release. In the last report that I got, he was doing very well on parole, and I think that he will continue to do very well, because there are very few people in this room who would put up with that kind of thing.

If we are going to have rehabilitation in correctional systems, we are going to have to have three things in order to function. You hear all of this "neat" stuff about rehabilitation, but by and large a system is what the people want. If we are going to genuinely try to rehabilitate them, we need a good classification system. We need to get the person into the program who deserves to be there.

Thank you.

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REHABILITATION AT POST-RELEASE
IMPLICATIONS FROM CRISIS THEORY

KARL A. SLAIKEU, Ph.D.

Karl A. Slaikeu, Ph.D., is Associate Director of the Counseling-Psychological Services Center, The University of Texas at Austin. While a graduate student in Clinical-Community Psychology at the State University of New York at Buffalo, he worked two years at Attica Prison (New York) 1969-1970, and 1972-1973. Since then he has consulted with various Ex-offender groups, conducted research on crisis intervention in community settings, and been actively involved in training community psychologists.

I am pleased to be a part of this important set of discussions on the rehabilitation of offenders. I like the spirit of a conference which aims at examining past efforts, generating new ideas, and distilling out important directions for the future. I for one am convinced that we have not yet given rehabilitation a chance, that when people say "rehabilitation fails" they often refer to programs which leave out one or two critical components: for example, job training programs that do not provide jobs, or group therapy programs would take place in groups. As far as I am concerned, then, the jury is still out on rehabilitation. There is still a need to design and to evaluate new programs.

A word about my background and how it relates to this topic. I am not a criminologist, nor do I have a career as a full-time employee in the criminal justice system. I did work two years at Attica Prison (while in graduate school at the State University of New York at Buffalo), and since then have consulted with various ex-offender groups and with community persons on jail and ex-offender programs. As a psychologist I have had considerable experience in and have conducted training, as well as research in the area of crisis theory and crisis intervention. For some time I have wanted to see developed rehabilitation programs which

would take seriously the implications of these directions in the area of mental health. Today, then, I want to explicate briefly a crisis model and draw out its implications for rehabilitation programs for ex-offenders when they leave institutions and begin those first critical months "on the street." I am aware that in so short a time I cannot do justice to the topic, and would be pleased later to provide interested members of the audience with other references on this topic.

Before discussing a crisis model, a word about the institutions inmates inhabit prior to release, what inmates need when they are released from prison, and what I shall refer to here as "necessary and sufficient" conditions for success.

The long and short of the matter is that our institutions, which still by and large have as their goal separation of inmates from the rest of society and quite often punishment, are so structured as to nurture or maintain behaviors and attitudes in inmates which are most incompatible with successfully "making it on the street." In a recent paper (Slaikeu, 1977a) I outlined the nature of total institutions and the psychological effect that this has on inmates, and particularly on those behaviors or skills which are "taught" in institutions. Without going into a great deal of detail now, I can summarize by noting that authoritarian institutions foster behavior and attitudes which make it more difficult for inmates to live in free society. For example, most decisions--including food, clothing, when to get up in the morning, when to go to bed at night, when to see a doctor, being on time for appointments--are already made for inmates in prisons. This can lead to an inability to make even the most simple decisions later when inmates are released. Similarly, anger, a very basic human emotion, one which gets generated considerably in institutions, is either suppressed, or held in so long that it comes out in a violent manner, this manner of dealing with anger over time works against assertive expression of anger in community living (interpersonal conflict resolution). Also, the very absence of meaningful work makes for nurturing a negative or complacent attitude toward employment, a most unproductive transfer to life on the street. Similarly, the absence

of the opposite sex and withdrawal from family life for the period of incarceration makes difficulty later relating positively to one's mate and raising children.

The ingredients of success on the street are clear. In addition to replacing criminal behavior with "honest work," the ex-offender must know how to get to work on time, to stay on the job, to deal with frustrations and boredom at work, to live on a budget, to buy groceries and clothes, and to relate to the opposite sex, to handle marital conflicts, to raise children. At a minimum, doing time in a correctional institution allows one to get rusty at managing these tasks. Usually, however, the atmosphere--authoritarian, with major decisions already made--works against success later.

As a footnote, I would add that this situation is not easily reduced by running group therapy or group counseling programs in prisons, for such programs even though they may focus on past crimes and future intentions, run the risk of assisting inmates to adjust to the institution. I published a paper a few years back based on a review of group counseling in prisons. One of the findings was that many programs glibly talk about twin goals of group counseling in these settings: adjustment to the institution (and adjustment to life in the street). As I've already suggested, to adjust to one is not to adjust to the other, in fact to adjust to one is to make adjustment to the other very difficult.

What is the situation confronting inmates when they are first released? What do inmates tend to feel when they first return to the community, having been incarcerated for a long period of time? Most often inmates--40 to 70 percent of whom will recidivate--reenter society as bitter, cynical, and hopeless both about their abilities to make changes, about their chances for success on the street, as well as about those persons (support systems and parole officers and the like which are supposed to help them). Most of those released, just as those admitted to prison, are members of minority groups, no better educated or trained for having done time in our correctional institutions than on admission. They will confront, then, the same frustrations on the street that they

experienced before going to prison.

Secondly, as outlined above, most inmates return having developed habits in the institution which are fine for life in a "total care" setting, but not for life as an independent citizen, one who has to make choices for himself.

Thirdly, most inmates are quite obviously short on cash when released. Review of literature and discussion with people involved in rehabilitation programs suggests that the twin needs of inmates when they first hit the streets are money to take care of immediate needs, and jobs. New York State used to give inmates at least \$40 (somewhat more now), a relatively drab suit of clothes, and a bus ticket from Attica Prison back to Manhattan or wherever the hometown might be.

Regarding employment, of course, most ex-offenders are released with at best only the hope of a meaningful job.

These are the facts of release from most correctional institutions today. To these I would add another--one which is psychological--and one which moves to a heart of the utility of a crisis intervention approach. Getting out of prison, while longed for for years, is a strange, often bewildering, and frightening experience. Not only does one have to confront the decision points outlined above (family, jobs, money and so on), but also things in the outside world will have changed for the ex-offender (quite often the very fact that people and places look and feel different contributes to considerable anxiety at release). Many small frustrations, then, have the capability of giving way to crises or choice points which have the potential of leading the ex-offender to a new arrest. One response to a full-blown crisis can be resorting to something familiar--for example, previous ways of getting money--and in many cases committing a crime with the hidden agenda of returning to jail where life is not so complicated.

I do believe that money and jobs are the necessary conditions for survival on the streets. The point of my talk today, however, is that these are not sufficient conditions for success. The sufficient conditions come in the development of support systems at release which will

be available to assist inmates at the critical crisis points they surely will face. This could be called a multi-modal approach to staying out of jail. The modalities include: money to start, a job (meaningful work), and support systems at times of crisis, preceded by training at pre-release (continued at post-release) on such things as living again in a family situation (dealing with spouse and children) and managing all the decisions that confront a free citizen, everything from dealing with the telephone and gas company to buying clothes and living on a budget.

I want now to summarize the main aspects of crisis theory, then discuss crisis intervention as it applies to post-release, and finally report on recent attempts to use the model. In doing so, I wish to draw heavily on the work of David Speer (formerly with the Erie County Suicide Prevention and Crisis Service, and now with the Quinco Consulting Center, Columbus, Indiana) and his colleagues, who have taken the initial steps and applying a crisis model to work with ex-offenders (Levine, 1974, Pew, Speer & Williams, 1973; and Speer, 1974).

Speer notes that: "The crisis intervention model is predicated on the assumption of homeostasis or emotional equilibrium as the principle that governs human behavior, adaptation and emotional integration (Rapoport, 1962; Caplan, 1964; Bellak & Small, 1965, Schulberg & Sheldon, 1968; Aguilera, Messick & Farrell, 1974; and Lester & Brockopp, 1972). Crisis presupposes an emotionally hazardous or risk situation or event, problematic in nature, which disturbs the individual's equilibrium. Hazardous situations may be generic/developmental (experienced by many people, such as entering kindergarten, death of a loved one, or marriage) or accidental/situational, or primarily exogenous (caused exclusively by external conditions) or primarily endogenous (generated in large part by the individual himself) (Waldfoegel & Gardner, 1961).

"In any case, a hazardous situation refers to a 'sudden alternation in the field of social forces within which the individual exists such that the individual's expectations of himself and his relationships with others undergo change' (Klein & Lindemann, 1961). Thus, it requires some response or action on the part of the individual in order to restore

equilibrium. When the individual's repertoire of habitual or usual problem-solving behaviors fail to alter the risk situation and to mitigate the initial increase in tension, there is a marked increase in anxiety, sense of threat and helplessness, and increasing ineffectiveness in general functioning. At this point, most people have some type of emergency problem-solving techniques which they implement (for example, medication, or contacting a clergyman). When these again fail, there is a sharp rise in emotional upset and tension, significant cognitive disorganization and inefficiency may develop, physiological disturbances may occur, the individual feels helpless, hopeless, and frightened, and he is in a state of 'crisis'. This state of crisis is acute, is intolerable for any great length of time, usually is resolved in one way or another within 4-6 weeks, and is manifest by unusual changes in behavior such as withdrawal, agitation, suicidal behavior, marked increase in use of intoxicants, antisocial or acting-out behavior, belligerence, or physical symptoms (Rapoport, 1962; and Caplan, 1964).

"Some of the other qualities which have been noted among people in crisis include: inattentiveness and ineffective orienting in spite of increased scanning and search behavior, defective retrieval of stored information such as resources and past solutions, and a breakdown in the integration and synthesis of old and new information such that new alternatives or problem-solving behaviors are not developed. Crisis, then, is a state of intense emotional upset and impaired functioning which is the person's response to either an extremely stressful risk or threat situation and/or the failure of his usual and emergency problem-solving behavior patterns."

Speer suggests further that: "Former offenders are particularly prone to experiencing crisis in response to even mild or moderate disequilibrating events. This oft cited low tolerance for distress seems to be a direct function of such negative expectations as expectations of failure, rejection, indifference and attack. Such expectations generate a sense of helplessness and hopelessness, despair, anger, and a general 'what's the use attitude', that is often masked by belligerence, arrogance, and compensatory aggressiveness or indifference. These expectations and feelings are often valid conclusions drawn from years of experience with

school, with the police, with authoritarian judicial and corrections officials, in juvenile 'reformatories', and with prejudice and discrimination in many areas of their lives. As a result of such experiences and feelings of hopelessness, the development of the problem-solving strategies of many offenders is often stunted and atrophied with the consequence that they do give up easily, experience vulnerability readily, and phenomenologically experience crisis more often than does the average person."

It has been suggested (Berg, 1970) that a person going through a crisis proceeds through several levels of resources. The first would be primary resources which refer to the usual first stage problem-solving techniques; the use of primary resources would mean going to previously helpful friends or helpful behavior patterns such as going fishing, using alcohol, taking long drives, having an argument with an offending party, or having a talk with a family member. If reduction in tension does not result from use of these primary resources, the person would go on to use secondary resources. These would be persons not within the individual's primary frame of reference, but might be seen as potentially helpful: acquaintances, bartenders, ministers, physicians. When failure to resolve the crisis or reduce tension follows use of secondary resources, the helplessness would lead a person to attempt tertiary resources. These Berg refers to as "last chance" possibilities: individuals and institutions such as hospital emergency rooms, the police, telephone crisis service. The idea is that the more severe and advanced the state of crisis, the more dependent the individual is on unfamiliar sources of help.

The use of a crisis intervention model in communities is seen in basically three modalities. The first has to do with short term emergency counseling clinics where help is immediately available and characterized by the following: (a) the goal of counseling is to restore a person to pre-crisis level of functioning, e.g., to get off the ropes and back in the center of the ring, as the crisis counselor put it; (b) the staff in these clinics is usually made up of mental health non-professionals; (c) treatment usually takes place in no more than six interviews, following the idea that the state of crisis will be resolved in 4 to 6 weeks; (d) the focus on counseling is on the presenting problem only; (e) exploring the

person's psychological history and the range of psychodynamic factors is attempted only insofar as it helps in resolving the immediate problem; (f) focus is very much on the problem-solving process and assisting the person to cope.

A second modality for community crisis intervention is telephone counseling. These are typically open 24 hours a day, 365 days a year, and manned by volunteer community workers, who receive training in being of assistance over the telephone. Calls average 25 minutes in length, with an hour being typically an upper limit. Volunteer telephone counselors attempt to carry out a number of helpful tasks over the phone: empathic responses, demonstrating understanding of the problem, summarizing the problem and surveying resources, developing an action plan.

The third modality for community crisis intervention has to do with crisis outreach or emergency home services (Richard & McGee, 1971; Bard, 1969), where workers leave their clinics to visit persons in crisis in bars, jails and homes.

In summary crisis is defined as a time of tremendous emotional upset for a human being when previous means of coping have broken down, a time when the person is most vulnerable to outside influences (from a therapeutic point of view most amenable to receiving help); the stakes are high when a person is in crisis--possible outcomes of a crisis state are physical destruction--suicide--striking out at others, homicide, reverting back to other criminal behavior. In addition, however, there are other more productive outcomes of a crisis. Depending on what happens in the intervening 4 to 6 weeks during which equilibrium is restored, a crisis can be a time for growth as the person develops new means and the hazardous situation is overcome. From a community mental health vantage point, life crises are to be given the serious attention of those who deliver services in that intervention at these critical moments can head off difficulty for the person and others "later on down the road." In this sense it is thought to be a preventive model.

Considering the use of the crisis intervention model in the rehabilitation of ex-offenders, Speer (1974) articulates two assumptions: one, to re-habilitate or redirect offenders they must be kept out of prisons, and two, inmates commit new crimes when they are discouraged, depressed or experiencing themselves as being without legal resources or alternatives, or are in varying degrees of crisis.

The crisis intervention model applied to rehabilitation of ex-offenders, then, seeks to make available support systems in the community, quite often made up of non-professional trained ex-offenders, by being available for short-term counseling, and for 24 hour intervention at those crisis points which can be expected to confront persons when they reenter the community and face the "hazardous situations" with which they are not ready to cope. The crisis counseling approach would anticipate interventions related to jobs, home life, friendships, loneliness, alienation.

Other characteristics of such a model applied at post-release are:

First, there is a focus on assisting individuals to deal with specific reality problems and emotional crises confronted at the moment of release. These critical crisis points are often neglected in our offender rehabilitation programs.

Second, all this is done in a "non-pathological" framework, as suggested above. The idea is that crises are "natural and to be expected," given the situation offenders were in prior to release, and the situations they are now confronting. This may seem a small point, but it has to do with how the intervention takes place. It is born of a "growth" mentality, not a "sickness" mentality.

Three, the interventions are short-term; long term psychotherapy is not called for in these cases. Research suggests that we can have an impact in one to six sessions, that we are not giving second best when we do so. (This was an early criticism of the crisis model.)

The focus is on immediacy (24 hour availability), having the help available at the time of need.

Five, the focus is on using community persons--other ex-offenders--in delivering the services. The whole crisis intervention movement in mental

health focuses on the use of non-professionals, not psychiatrists, psychologists, etc. The technology, the specifics of intervention, have already been developed for training non-professionals. Detailed presentation on the how of these interventions is beyond the scope of this paper. Suffice it to say, however, that research has demonstrated amply that non-professionals, even volunteers, can be taught the basic skills of crisis intervention: empathy and tuning in to the person's difficulties, focusing on the specifics of the difficulty and possible solutions, and action planning.

Six, such programs also have the capability through their outreach aspects to apply to family situations and "on-sight interventions."

The "50-minute hour in the cloistered office" model is seen as a most limited approach here.

Seven, the model has the capability for application at the two critical points in the career of an offender: arrest (use of the model in jails) and release from prisons. Speer contends that "to the extent that offenders experience crisis in these situations, their defenses are down, their ordinary coping patterns are more fluid, and if contact can be made with them, they are more amenable to influence than usual--as is anyone in a state of crisis."

As suggested above, the crisis intervention model has been tried in a limited fashion on at least two occasions in the development of post-release rehabilitation programs. In a program conducted by Pew, Speer and Williams (1973) in St. Paul, Minnesota, a total of 133 young adult offenders (offenses including simple burglary, simple assault, car theft, prior escape from work-house, sex offenses and forgery) representing pre-release as well as post-release populations participated in group counseling using a crisis intervention approach. To test the program's effectiveness in reduction of recidivism, the names of the first ten members of the program were compared with eleven who served workhouse sentences but did not participate in the program, by examining State Bureau of Criminal Apprehension and Minnesota Highway Department records regarding further arrests. While the size of the group was too small for statistical comparison, the group members in the program did have fewer total offenses, especially serious felonies than the comparison group. Interested members of the audience are

directed to this study, not for its conclusiveness (for that is clearly not its contribution--methodological problems are too great) but rather as an example of how a crisis model has been applied to work with ex-offenders.

A second study conducted by Levine (1974) evaluated Speer's Offender Crisis Service (a part of the Erie County Suicide Prevention and Crisis Service in Buffalo, New York). This project was more ambitious in that offenders received not only group counseling prior to and following release, but also had available 24 hour telephone crisis intervention. In addition, there was an outreach aspect to the program; i.e., all three crisis intervention modalities were used.

Ex-offenders were used as counselors; inmates were contacted prior to release from the Erie County Jail and the program of counseling as well as assistance in facilitating job referrals was offered. The original intent of the program was to provide crisis counseling services, as well as a linkage function in job placement. 205 clients were a part of the project. Over half had two or more contacts at post-release with the Offender Crisis Service staff. Contacts were by office (face-to-face counseling), telephone, and "field" (outreach). In an exhaustive description (Levine, 1974), the various components of the program are analyzed. The evaluators and project director report that a number of management difficulties and other unforeseen problems contributed to inconclusive outcome regarding the effectiveness of the crisis model with ex-offenders. Interested persons, however, are referred to the report for important detail on what was learned in this early attempt.

In summary, the crisis model is a compelling way on conceptualizing the difficulty inmates face in post-release. At present, however, it is an untested approach. It suggests relatively inexpensive community-based and offender-oriented ways to develop support systems to meet needs of inmates in times of crisis, or before and when they might commit new crimes. The model alone, however, is not enough. All of the foregoing must be seen as an adjunct to other critical strategies at post-release, namely, securing the necessities of life (money to begin) and job training and

job placement. These variables are critical; without them any program is destined to fail. However, it is the thesis of this paper that, given what happens to inmates in the institutions, these factors are not enough. All of us are well acquainted with situations where an inmate had some money to get started, an adequate job, and then quit or could not stay on the job. It is just at that point--in this discussion referred to as that crisis--where the crisis model has the potential for increasing our effectiveness in assisting inmates at post-release.

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Responding to a question from the audience, Karl Slaiken reflects upon his experiences at Attica State Prison, New York.

DISCUSSANT

Dr. Marc Orner

New Mexico Department of Corrections

Dr. Marc Orner is the Director of Psychological Services at the Penitentiary of New Mexico for the Department of Corrections. Dr. Orner is a representative for the Ex-Offenders for Higher Education in New Mexico.

I hope you appreciate my difficulty. It's late. You're tired. I'm tired. And I am supposed to respond to these speakers.

I think if we are going to talk about rehabilitation, let's talk about rehabilitation. Gene Surber said some things that I feel are very important. I think it is basically irrelevant whether we decide that a person is in jail because of socio-economic or racial reasons, educational reasons, or genetic reasons. If we hang ourselves up to the point that we try to figure out why he is in jail, we aren't going to track his particular problem. As a psychologist (and I am a traveling psychologist), in treating people we have taken a lot of knocks. I am tired of taking knocks. Whenever I go to a conference, psychologists are always last. You know why? I figured it out. It's easy to knock psychologists all day (professionals and people like me), because we are supposed to be the humanists. Well, I am not a very good human; I don't pretend to be. I pretend to be a facilitator, and there is a difference. I can facilitate change, I think, if that person takes the first steps. I told you about people that I work with. I choose to work in a penitentiary because I want to. It's not because I can't find any other job. People may think that, but I like what I do. I like some of the people I work with, and there are some who I tell to their faces, "As long as I'm in this penitentiary, you'll never get out." The difference is that I am honest. The difference between my approach and the Freudian approach is obvious. I took my Bachelor's

training (I am from the East obviously) from a behavior modification school. When I took my Master's training, it was Carl Rogers Parkins Center. When I took my doctoral work, it was existential. I think existentialism is really easy because you don't have to worry about what you say or what you do, because "I am what I am."

Let's talk about more criminal treatment. I dislike that word "rehabilitation" immensely. The word that I use is resocialization, and it's not a semantic difference. There is a big difference between trying to rehabilitate somebody and to resocialize somebody. I do not believe in rehabilitation. When you define it and break it up, it is "bringing back to a former state." I am not interested in making criminals better criminals. That's the other point. People who are in jail have proven one thing: they're unsuccessful. If there are successful criminals, I've never seen them. We wouldn't have to talk about them. Not only are they unsuccessful in every endeavor in their entire life, but they are also unsuccessful criminals. To resocialize, there is a basic difference between you and I and the people in blue and gray in Santa Fe, which is the socialization process. Somewhere along the line, we have learned to accept society's rules. Now I don't like all the rules, I'm not very happy with some of the rules that I live under, but I have learned to accept them. Gene mentioned the fact that he would rather be dead than go to jail; well, so would I. When I first started in corrections as a child, it was in a medium security facility in Pennsylvania called Greater for Corrections Institution. I started work for Greater Prison; after two months it was Greater Corrections. It wasn't my change; they got a new warden. It changed from a prison to a correctional institution. Nothing changed. We went through the gates the same way; we walked about the same way. The title was different, so euphemistically it was different. I wanted to try out what it was like being in jail. I was twenty years old. Probably I should not have ever been there because I was too young. My idea of life was a lot different from what people experience in jail. So I went and spent a day in a cell. It was one hour before I started banging on the walls and saying "Let me out!" I couldn't handle the effect of being locked up. I couldn't handle the idea of being alone. Most of us are gregarious. We depend upon other individuals

for our stimulation in life. We can get stimulation from ourselves, but we depend upon other people for nourishment. And when that nourishment is taken away, and it is in the penitentiary, many people are not able to handle that. I was there an hour; imagine if I was there for ten or fifty. I'd probably be seeing someone named Marc Orner saying "Don't go crazy."

The most difficult thing, I think, in working with an inmate, is the fact that rehabilitation is looked at askance. Gene talked about nurturing certain kinds of people. We are very, very suspect of people trying to make changes, because the first thing that comes out of an individual is "What is he up to? Why is he doing that? Maybe he wants something for himself. Maybe he or she is really interested in making some changes, but what's in it for him?" We have a paranoid nature, and it has to be that way. Children are fun (although I don't like to work with children). A child gets in a fight, and five minutes later it is over and forgotten. There is no residual effect of anger, no holding of grudges. You and I get into a fight, and we never forget it. The same thing occurs in a penitentiary system. I have worked in minimum, medium, and maximum security institutions. There is no difference, because a penitentiary is a penitentiary. In minimum institutions which we have in the state, there is a minute release program, a minute educational program, and an even worse psychological program. I believe in treatment, because I think if we are ever going to change an individual, it has to come from one of three ways: 1) education; 2) psychological help; and 3) vocational education. These are the only three ways we can help change people. But we cannot do it until the person says, "I want to make the change." Then not only does he have to fight the psychological and emotional problems that he has; he has to fight the rest of the population. To me that's the most difficult thing.

Gene talked about separation. I think that's the only way we can effect any type of rehabilitation in the penitentiary or any criminal justice system. They are not all bad people. If a person has shared a cell block with a person for three years, and one person gets leave for school release, it is often that other person who is responsible for the other one coming back because it is the fear, the anger, the anxiety of someone else getting something that he or she does not have. I can talk

about this for an hour. A practitioner is not concerned with the reasons that a person is in jail. I can only work with the person in front of me. All I am concerned about are the men and women in front of me today. There is a need to find out why crimes are committed. I don't think we will ever find out why. Isn't that terrible? The reason that there is so much crime in the United States is that we're a heterogeneous society. If you take a look at other societies, such as England, Switzerland, and the Scandinavian countries, they are classified as homogeneous societies. The culture is synonymous with everyone in that society. The United States is called a heterogeneous society in working with five, six, seven, eight, or nine different approaches, and the relevance of behavior is different for every different culture. What you and I may consider to be legal may be considered to be a crime in Australia. Maybe if we try to make the United States a homogeneous society, it will be fine. We are never going to do that. We can play games and think about it. I think if we are interested in resocialization, we try to attack the problem directly. Maybe it is more money, maybe it's more programs. Ramsey Clark said in 1970 that rehabilitation "never works unless tried." He said in 1973 that "rehabilitation doesn't work, that's eliminated." But nobody goes on to the second part of that sentence. In 1973 he said that "rehabilitation doesn't work, that's eliminated, but we've never really tried it, and I think that's where we're at."

Thank you.

-----DISCUSSION-----

Question: Is it your professional recommendation that those kinds of programs are necessary to rehabilitation?

Answer: I don't know if it's necessary for rehabilitation; I think it's necessary for the individual's self-esteem.

Comment: I will come back to the major point. All inmates are not poor children of society. Some of them just flat did wrong. Okay? Whether we like to accept that or not. I think a good classification system is paramount to that type of thing.

Comment: I think that it would be tragic if the several organizations that coalesced to put on this criminal justice conference and the people from the various agencies and the non-profit community organizations do not coalesce after and begin to bring some kind of political pressures, not only on the Congress, but also on the states. I only say this not to get into an argument with my friends who are with the National Alliance of Businessmen. I'm saying that the NAACP has influences in some areas, and the AFL-CIO has influences in some other areas. We have also discovered that one of the values in New York State is the lay people that pass the correctional officers. We must cause and bring business pressure on non-profit groups and things of that nature without concern that maybe we won't get our grant from the state or federal government, but because we're sincere about this factor. In the small amount of time that I have been involved specifically in this field of inmate organization, for example, I happen to know that knowledge of how to cope with society entails learning how to deal with the political system. If you do have a problem with a cop, you must know how to deal with that particular organization, as opposed to paying him back or cursing him out. I have learned some things; I have also come to teach. I have served in the legislature for six years, and have not really worried about being re-elected. Because if you worry constantly about being re-elected, you're never going to get anything done. We are the support. You don't have to go up there representing the state. You can go up there as an individual.

INTRODUCTION

Dr. Leonard Stitelman

I'm Leonard Stitelman, Director of the Public Administration Division at the University of New Mexico. We are the whole department for the fifth and final series of conferences, developed under a LEAA grant, through the University of Texas at Arlington. I want to, at this time, introduce to you the people at the head table. This is Colonel Fred Carson, who's the Regional Director for the National Alliance of Businessmen for Region 6, of which we are a part. The National Alliance of Businessmen, is, as you know, one of the sponsoring groups of the coalition behind this conference. You met Eddie Castillo last night, a representative from the American G.I. Forum. Next to Colonel Carson is a very special young man, who I want to give a special introduction to. He is Joel White; he is a student in the Public Administration Division. He is working on a Master's degree, and he is the person who coordinated, directed, produced, and made this conference the success that it is, and I want to offer special recognition to Joel White. On my right is Gene Witsell, who is the Project Secretary, employed by the University of Texas at Arlington; she has been to all of our conferences, and she has done a nice job. On my left in the empty chair ... all right, anyway, whoever you see coming back there is Wilbur Smith, and he's the Director of Prison Programs of the NAACP (National Association for the Advancement of Colored People) which is another of our sponsoring organizations. So we'll hold our applause for a little bit until he gets back. Actually seated on my left here is Douglas Denton, who started all of this. Doug is the Project Director at the University of Texas at Arlington, and is the key person responsible for the grant and the five conferences. Actually the only reason I'm up here is to introduce the introducer for the guest speaker tonight, and we always say it is a great delight, but it really is this time. It is with extreme pleasure that I introduce to you Dr. Charles Becknell, who is currently the Director of the Governor's Council on Criminal Justice Planning in the state of New Mexico. I was very privileged last week to be at a meeting in which Dr. Becknell was

honored with the Humanitarian Award by the National Alliance of Businessmen, and at that time, made a very moving thought about his work in the field, and I wanted to refer to that, because it is really a tribute to him. Chuck would like to be known to you all as an activist, and not a retired one, although I think he is an activist in terms of the sixties, before, during, and after the time he was a teacher at Albuquerque High School. He has a doctorate in American Studies from the University of New Mexico. He's a former director of the Black Studies program at the University of New Mexico, and he has recently completed a tour of duty as Acting Director for the Department of Corrections in the state of New Mexico, and I give you Dr. Becknell, who is our guest speaker.

INTRODUCTION

Dr. Charles Becknell

Thank you and good evening, ladies and gentlemen. I consider it an honor to be selected to introduce our keynote speaker for today. He is a native New Mexican. He received his doctorate from American University in Washington, D.C., in 1967. He received his B.A. in Economics and Political Science from Georgetown University in Washington, D.C. He also attended Harvard University. He was admitted to the New Mexico Bar in 1968. He is also a member of the Bar of the District of Columbia. Despite his age, he has had many important positions. He has been a private attorney; he was the Assistant District Attorney for the First Judicial District. He has been a Santa Fe County Attorney. For two years he served as an administrative assistant and legal advisor for Governor Bruce Teague. From 1966 to 1969 he was legislative counsel for the United States Joseph Montoya. He was Senator Montoya's liaison with the staff of the U.S. Department of Works Committee. He has had extensive background in federal and state government. He is a member of the Governor's Council on Criminal Justice Planning, of which I am Executive Director. He is a member of the Law Enforcement County Board (I think he is Chairman of that board). He is married, and the father of three children. In 1975, he was elected Attorney General for the state of New Mexico, and is probably the best that we have had. It is my pleasure to present to you a man who I respect very much. He is a dynamic speaker, he is a man with integrity, he's tough, and he's fair. In our community he would be referred to as a "bad dude." Let's have a round of applause for the Attorney General of the state of New Mexico, the Honorable Toney Anaya.

CORRECTIONS IN STATE OF NEW MEXICO

The Honorable Toney Anaya
Attorney General
State of New Mexico

Thank you very much for those kind words. I am not a B.A., I am a B.S., which is the way some people view politicians. I am glad to be with you this evening to share a few thoughts on things that are happening in corrections and probation in New Mexico as I see it. Some of you have been at this all day long, and maybe last night, and I know some of you had to be "rehabilitated" this morning after last night. You have probably heard about some of our more distinguished people in our corrections system. I can only share one story about a warden. Not too long ago he had an appointment with the Governor's office. Apparently the secretary messed up and made two appointments for 1:00. One was for the warden to come in and see the Governor; the other was for the Archbishop to come in and see the Governor. She got very frantic when both of them appeared, because she also knew that the Governor likes efficiency, and would not appreciate having two appointments of that nature at the same time. She said, "Gentlemen, I'm sorry and really don't know what to do. I apologize, and if there is anything that I can do about it, I will be glad to do it." She was very flustered, and went on and on about it. The Governor said, "Calm down. What's the problem?" She said, "I've got the warden waiting, and I have the Archbishop waiting. They're both here for the same appointment. Which do you want to see first?" The Governor thought a second, and said, "You'd better bring in the Archbishop. He only expects me to kiss his ring." (Laughter and applause) Obviously some people here know the warden (more laughter).

It is really an honor to be here to share a few moments this evening. Unlike most of you, I don't have the vantage point of rehabilitation as one who works inside the correctional establishment. Rather, I view rehabilitation in a correctional state as an elected law enforcement official, sensitive to public opinion on the gut issues of crime statistics, recidivism, career criminals, and the like. As both a government lawyer and official, I serve as a juvenile prosecutor, as the Governor's liaison with

the Parole Board, and in my capacity as a private lawyer, I am representing persons accused of crime. Additionally, in my first year as Attorney General, I became intimately familiar with many of the operations of the penitentiary in connection with an extensive investigation which my office conducted into prison operations, which led to some full-scale resignations and other changes in the system itself. Over the years, I have had an active interest in prison reform and prison issues. Given my background, I have had a chance finally to observe our corrections system from several different viewpoints. I have, therefore, had the opportunity to observe the rehabilitation function of corrections. I would like to share some of those thoughts with you tonight, and hope that they may be of some help to you as you continue with these conferences.

I think that rehabilitation is an attitude change. Many knowledgeable people, and some who are not so well informed, need an attitude change, as well as a behavior change. Rehabilitation must include an element of humanity, in my estimate. One major criticism and evaluation of inmates from the standpoint of participation in rehabilitative programming, is that it focuses down to the ways in which the inmate portrays himself to the institution. Active involvement in a college or vocational program, along with other overt signs that the inmate is coming around, can often be the result of manipulation by shrewd or wiser prisoners. The change we must seek in our rehabilitative efforts is inside the inmate's head. There are those in our country who have abandoned rehabilitation as a goal of corrections, and particularly in today's time of rising crime rates, there are those leading the effort to "lock them up and throw away the key." I have to admit that, from time to time in the past, I have probably been guilty of some of the same things. However, I believe an enlightened culture such as ours must not make a serious mistake of forsaking all attempts to change human behavior.

The vast majority of persons who are incarcerated return to the streets and the communities from which they came. Society does not want to get across in human and monetary terms and have ex-offenders commit new crimes once they are released from prison. We don't want to see ex-offenders become career criminals. Yet, one alarming consequence of simply incar-

cerating offenders for a certain number of years without any attempt to rehabilitate them, is simply to sanction the "lock and door" system of criminal justice, in which prison becomes a breeding ground of crime. Incarceration tends to have the possibility that ex-offenders will turn to crime as a way of life once they are released from prison. I have become increasingly concerned in my two years as Attorney General about the horror tales which I hear that our penal institutions often become institutions of higher learning, wherein a criminal graduate becomes experienced and a more hardened criminal than when he or she enrolled in the criminal system. If they weren't dope addicts when they went in, they apparently are when they come out. If they weren't sex deviates when they went in, they apparently are when they come out. If they weren't destined for a life of crime when they went in, they apparently are when they come out. Of course the individual is always primarily responsible for his or her own being; nevertheless, the societal cost of crime in terms of taxpayers' dollars is enormous, and almost beyond tabulation. Millions of dollars are spent as a result of crime, and we demand that the legislature build new and expensive prisons to house the ever-increasing number of criminals, not to mention the personal cost to victims of crime. Society, therefore, has a responsibility to see that crime is reduced, and this responsibility must not be omitted or ignored. We all are guilty at one time or another of paying "lip service" to rehabilitation as a correctional goal. But we must do more than we have if we are going to reduce the rate of recidivism. We must prepare ex-offenders for society by giving them the motivational, educational, psychological, and vocational tools to "make it" as a law-abiding citizen. We must change our community attitudes so that the society is not biased against the ex-offender, so that community attitudes become supportive of the ex-offender.

By and large, I do not believe that rehabilitation of ex-offenders has been successful. Many offenders come to the criminal justice system from environments in which crime is condoned. It is not a defensible means of economic activity. To return such offenders to the same milieu, without providing them with the mental and physical tools to "make it" on the outside, is tantamount to ensuring that they will repeat, and thus be a further burden on society. I am acutely aware that rehabilitation cannot be mandated

inside prisons. We cannot force a prison inmate into changing his way of life. Real change, and real rehabilitation can only occur when the individual inmate sincerely desires to alter his previous pattern of criminal behavior. I personally know, and have worked with one rehabilitated former inmate of our state prison, a convicted murderer who by his own admission was no better than a caged beast for many years. One day, however, he decided to change. He enrolled in the college program. He graduated from college, and later taught courses to other inmates of the prison. His sentence was lightened, and eventually became life imprisonment. After a term of ten years, he was released on parole. Since then he has been employed in a number of important state government jobs. This man was rehabilitated in prison, but according to him, his rehabilitation occurred not because of, but actually in spite of the prison and its rehabilitative efforts. This man was rehabilitated and changed his behavior because he wanted to, and because he decided finally that it was futile to continue the anti-social life to which he had become accustomed for so many years.

The point of this man's life is that change can occur in prison, but only if the person sincerely desires and wants to change. We cannot force change down anyone's throat. But in order for any rehabilitation to occur, there must be available to the inmate the quality and quantity of programs such that anyone who wants to participate in constructive, meaningful self-improvement, will be able to. I see the most serious deficiency of prison programs to be the lack of meaningful job training. If an inmate has trained in prison to perform in a particular job, and if the inmate has a job waiting for him in that particular field when he returns to society, then I have to believe that he or she has a good chance to "make it." They certainly have a better chance than someone who is not qualified in any job skill, someone who is not trained in a meaningful job vocation in prison, someone who is going to return to the environment which sent him to prison in the first place without any training to prevent him from slipping back into his prior way of life.

In addition to job training, our rehabilitation goals must include basic education, psychological counseling, college programs, and various group activities. We must make a serious effort to change the attitudes

of inmates so that they can participate in society in productive, lawful, purposeful ways when they return to it. To the extent that criminal activity is a symptom of social and economic life, we owe this much to those who turn to crime out of the despair of deprivation. As to other inmates whose native skills or innate resources may be higher, certainly only a benighted and altruistic state seeks to confine men in a facility which generates hostility, violence, and base emotions.

I do not mean to focus on prisons to the exclusion of other professional programs. There are many good programs in existence now. Some states have implemented community-based corrections, diversion, and other first-offender programs. Probation, suspended sentences, deferred sentences, and the like are all methods being used in rehabilitating the offender without the terrible loneliness of incarceration. After being in decline for several years, the prison population nationwide is now on the increase, and has a very high level today. Penitentiary inmates must therefore, of necessity, remain a primary focal point of our rehabilitation programs. After all, those whom the system seeks to confine are, by design, the most serious offenders. They are, in a very real sense, a captive audience, and they have time to be spent on programs. Our job is to provide those programs. To the extent that we fail to provide meaningful programs for incarcerated offenders, we fail in our stated correctional and societal goals.

We cannot escape the fact that prison today remains a vital model for dealing with hard core offenders. To satisfy the retribution concept, and to satisfy the public demand for justice, a prison serves as a committee man in providing some kind of security for our people. As I stated earlier, we cannot escape the fact that the average citizen voices his personal concern with crime by demanding that we lock criminals up and throw away the key. It is clear from our 1977 New Mexico legislative session that politicians are reacting to this demand. But a recent session of the New Mexico Legislature appropriated some seven million dollars for the physical planned improvements to bring our main prison up to maximum security standards. Also, the 1977 Legislature appropriated some seventeen and one-half million dollars for a new 180 bed facility to be constructed at the site of the present Los Lunas correctional center. People in some quarters were dis-

appointed because the legislative focus was not on rehabilitation, but the standard response to the correctional establishment is that we have to house them first, then we will build up programs. One newspaper noted that the 1977 legislature, in appropriating so much money for construction has an Edifice Complex.

As I said, it's not enough, and I say this in terms of the procedure adopted in New Mexico of flat term sentencing. In addition to the legislative action in funding the building of prison in New Mexico, the legislature passed a new sentencing bill, Senate Bill 18, which was one of the measures in response to public demand to lock up the criminals. The Governor signed this bill into law last April. For the past twenty years, New Mexico has aligned itself with those jurisdictions in which the courts imposed an indeterminate sentence for offenders. Recently, however, the states of Maine, California, and maybe one or two others, have switched from the indeterminate sentence to a more determinate type of sentence. This type of sentence is the essence of the recent legislation in New Mexico. The law will not become effective until July 1, 1979, and this is fortunate, because the new sentencing law embodies a substantial change in sentencing philosophy in New Mexico. Flat sentencing stresses, not rehabilitation within four walls, but straight punishment for a certain number of years. The new act retains only a sentence of the present parole system in New Mexico. The convicted offender receives a term affixed by the sentencing judge to define parameters. He must serve that term before he can be released on a mandatory term of parole, two years, which is the same for all degrees of felonies save capital offenses. A fourth degree felon could be given a flat term by a stern judge which would be longer than that received by a third degree felon sentenced by a lenient judge. After finishing that term, he serves the same parole as a third degree felon. This new legislation in New Mexico raises a serious question as to sentencing disparity. However, the more forboding specter of severe prison overpopulation looms menacingly on the horizon. The most fundamental change in the new act in terms of how we view rehabilitation, is that the system will be saying to the sentenced offender, "We don't care what you do in prison. You can't get out until your sentence is finished."

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There is only one variation of this new sentencing that should be mentioned here, and that is that an inmate will still be able to earn meritorious good time at the rate of twelve days per month, and therefore might possibly shorten his sentence by a maximum of slightly more than one fourth. Of course, we have to remember that meritorious good time is discretionary by the prison authorities, and not all inmates will be able to earn meritorious good time. But they will still benefit some. With the passing of this new legislation in New Mexico, we need to become more concerned about what inmates are going to be doing in terms of programs now that they may be spending longer terms in prison. Let me emphasize that the most frequent impact of this new legislation on New Mexico's prison population will be in terms of overcrowding. The New Mexico Department of Corrections has done some preliminary computer studies and has estimated that by 1985, with this new stiffer sentencing law, New Mexico could have an adult prison population of between five and six thousand inmates, compared to a population today of approximately 1500. One staff member at the Department of Corrections has also estimated, preliminarily at least, that it will take between 275 and 300 million dollars to construct new institutions to house all these new inmates. This is obviously a staggering cost, which I seriously doubt that the legislature of this state is even aware of. Moreover, the cost operationally for each inmate to the taxpayer is roughly \$5,000 a year, with the cost rising every day, and one does not have to be much of a mathematician to put a pencil to those figures to realize that we have a very serious problem on our hands rather shortly. Yet, despite the potentially almost physical impact of the new sentencing law in New Mexico, the legislature did not realistically consider the fiscal consequences of this new legislation when it was enacted into law. There will be a new facility, but it will only house 180 inmates.

It is clear that the legislature has abdicated its responsibility to consider how it is going to pay for imprisoning five to six thousand adult inmates by 1985. Moreover, although the Governor did refer generally to the financial commitment the state would have to make in terms of a new sentencing law (he signed it on April 7), I think we should ask the question whether the law was signed because of the public clamor to lock them up, or

if the bill was turned into law because it was politically expedient to do so. An added question remains. How is the state of New Mexico going to pay the cost of housing over six thousand inmates? And more fundamentally, do we really want to? Moreover, and in the revolutionary advances made in inmate life, we must be mindful that our institution should not seep below constitutionally accepted levels. Judges have demonstrated that they not only have the power but the inclination to mandate the upbringing of those state institutions which are no better than dog kennels. This action has been, and can again be accompanied by money judgements, against correctional administrators, and in the extreme case of closing an institution altogether.

I do not want to close without mentioning some of the favorable observations about our correctional operations in the state. We can compare our psychological services unit with any similar endeavor in the United States. The facility being operated for adults at Camp Sierra Blanca and the youth facility at Eagle Nest also are top-rate operations. Let there be no doubt that corrections in New Mexico is at a crossroads in terms of rehabilitation. People who advocate rehabilitation goals in a correctional setting face an enormous challenge for the very existence of rehabilitative programs. We are met by hostile public opinion and reactionary public officials who are concerned about locking up individuals for longer and longer terms, and we are met with legislators who do not appropriate adequate money for rehabilitative programs. So we have well-defined rehabilitative goals, based on the experience which we have had in New Mexico.

With the direction away from rehabilitation toward incarceration for its own sake, New Mexicans need to seriously consider the direct impact of this new legislation on inmate population, and must center in fact on rehabilitative goals. We need to study carefully the impact of tougher, new determinate sentencing laws on rehabilitation and corrections elsewhere. What causes a criminal to finally decide his entire approach to life for the better is a tough question. There are as many answers as there are individuals behind bars, and most of them have not been found. You people have an unenviable task of searching for these answers. You should not be thwarted by inadequate forces and politically expedient decisions, decisions which

are made at levels over which you have no control. But you need to be resourceful enough to be able to look at the realities of a political environment, and seek new approaches to old problems. You need to be able to do your work in spite of lack of public understanding and active official support. Yet you need to be realistic. After all, imprisonment in our society is still essentially a method of punishment, not reward. And as long as the public continues to view imprisonment basically as a method of punishment, you are going to have to be understanding and realistic in terms of your approaches, with the goals which you set for yourself, and in terms of the proposal which you make to your legislature. You are going to have to lobby for those proposals. If you're not realistic, I guarantee you that in the public war of being expedient on one hand, and what you feel is the ultimate approach on the other, in that struggle the politically expedient approach is always going to wind up on top. Rehabilitation is going to suffer. So if you ponder what you need in terms of bringing new and better programs in the area of rehabilitation to various institutions, you need to keep foremost in mind that you must approach these programs, not from the standpoint of the ultimate goal, but from the standpoint of something that will be, if nothing more, a realistic approach to help bring together the sliding back that we have seen in the last few years in New Mexico. We need to try to get back on the track to some positive, yet realistic approaches toward rehabilitation, or we are going to face the situation in New Mexico that we are going to continue to build bigger and bigger prisons, imprison for longer and longer periods of time, and turn out individuals from the prison who are no better than some caged animals at the end of having served their time. We need to know the system that we are working with, and that system is one of the representative government, that system is one of politics, that system is one which we need to know how to work with.

The challenges are great. I wish you the best as you try to find some answers, and if there is any way that the Attorney General of this State can help you, let me know. I appreciate very much your presence here, and I hope to be working with you very closely in the future. Thank you very much.

GIVING REHABILITATION A CHANCE

Paul Sutton, Ph.D.
University of New Mexico

Dr. Paul Sutton is currently an Associate Professor of Sociology at the University of New Mexico. Dr. Sutton received his Doctor of Philosophy Degree in Criminology from the State University of New York.

I had originally intended to talk about the presumptive sentencing model, in fact, how we might go about enacting a feasible and useful and creative presumptive sentencing model. There is good reason for that kind of a model. I did an analysis of sentencing practices in the federal system, and came up with some interesting results. Originally I had meant to talk about my research and how we might put the statistical results of that research to work for us. I decided maybe I ought to refocus or re-orient my comments more on the order of justifying and explaining the basis for considering the need for a presumptive model, rather than getting into the intricacies of how a presumptive model ought to be made to work.

I have titled what I have to say (for those of you who like titles) "Giving Rehabilitation a Chance." In the last few days, and for the last few speakers, we have given considerable focus on programs which have been designed to rehabilitate the offender, especially once he gets out of the institution, or instead of putting him into an institution. Whatever optimism we may derive from the promise shown by these programs, however, must be dampened by the realization that their potential benefits are limited to a select few. In this regard, with the reality of corrections in America today, the prison has been the primary source and the primary social response to the crime problem in the United States for the vast majority of offenders for the last two hundred years, and will probably

continue to appear as the principle track in the long-running drama of human relations. I suspect the new sentencing act, which was just passed, is symbolic of the move which is going to keep corrections in the background and which will keep prisons in the foreground. It is necessary and commendable to have alternatives and strategies for dealing with offenders. However, we must not allow our enthusiasm for programs outside the institution to leave us unmindful of the very real problems which remain in the present facilities that will continue to house over 90% of those in long-term correctional confinement. I would like to refocus the discussion back on the institutions and on the problem of rehabilitating the offender, and in the same breath I would like to continue to say that we should view that more as a process of rehabilitating the corrections, rather than rehabilitating the offender. The model I propose would do exactly that.

In terms of the authority for getting into this kind of discussion, we have seen that the history of correctional development and correctional treatment in this country is a history of colossal failure, which has yielded few remarkable successes. A study made in 1966 found out from more than 100 evaluation studies reviewed that the more sophisticated the methodological design in the study, the less likely the study was to propound any kind of effective treatment training. If the study was a bad one, it found that the treatment was successful; if the study was a good one, it found no effective outcomes of treatment. I do not need to belabor the issue further to demonstrate the ineffectiveness of rehabilitation within the institution. I think the truth of the failure does not surprise any of us. The reasons were ultimately articulated yesterday by Mr. Surber and Dr. Czajkoski. I suspect that the recognition of the failure of institutional corrections is one of the precipitating factors in our getting together for any series of conferences, as well as our own individual participation in them.

The subject before us becomes, "What do we do about it?" Again, I am talking about the institutional aspect of corrections, and not the post-institutional aspect. My own small contribution to the dimension of the problem before involves the suggestion that rehabilitation of a significant portion of the criminal justice process specifically deals with

criminal sentencing. Much has been said in the past few days about flat sentencing, with the criticism being very extensive. I will try to weave some of the actual comments and observations into some kind of a useful and functional fabric. A good place to start is with some of Dr. Czajkoski's remarks yesterday, with respect to his operation particularly in the rehabilitative model of criminal justice principles. In the name of rehabilitation, he suggested we have inflicted gross improprieties in the treatment of convicted offenders. Nowhere is this more true than in respect to the reimposition of criminal sentences. The difference is minimal between the diagnosis and treatment model. Legislatures have enacted broadly indeterminate terms of incarceration. The idea is, if we can diagnose what is wrong with this person, we will give him a long stand of incarceration, and we will decide when he has been treated sufficiently. At that point (the optimal point) he will supposedly be cured. We cannot constrict the judges or the legislature to a certain fixed term, because that is not fair to the inmate. Many have noted the consequences of that sort of indeterminate sentencing, among them the anxiety, the frustration, the uncertainty and despair felt by inmates not knowing when they were going to be released.

I would like to add another very important consequence of that feature of indeterminate sentencing, which characterizes just about all the states of the union. There are only four states which have really deviated from the indeterminate model. The consequence of the aspect that I would like to focus on is the consequential perceived need by the inmate to improve himself, not in ways that he necessarily feels are needed, but in ways that he is second-guessing that the parole board will feel are needed. Secondly, there is the need on his part to advertise the aspects of that improvement. The whole process becomes a rather ludicrous one, and unfortunately a tragic one which some have called the "game of rehabilitation."

Again, I would like to talk with you about the institutional aspects of rehabilitation. It is precisely because of the indeterminacy of the sentence that inmates feel essentially compelled to partake in whatever institutional programs are put before them. The incentive to the indeterminate structure is paramount, the incentive being that if you don't

do it, you're going to be here longer than if you do it. So the inmates get into programs because they see them as a necessary ingredient for early release, and not because of any genuine commitment for trained education or self-actualization or whatever the professed aim of the program is. The results, I think, are fairly obvious in that effect. The obvious consequences are ingenuine participation in a lot of programs in the institutions. That is assuming, of course, that there are programs in the institutions which is more often than not the exception. Secondly, it involves or results in a low commitment to participation in the kind of program that one gets involved in. As a result, there is a very low likelihood of success for that kind of training, success in this sense being measured as a federal study of federal institutional training. Subsequent employment behavior after release showed that there was a very small percentage of a very few inmates who get involved in jobs that are directly related to any kind of training at the institution. I would suggest, however, that the federal institutions are probably the best in terms of any effective types of program training available. And I suggest to you that it is because of the indeterminacy that they wind up in an inappropriate or undesired training program.

I had the opportunity to work in federal reforms for a number of months a couple of years ago. In the City and Classification Committee, I have watched people being assigned to rehabilitation. One gentleman, for example, indicated that at first he was very much into the barber training program, but he could not get into the barber school because it was full. This is a very popular and lucrative training program, and they can only train a few people at a time. The caseworker was persuaded by the indeterminacy problem; he urged, in fact insisted, that inmates initiate a different kind of training. The inmate, in this instance, wound up in an auto body and repair shop, the only program which had an opening at the time. The inmate protested that he knew nothing about cars, had no interest in cars, and did not want to learn about cars. The caseworker replied that was all the more reason for him to learn about cars, then when he (the inmate) was on the outside he would not have to pay to get his car fixed. The tragedy of this instance was that an inmate took an interest in a program, but the

caseworker thought that it would look bad when the individual came up before the parole board and had done nothing for his first eight months, because he was waiting for an opening in a training program. So really, for no reason other than the indeterminacy feature of the sentence under which that person was incarcerated, he was "forced" to involve himself in a treatment program in which he had no interest. And I suspect the latent consequences of that are also bad. Someone might have wanted to get into that auto body repair shop program, because there were a lot of people there because the barber school was already closed, and other alternatives were closed down because of people being placed in a program in which they did not really want to be.

The last consequences of the indeterminacy question, I suspect, are the results of the confirmation in the inmate's mind of the futility of "gaming and conning" the parole board. The whole process tends to reinforce the unhealthy cognitive practice of not asking the inmate what they want to do and need to do in order to improve themselves, but what they need to do to get out of prison on parole.

Question: You invited questions during your lecture. What would be your solution for the caseworker?

Answer: You have to completely reframe the situation before you come up with an alternative. The alternative is to remove the indeterminacy feature of sentencing, so that what the caseworker does is say, "OK, we'll put you on the waiting list for the barber shop." The problem with the auto body shop was that the training lasted longer than the waiting period for the barber school, so that the inmate was unable to move into the program which he desired to be in. So my solution is to let the inmate get into whatever program he wants to be in. I'm candidly not concerned whether an inmate sits around for eight months and does nothing or reads books or whatever, if he is going to be unhappy in a program which he has no desire in the first place to be in.

The point I am trying to make here is the failure of rehabilitation in prisons is definitely tied to the indeterminacy of the sentences which are imposed. On the other hand, I don't purport the presumption that a flat

or definite sentencing model will create rehabilitation for inmates. The removal of the need for subterfuge for an inmate trying to obtain parole under presumptive sentence might very likely facilitate a more candid assessment by the inmate of his own needs and wants in light of what the institution has to offer, and not in light of what he thinks the parole board wants to see. A presumptive model not only avoids the practice of "forcing" an inmate, on the positive side it can engender a recognition on the part of inmates of programs which they might want to get involved in.

Other advantages of the presumptive model which I haven't addressed - and which I don't think it appropriate to address here - are probably equally, if not more compelling than the facilitation of rehabilitation, such as the enhancement of the inmate's sense of justice, which certainly is going to be a portion of rehabilitation. As Dr. Czajkoski suggested yesterday, the best way to get people to act justly is to treat them justly. It would provide a modicum of notice to the inmate about what is expected of him, and might reduce or possibly eliminate the great disparity of sentences currently imposed.

The essence of the point that I am trying to make is that indeterminate sentencing derives its substance and authority from a once popular, though admittedly over-ambitious, faith in the rehabilitative model. It is ironic, and even tragic, that we seem to hold so desperately to the vestige of that faith, when its very foundations have been eroded by decades of experience and documented failures. I submit that it is time to rehabilitate our correctional philosophy, candidly admit its shortcomings, and replace the modus apparatus we have created with a scheme which instead deals honestly and fairly with those who have been "force fed" institutional rehabilitation for so many years. If rehabilitation in prisons is ever to become a reality, I suggest that this kind of reorientation of our philosophies and practices should be given an essential first step.

In terms of the disparity (variations) in sentencing, they are very frequently entirely justified. You have two guys who are convicted of robbery (one has no prior record, the other has a long prior record and various other attributes that we may decide are relevant to the sentence), and I suspect that it is justifiable to have variations in sentences imposed.

By flat sentencing model (I am not suggesting that everybody should automatically get 15 years or whatever), I am suggesting that everyone is presented with a specific term. But there is not much support to offer for this particular model.

What presumptive sentencing does, in most cases which have been proposed, is to weigh various aspects about the offense, the offender, the crime for which he was convicted, and whatever attributes one deems relevant to the sentencing decision. It identifies the factors, and then weighs them for their relevance to the sentencing. For instance, take robbery which might be a four year sentence. Then you subtract if you think that age is relevant, or add time if a weapon was used, if injury was done; you can also add or subtract according to the amount of money lost. I'm not suggesting that I know what the criteria ought to be. I'm only suggesting that one reason that we might want to use this kind of a model is to put us in a situation where we can decide what aspects of a case are relevant in the sentencing. So in a presumptive model, what we do is to systematize the criteria that we use in sentencing. One way that we can identify what kind of criteria that we ought to be using is an analysis of sentencing decisions used for a number of years. I used about 24 criteria to try to explain variations, which were offense prior to the offense, age, race, sex, whether they plea bargained, and which were the most important. With those factors, I was able to explain about 65% of the variations in sentencing, which suggest that sentencing is not nearly as disparate as a lot of people would have us believe.

This kind of analysis allows us to put quantitative and qualitative figures on what disparity (I don't like the word) but what variations arise in sentencing. It gives us an idea of what factors we are using in sentencing now, and how we're actually weighing these factors, and we take these factors under consideration. We can take this weight and tell judges to put that weight on the sentence. Obviously, people use the results of an analysis to create the presumptive model that would be used. What we're essentially doing is confining ourselves to experience, and because this is the way we've been doing it, this is the way we should be doing it, which is not the whole case. There would still be discretion, but the determin-

ation of what criteria to use, and the determination of what weight you assign to those effective criteria, are matters of discretion. Once the judge establishes the model that identifies the criteria and weighs them, they are bound by their model, but they can still have discretion for variations of the sentence, within reason.

There are two reasons for keeping the discretion: 1) to get the judges to buy it in the first place; 2) it's an important aspect to keep in mind, simply because the statistical model cannot account for the extreme case. You cannot incorporate every possible case. You can account for maybe eight percent of the cases. Homicide is such a rare case, for instance, that you cannot really apply this model to it. I think there are good arguments for leaving a little discretion. The important thing is that the latitude that is left with a presumptive model is much more diminished than judges have today. In addition, the judge has to articulate his reasons for discretion which are reviewable.

-----DISCUSSION-----

Comment: In my opinion, if discretion is going to be left up to the judges, then you might as well scrap the model. The best way I can see a model like that being used is if you feel a judge somehow discriminated while using discretion, and the defense counsel could use such discrimination as means of appealing the sentence.

Question: In the implementation of your model, does it include probation, parole, statutory good time, etc.?

Answer: Yes, the institutional control aspect is very important when using the presumptive model. You definitely include good time provision in this. In every jurisdiction that has this sentencing model, there are good time provisions. In terms of parole in discretionary release, no. Parole in terms of a period of supervision, yes.

The problem is selling the judges. Sure, that's the whole problem in this. When a judge says "We're doing the best we can, sure we make mistakes, but that's the best we can do," that kind of mentality is not

going to consider a presumptive model. When a judge will not allow his own decision process to be analysed, then he is saying that he is doing the best he can when in fact he is quite wrong.

COMMUNITY BASED TREATMENT
AND SOME FALLACIES

Phil Encino
Alternative House, Inc.

Phil Encino is Director of the Alternative House, Inc., of New Mexico, which is an ex-offender community-based rehabilitation program here in Albuquerque.

There are representatives here from our funding agency, so I can't tell as many lies as I would normally, and there are representatives here from the state penitentiary, one of whom is a member of our Board of Directors. We talked about the industry of rehabilitation and community-based programs, and specifically of some fallacies. First of all, I think there is an overriding fallacy that probably prevails with respect to community-based programs: to say that rehabilitation has never been tried is a cliché, since rehabilitation is not the only thing that has never been tried. The fact of the matter is, it may also be a fallacy to say that rehabilitation is possible in a community-based program. There are a lot of reasons for this. Concerning community-based programs, generally speaking, if an offender is in long confinement, there are certain things which might have caused the difficulty in the first place. Intrinsicly, because they are at the tail-end of a system that lacks structure, difficulties are evident almost by structure, almost by base. We have a certain condemning aspect in the way our criminal justice system works when we put somebody in prison. If we presume to live in a democratic society, a person who does not "make it" is going to be put away, and something is going to happen, and something is going to happen to them in the totalitarian society of the prison that will rehabilitate them. After several years of being totally exposed to a totalitarian society, we dump them back out into a so-called democratic society again, and then expect them to succeed or fail. The issue is not so much that a person failed, not

even that he has been conditioned to not succeed; the issue is that we probably have a "screwed-up" concept of a democratic society and a totalitarian society.

In the communal aspects of the prison, in New Mexico and I suspect in many other places, not only is there no rehabilitative effort possible, there is not a great deal of respect for these efforts. Where a community-based program should provide after-care, we pick up the complaint that caseworkers and people in the psychological services unit in the state penitentiary are not doing their job. Without stepping onto this turf, as a person who works for a psychological services unit in the state penitentiary, I would like to pose a question. Is it possible, and would there be any attention paid, to whatever emotional or psychological problems may cause somebody to be socially bankrupt, or legally bankrupt on the outside? When there are seven members of the psychological services unit in the state penitentiary, and 1200 persons occupying the facility built for 900, and most of the seven persons have to scurry hysterically to stay up with the 1200 to treat crises, is it possible for seven people to work with 1200 people who admittedly have severe, at least, problems, and probably traumatic experiences daily? I submit that it is not. New Mexico isn't very different from any other state. While the resources there may be exaggeratedly limited, the resources in most places are also limited given the other kinds of priorities that are placed on them, such as expenditures. It is a presumption in New Mexico, as in other places, that it is a responsibility in the state legislature to save money. This is "bullshit." It is the responsibility of the state legislature to spend money, but to spend it wisely. This is a distinction which is not thought of very often. But how wisely does the legislature spend, depending on what portion of the bill you are looking at? (I gather that the Legislative Finance Committee in New Mexico has not made up its mind which is the correct figure. There have been 13 or 23 million dollars appropriated to the establishment and improvement of youth facilities for offenders in New Mexico). As I pointed out, I thought that ultimately the legislature in various committees would consider other alternatives when we build increasingly more impressive

structures of bricks and mortar so that we can house increasing numbers of inmates. We will be able to do just that, and we will recycle them, and if we spend 23 million dollars this next year, then in five years we will be able to spend 4 million, and build yet a larger institution to warehouse people. They're going to go out and do whatever they did again, so we recycle rather than rehabilitate.

I would submit that it is a fallacy to presume that a community-based rehabilitation program provides adequate care. It does not. In many respects it provides the only care. In New Mexico, there is one halfway house in Albuquerque that is run by the Department of Corrections. It houses twenty persons at maximum capacity. There are 2500 people in the state of New Mexico who are under the supervision of parole and probation officers. People who work in the halfway house and those who work in areas of the Department of Probation and Parole will say that the 20 people who are sent to the halfway house are literally at the bottom of the barrel. So rather than a residential facility, it is a kind of second step warehouse. That isn't to say that the professionalism of the staff is not there, because it is. There were some major personnel changes made and some major policy changes made six or eight months ago, that changed it from a grotesque blockhouse into a program that tried to do the impossible thing.

Another fallacy is that rehabilitation programs should be advocates. I submit that one of the real difficulties that community-based programs have in this country, especially in Albuquerque, is to attempt to be an advocate for the people that they serve. Ex-offenders, in my judgement (and this is the philosophy of the Alternative House) deserve an effort at redemption. With that as a premise, I think that a community-based program ought to make every effort to make it possible to achieve redemption. That is somewhat different from being an advocate. I think there is a tendency among community-based programs, because of their nature, to feel that they should justify the offender's problem, not treat it.

The premise on which we operate at the Alternative House is that the offender has to confront the problem and recognize that we have "screwed" laws, and it could be that the kinds of persons that go to the penitentiary are persons who by virtue of social strata, or by virtue of color, get the

wrong end of the deal. But it happens. So the issue, therefore, is not to justify it in terms of people who might somehow have been wronged by society. The issue is to cause them to confront whatever makes it impossible to satisfy conditions that our social structure imposes on them and help them to succeed. If they are psychopaths, help them to become successful psychopaths. The difference between the Chairman of the Board of General Motors and somebody in the "joint," very generally speaking, is that the person who is the Chairman of the Board of General Motors is a slick operator who we admire because he manipulates the system brilliantly. But so what? That's no way to try the offender. That's the way things are, and it is something that he has to confront. We, in our program in its early stages, found ourselves in a situation in which we were coddling offenders. We developed among many groups within the community who knew anything about what was going on, those who could help people like violent sex offenders to readjust, by having confirmed for them that they "weren't getting enough" at home, or that women were enticing them, or that they were presenting temptations that made it irresistible for them to go out and violate a woman. It is crazy. That's not the way to conduct a rehabilitation program. The issue is to be pro-inmate rather than pro-convict, and therefore somebody is going to be on the other side of the law and fail. Help the offender, and that does not mean to justify his failure.

The basic problem with community-based rehabilitation programs is that they have poor initiative. In 1975 an Alternative House was formed by merging previously defended and previously administered programs, one of which was a pre-release program, one of which was a sex offender program, and one was a job development program. These programs were doing very well, maintaining magnificent isolation from one another, and maintaining the separation from the community. One of them had the reputation of a "flop house"; there were people there who had been in the program for three and one half years. They came in once a week. We did a time study on some of them and found that eight offenders were taking up 65 hours a week and that one individual, well known in the community, was receiving almost exclusive attention from the staff members. They took him grocery shopping, etc. This is not rehabilitation; this is something else.

The poor image is also partly stimulated by the fact that we have program "groupies", who go to several programs, participate in them for a while, and treat them like a program "smorgasbord." Programs must have standards, and these standards must be constructive. In order to be constructive, they must cause not recycling, but rethinking on the part of offenders. They need, in fact, to develop some kind of contractual relationship with offenders so that they must meet certain conditions in order to participate in the program. That can make a significant difference in the opportunities that a person will have after a certain period of time. In return, that person has to agree to meet certain specific conditions. If a person fails to do so, he will be terminated from our program. That does not mean that we lack compassion; that means that we believe that there is more to rehabilitation.

One of the fallacies of these programs is that community-based means community support. That is nonsense. There is very little community support for rehabilitation programs. The general public knows very little about what goes on in the criminal justice system and resents money which is spent on rehabilitation. We find, in Albuquerque, what I think maybe in some respects is substantial community support. The city funds our program fairly handsomely; it serves as our fiscal agent, and members of the city council, with one exception, have expressed convincingly their support for our program. We are also funded by CETA, that spends money for job development and training for the Department of Labor. So this is evidence of a certain kind of community support, and we are grateful. But, at the present time, Albuquerque and Bernalillo County are building a seven million dollar jail. It is going to house 288 persons. They appropriated 104 thousand dollars for the Alternative House. But the capacity of 288, which was projected to carry us into 1985, was exceeded last weekend, because the present jail facility had 375 people in it. We are recycling people to go to jail and to the penitentiary.

In respect to community support, we have an LEAA organization locally which represents, in effect, a region for the Metropolitan Criminal Justice Coordinating Council. They have representatives from all kinds of agencies in the metropolitan area, representing the criminal justice system. Recently,

they approved 31 thousand dollars to two management information centers. They approved: buying a couple of police cars; buying some vehicles; 30 thousand dollars to the Corrections Detention Department for a management consultant to deal with the administration. They turned down flat an appropriations for a battered wives shelter, by a vote of nineteen to two (the same vote, incidentally, by which they approved the other). They turned down approval of a residential treatment facility for ex-offenders, that would have cost 104 thousand dollars. The City Council appropriated 465 thousand dollars for a women's garden club in northeast Albuquerque. They also approved 1.2 million dollars for a golf course on the west mesa. They turned down flat an appropriation of 25 thousand dollars for a battered wives shelter, and the zoning commission three days later turned down the request for the battered wives shelter in a house in the neighborhood because they did not want to soil their name. Community support does not exist of its own nature. The biggest fallacy, therefore, in a community based treatment program, is for us to presume that there will be community support. And another corollary fallacy is to presume that we deserve it. We don't.

Community based programs have to go out and cultivate support. There are lots of ways to do that, one of which is to "cop" dollars and cents. Another way is to indicate that if we don't get a job for an ex-offender, he's going to "pull a job." Terrorism, after all, is still the best public relations device ever invented. You don't have to believe me; ask the Defense Department. The issues at Alternative House presume this: we will not have community support, simply because we provide a service that if we did not provide, nobody would provide. We do not presume that we will have community support because we are providing a humanistic service. And we don't presume that we will have community support because we are doing our job well. We believe that we have to constantly, and relentlessly, and aggressively go out and cultivate little donations of support. Not an emotional commitment, not a psychological commitment, and not a development of advocacy by agencies and leaders within the community. That's asking too much. What we need to do is represent our interests and the interests of the ex-offenders in such a way that we make people offers they can't refuse.

Let me tell you about Alternative House. In 1975, as I mentioned, there were two programs: one was SALE, a pre-release program; the other was CASO for sex offenders, which was basically a diversion program with the subject treated for release; and there was a black ex-offender program. When these programs were brought together, it was because their support had been withering almost totally, and people who had supported them had said "A curse upon all your houses." They needed to tighten up their administrative procedures, their staff procedures, and other things. They were funded by the Law Enforcement Assistance Administration for the grant from the Governor's Council on Criminal Justice Standards and Goal Planning, by CETA, for job development and placement, and by the city of Albuquerque.

The services which we provide are as follows: we give pre-release work; we have a contractual arrangement with the Women's Honor Unit; we have a contractual arrangement with the Los Lunas Correctional Center; we go down and offer group therapy; we offer orientation sessions; we offer pre-release and reintegration sessions; we do job testing for skills and aptitude; we provide therapy on the outside, both group and individual; we are a referral source for sex offenders when they are on parole (non-violent sex offenders as a diversion, exhibitionists and so on); we provide social services to help people coordinate or navigate the processes of getting food stamps, housing, eyeglasses, tools for various trades and so on; we offer family reintegration (often families break up when a man comes out, because he is not used to making decisions while in prison, and the woman generally becomes the decision maker while the man is incarcerated, and when she continues in this vein, he will often beat the hell out of her and the family breaks up); we also have job services; we have contracts with several training units in Albuquerque, paid for by CETA, to try to find jobs for people coming out of prison.

The three programs that we have are now beginning to be coordinated. We're about to enter our third year of existence. We found out something in our little shop which I believe microcosmically will exist throughout the universe, and when the three programs merged, we had three organizations functioning under the same roof. The total staff in Alternative House began as three separate units which would not communicate with each other.

Alternatives have, in fact, aggressively sought community support. We have at the present time contracts with AJAST, the area parole office. We have a working relationship with the Department of Hospitals and Institutions, and under contract we exchange clients in the Wilderness Program, and provide adequate care both through the Wilderness Program and diversion. We have a working relationship with public offenders; we work with the Technical Vocational Institute and the Department of Vocational Rehabilitation that provides us with funds and a variety of medical services. We have a working relationship with the National Alliance of Businessmen, which develops jobs through our clients. We have a referral contract with the Bernalillo County Mental Health and Retardation Center, with the Federal Probation and Parole Office, the Federal Bureau of Prisons, and the Governor's Service Center. We have a working relationship with the Commission on the Status of Women (which has helped us extensively with the media and which has done two TV interviews featuring our program). We have an arrangement with the Economic Opportunity Board; we conduct social services with various church groups, and a unique, and perhaps revolutionary agreement.

We have a working relationship with the Rape Crisis Center, which works with victims (we work with offenders). Jointly we have sponsored forums, and videotaped programs so that people can look at the issue of rape and recognize that both on the point of view of the offender treatment program and the point of view of the victim treatment program, to try to prevent violent sex crimes in the future. We also believe that as far as the rehabilitation process, the rapist essentially dehumanizes and presents the woman as an object, and will feel very differently when they can look at a woman as a human being who also has problems. By bringing the issue of the offender to the woman who has been raped, she is able to help alleviate and eliminate the trauma which is very very extensive for the following reasons. When a woman is raped, the people at the Rape Crisis Center tell us, the trauma is accentuated by the fact that she also depersonalizes the man, the assailant, and in her mind imagines him as a grotesque non-human, and therefore is unable to conceptualize and treat it internally in such a way that she is able to resolve it. If she is able to look at this person in such a

way that he does not appear to be grotesque and monstrous, that as a human being he is essentially weak, not "macho", she is able therefore to put it aside and move ahead. We want to move forward with the Rape Crisis Center to have ultimate confrontations between the offender and the woman. At the present time we have done two things: 1) We have had an offender talk to a group of victims, but he is not the offender for any one of those victims; 2) We have had a victim talk to a group of offenders, and she was not a victim of any of the persons there. The results of this confrontation were electrifying. Both parties were just overwhelmed by their reactions and by how for the first time they were able to look at the other side as representing people. If they cut they bleed, if their feelings are hurt they weep, and this type of thing. We want ultimately to bring together an offender with his victim; this is a very delicate type of thing, and we want to have more training before we do that.

A community-based rehabilitation program has to recognize that we are working in a system that has not even defined rehabilitation very well, much less made a commitment to it. On the whole, community-based rehabilitation programs have taken a position in the extreme by saying that offenders need a sanctuary away from the real world, and our position is that is not true. Our position is that the offenders need contact with and an introduction to the outside world. A rehabilitation program within a community does not have community support. If you can consider the community to be a populace, they don't even have a concept of what rehabilitation entails. They would not even know if the facility fell down tomorrow, much less care. Therefore, community-based programs do not necessarily have to raise community consciousness, they just have to look around and get their resources from wherever they can. I don't resent it, I just recognize it as a fact of life.

Thank you.

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REHABILITATIVE PROGRAMS FOR WOMEN

Arlene Adler
New York

Arlene Adler is Program Coordinator with the New York Division of Criminal Justice Services. She also handles most of the rehabilitative programs in the area.

First, I am going to begin with a profile of the woman offender, then a brief description of the types of crimes that women are committed for, the differences in treatment between men and women, and then I'll go into a description of some programs that we have developed and which are in operation in New York State to service the woman offender or ex-offender. In 1970, we took a national survey of offenders in certified correctional institutions and halfway houses by the Women's Prison Association, and found that most institutions do not keep socio-economic information on women prisoners. The lack of specific profile data has been a problem for our attempt to develop a program for female offenders. With this data, the United States Department of Justice through the LEAA funded in 1975 a national study of women's correctional programs. The study surveyed sixteen state prisons, 46 county jails, and 36 community-based programs to develop a demographic portrait of the incarcerated women.

The survey provided the following information: two-thirds of incarcerated women are under 30 years old; the median age of unsentenced women and misdemeanors is 24 years; the median age of felons is 27 years; 15% of incarcerated women are black; the majority are less educated than women as a group; 25% have not finished high school; and 14% had only completed elementary school. At the time of their incarceration, 27% of the women were single; only 10% of the inmates had been living with their spouses prior to their incarceration; 73% had children; 66% had dependent children living at home prior to incarceration. The average number of the children

was 2.78. Sentences were involved in only 10% of child care arrangements. Despite increases in the arrest rate of women, women still commit fewer crimes than men, and fewer women are represented in all stages of the criminal justice process. In 1975, one out of every five persons arrested was female. According to the 1970 Bureau of Census Report, one of every ten persons in jail either awaiting trial or serving sentences of a year or less was female. In 1973, one of every 16 persons on parole after release from a state prison was female. There are several theories as to why females make up a fairly small percentage of the offender population. One of the things is they do commit more crimes. Another is that the male-dominated criminal justice system tends to protect women. Police may be more reluctant to arrest a female; the prosecutor might be less inclined to charge her; and a judge may be less inclined to convict her. There is a corollary theory that the types of crimes women tend to commit are considerably less threatening to the society. Even a typical female homicide, for example, is described as a "crime of passion." Finally, there is the idea that because women are denied job opportunities and economic status, they have fewer opportunities than a man to commit crimes. These and other factors could possibly contribute to the differences between the male and female offender population. Most female offenders have been arrested for property costs, specifically larceny. In 1975, larceny constituted 24% of all female arrests. The next largest percentage of female arrests were disorderly conduct and running away. Arrests for prostitution represent only 3% of female arrests, and homicide accounts for less than 1%.

There has been a drastic increase in the number of women arrested for property costs. From 1960 to 1972, FBI statistics show that the number of female arrests have increased three times faster than the number of male arrests for the same period of time for violent crimes such as homicide and robbery, than have been made possible for the last twenty years. About one of every ten violent crimes is committed by a female. Studies show that female offenders want help in finding jobs more than any other form of assistance after release. A 1976 survey by the Female Offender Resource Center of community-based programs representing 6,200 females found that a lack of job skills is the most important problem of female offenders. A lack

of education is secondmost in importance. Difficulty in arranging for child care, readjusting to family life, and coping with prejudice were all listed as third in importance of problems of women. The most difficult jobs women offenders had held prior to incarceration were in personal services, clerical, semi-skilled, and unskilled occupations. When asked what kind of job they wanted, most said clerical, professional, or semi-professional. The Urban Coalition and the South Forty Corporation sponsored discussion groups at New York's Stratford Hilton Correctional Facility. Although vocational training at Stratford Hilton focuses on sewing prison clothes for the State Correctional System, not one of the twenty women participating in the discussion wanted to be a seamstress after release. The jobs they were interested in ranged from secretarial, professional guidance counselors, electricians, and telephone repair persons. A 1973 Oklahoma study revealed that 25% of the 101 women who completed the questionnaire wanted business related training courses. We assessed quite a bit of the difference in treatment between men and women. A number of national surveys and studies have revealed particular differences between the treatment of male and female offenders. Some of the differences seemed to be best for women, and others indicated patterns of neglect.

Jails and Prison Facilities

Because there are fewer women incarcerated than men, many communities in at least a fourth of the states and the District of Columbia do not have facilities for women. In these communities, there are two options. The first is that women are sent to the nearest female institution, or women are held in segregated sections of the male facility. The first option has the disadvantage of separating women offenders from their families and communities, which may be several hundred miles from the institutions to which they are sent. In the alternative, women in primarily male institutions, women are isolated from the general prison population, and are usually not permitted to join in special education types of programs. The result is an unwarranted solitary confinement. Additionally, the fewer number of women offenders has also meant that the prison facilities that do exist are less specialized.

I would like to go on with a brief description of this problem. We have this problem in New York. There are 57 counties which each have a county

jail. Most of them have very small populations. On the average, the prison population will consist of about 15 males and approximately three females. The way our corrections law is written, and shall I say interpreted, sheriffs interpreted the law that they could not house men and women in the same cell area. The specifics of that are that you cannot have one cell for both men and women. The sheriffs chose to interpret the law that they could not program men and women in the same recreational area. I would say that it took at least a redrafting of legislation to have that changed. I personally worked on it through the whole two-year process, which is somewhat pathetic when you think that we are dealing with bureaucracies. Some sheriffs chose to interpret it as the same cell area; others chose to interpret it as the whole jail.

I have slides of vocational training programs in prisons. In 1973, a national survey of prisons by the Yale Law Review found that men's prisons had an average of ten vocational training programs per institution, compared with an average of 2.7 training programs in women's prisons. As New York will show, the types of programs vary considerably. The men's prisons offered programs in financially rewarding fields, like electronics. In contrast, the women's programs included housekeeping, cosmetology, and food services.

Children of Offenders

Although between 70% and 80% of incarcerated females have children and approximately half of those mothers are the sole supporters of their children, there are few programs sensitive to the needs of the offenders. In a 1974 survey of 81 federal and state prisons by the Junior League of New York, 39 institutions indicated that they did not have any programs for inmates with children. In those responding affirmatively, the programs varied from basic referral services to actual nurseries in three institutions. Incarcerated mothers frequently face special problems: no contact with their children immediately after arrest; no means of locating them for long periods of time; and loss of custody for mothers who are sole supporters with the possibility that their children will be placed in foster homes or referred to adoption agencies. The Junior League Survey found that of 727

children under five years of age, 70% would be cared for by relatives, 14% were in foster homes, and 16% were in institutions to be released for adoption.

I will go into a brief description of a number of programs that we have in New York State. The first program is run by the Department of Correctional Services and it takes in one women's facility in New York State. It has a capacity of approximately 475; it is generally full to capacity. This program is for women who are not eligible for furlough. It is a family reunion program. It hasn't started yet; it will not be starting until a month or so. With the use of LEAA funds, the Department has purchased three module homes (which will be trailers) and has put them on the grounds of the facility, and women are permitted to have their families visit. There are two sessions held per week, and six different women are serviced on a weekly basis. This has been in operation for over a year in one of the men's facilities. After that we worked out counseling components where departments provide counseling in the locality for the family, and then meet with the family once they are taking part in the program.

A second program which I would like to discuss is called The Women's Development Union. They have renovated one section of cell block area into a "living area." They have put in a living room, recreational room, a kitchen, and women take part in the program and try to act as a family group. There are counselors available; there is one counselor for individual counseling on a bi-weekly base; there is group counseling; and every other week there is group counseling with the men brought into the unit. The women prepare dinner. The women each have special responsibilities of their own to keep the house together. There is job training. The women are taught how to put a resume together; they perform mock interviews with one another, and there is a job developer who works in the community and prepares the women for eventual release.

As follow-up to these two programs, I would like to get into actual community-based programs for women who exist in the inner city. One is the Women's Prison Association. They run a clerical skills and aid program. It services approximately 50 women on a three-month cycle. The women receive stipends during their training session; they are counseled once a week; there

are community groups that come in and speak with the women. This program has been in operation for three and one-half years, and 85% of the participants received jobs within a two month period after the training program. The Women's Prison Association has a residential component for about 20 women. One of the important things that we take into consideration in the program planning, is that the length of stay at the residency is not to exceed a six-month period. We found that a lot of the programs in residential components would be holding the women's hands for a two-year period. This is a short term residency. The purpose is to begin working with the ex-offender in "readjusting to the community": assisting and finding housing; dealing with their families; and most important, helping them find a job.

Another program which is similar to the residential component is the Greenhouse residential facility. It has a capacity for 25 women; it provides counseling and job training. Approximately a year and a half ago, the state planning agency awarded \$300,000 to a group of women who had been working on developing a program for a three-year period. They had a dream of putting together a residential facility for ex-offender women and their children. Everything was fine; they received their money; they had a complete plan of what type of facility they wanted; what staff; selection of criteria for women in the program; the types of day-care center arrangements that were necessary for dealing with the children while the women were working. We ran into a bit of a problem. This group got together and never filed for non-profit status. They were just a group of people. When they applied for a non-profit status, they were told that they needed approval from the State Board of Social Welfare. They went to the State Board of Social Welfare, who told them that they needed a funding commitment, they must meet their requirements in terms of their facilities, and they must meet their requirements in terms of their staff. They had the guidelines for facility and staff for women, and the facility and staff guidelines for children, but they did not have the guidelines for facility and staff for both. We went to the Crime Control Planning Board of this state, which was in an uproar over this. A year had gone by, they awarded funds, and nothing happened. We went as far as the Attorney General's Office for legislation

on the mandate of the Board of Social Welfare. The Attorney General's Office ruled in our favor, and hopefully within the next two months the legislature will be changed.

In developing programs throughout New York State, it is a lot easier to generate facilities running in the city of New York. There are two facilities run by the Department of Correctional Services (halfway houses) in the city of New York to service women. In a recent article of the Construction Society about two weeks ago, there were interviews with the residents of these community-based halfway houses through the State Department of Correctional Services. They all said that it is "fine and dandy. The only problem is that if we don't get a job we have to go back to the facility." One of the greatest problems, that I see, is since there is only one facility for women in New York State, and it is pretty close to the metropolitan area of New York City, there seem to be a lot of volunteers and a lot of programs. Given that it is a sentence population, it is "easier to program." I don't mean that to be very encouraging. There is a short-term very very small population, and it seems that the woman in the local jail in New York State is comparatively overlooked.

In conclusion, I would just like to make one comment. I think that when you are looking at "rehabilitation" programs in New York, you must realize that you are servicing only about 25 people in a population of possibly 1,000. But if you see that even one person is a bit happier, it makes all the difference in the world. Thank you.

-----DISCUSSION-----

Question: What role does restitution play in rehabilitation?

Answer (not Adler): If it is something that can be restored in the community, I think restitution could play a part. Many of the victims that I talked to, as well as many of the criminals, don't feel that restitution would help that much. If you're talking in terms of dollars and cents, then it can play a part.

Comment: As a referral to that question, LEAA just phoned today to evaluate the rehabilitative function of restitution, which was a unique one for them. A group of criminal justice people are doing that in New York. They have ten sites where restitution is systematically included as part of the sentence, or at least considered as part of the sentence. So if you want to know answers about whether restitution rehabilitates, which is one level at which you can put the question, I would address you to them. In terms of whether restitution is good for the victim, arguments have been laid that if the offender had any money, he wouldn't have committed the crime in the first place. Those arguments have been pretty much laid to rest. We found in the LEAA restitution survey of victimizations that were reported, that many losses involved amounts under fifty dollars, so restitution came into favor, as far as LEAA is concerned, because of that. It looks as though it may be a practical thing to consider, in the interests of the victim.

Opinion: The process of restitution is going to need time to see if it will have any effects in terms of rehabilitation, but it represents a good "packaging device" for those who want to take a crack at rehabilitation. Restitution might make it possible for people who otherwise would go to the "joint" to go instead to some type of residential facility, where there would be work-release for restitution. It will give us the chance to see if rehabilitation is possible.

Douglas Denton: The Department of Corrections in Wisconsin also received some LEAA money to: 1) have some liaison work; 2) to come face-to-face with the victim.

DISCUSSANT

Doyle Smith
Albuquerque

Doyle Smith is in the employment business as Director of Public Service Employment for the state of New Mexico, in the New Mexico State Personnel Division. Mr. Smith is himself an ex-offender, and is in the business of helping ex-offenders to find employment.

One of the things that I want to preface my remarks with is something that you all know. My name is Doyle Smith. I am an ex-convict. I'm also a state agency director. I have been a husband; I have been a father; I have been an ex-husband; I have been an ex-father. I've been a bachelor. So if you want to know if I have been around, the answer is "Yeah, I've been there, and sometimes twice." What I would like to talk about this morning, very briefly, is that I feel that rehabilitation has not really been talked about yet, although there has been a lot of discussion here in the last few days, because rehabilitation is not programs, rehabilitation is not organizations, or institutions, or academic communities, or philosophies, or books. Rehabilitation is people. It's in their heads. You don't find it in prisons; you don't find it in programs; you don't find it in professionals; it's found inside human beings. That's the only place you're going to find rehabilitation. It can't exist anywhere else. What people who are interested in rehabilitation really need to do is to simply allow rehabilitation to take place in each person that they are dealing with. I'm very much against dealing with programs, or groups, or titles, or large aggregates. I very much enjoy talking to individual people, who will express some interest in what I have to say. After that, they can decide if any part of what I said is useful, means anything to them, or can effect their thinking, because they are going to wind up doing what they want to do anyway, right, wrong, or indifferent.

You just can't make a human do anything. You can force him to a certain extent to accept certain conditions, and so on. But those conditions are only going to be temporary, and they're only going to be there as long as there is pressure to make them happen. As soon as the pressure is gone, as soon as the prison is gone, then that individual is going to do what he thinks, whatever is inside him, and will probably continue to be a criminal. You can't wish, or force, or pray, or beat rehabilitation into any human being. It's either in there or it's not. It has to do with thought patterns.

When I went to prison, I was less than human. I was doing things, whatever I wanted, however I wanted, any time I wanted, irregardless of the consequences. I was completely of myself, and not of any individual or any other organization, or whatever. After I got into prison, I started listening a lot more than I talked, which anyone in prison will do if they're smart, because they need to figure out how they're going to survive in a situation which is that controversial. The prison is an entire system. It has an economic system, it has a social structure, it has religion, it has anti-religion - it's all in there. What you need to do is to reduce your thought pattern down to the size of that facility, and determine what you are going to do in the next three years, five years, ten years, fifty years. You think you're going to be old when you get out after you are sentenced, especially if they say fifty years. After you get there, you find out about things like parole, counseling, rehabilitation, and all these different kinds of programs. When you get in there you listen to guards, caseworkers, but most of all you listen to other inmates, because these are the guys that can tell you how to survive, how to get out, and so on. It's not caseworkers, counselors, or guards, officials, or administrators; it's other inmates that you listen to. Which ones you listen to depend on whether you ever get out or not, and stay out. If you listen to 95% of them, you are headed down the wrong road. If you listen to the three or four, or maybe five percent, that are coming from within themselves rather than from without, that are talking about things that are true values, that they really believe in, then you might get out. I was fortunate in talking to one of these individuals (he is back in prison now) who's been able to

keep other people out of prison, but he hasn't been able to keep himself out of prison. West Texas Swinging Killer is his name. He's a black man, about 38 years old, and he has been in prison most of his life. He has the ability to spot qualities in people, and when he sees someone who he believes is not a criminal, he will let them know that they are not a criminal, they can forget the facade, forget the tough guy role, and they better get their act together and get their ass out of prison, because they don't belong there. He lets you know that quite quickly.

You know one of the greatest resources in the professional world (or whatever we want to call ourselves) in the area of corrections is the convicts. We don't listen to them because, somehow or other, it's not really the "in" thing to do, not very acceptable. One of the reasons we don't listen to them is that you'll get 99 pounds of "bullshit," and one pound of truth. But that one pound of truth is worth a lot, if you can just get a hold of it and figure it out. And we have to be willing to do that, if we are ever going to make any kind of inroads into corrections. I'm not saying that the psychologists, and the career reform and correctional officers are not saying anything, but they are only valuable when they are employed in combination with the information from convicts. Most convicts that I have ever talked with have never been asked "Why are you in prison?" The quick answer is, "Well, I got caught." But that's not really the whole thing. I'm not a changed man. I'm still the same Doyle Smith who was doing all that stuff that was illegal, corrupt, and all that. I'm the same guy. The only difference is that I've changed my pattern. Those energies are still there. Those abilities are still there, but they're directed in an acceptable manner. Not only acceptable to society, but much more important, acceptable to me now, because I happen to possess some of the values that society does, which makes this all a lot more compatible than it used to be.

Programs and statistics are important; they are tools for professional people so that they can do some of the things that they need to do. But where change is going to take place is inside the heads and hearts of the people, and nothing else is going to make that happen. When you talk about a rehabilitation program, hopefully it is going to change the lives of the inmates. That is never going to happen. There is not going to be a program

that is going to reach large numbers of convicts, because the only thing that they have in common is a number. The only way to deal with rehabilitation in any facility (maximum security, minimum security, no security) is to deal with rehabilitation on a one-to-one basis with human beings. The truth still remains that you have to get it done within one person at a time, and if you can get one person to change out of that 1,444 (in New Mexico) that's a concrete step, something that you can put down in your statistics and reports. You mess around with groups; and you go through the process of everyday social things concerning rehab; you touch a lot of them; you touch a few of them; you have a lot of paperwork; and you never really know if something has been done. It happens when a group gets together and sees in this human being (not convict) the potential to be something different, and he is. We just want him to know that he has the capacity for change. You don't try to give the impression that you're going to do it for him, that you have the answers, and so on. I'm in the employment business, as Director of Public Service Employment for the state of New Mexico, and convicts come to me quite frequently looking for work. You're never going to get a person out of prison unless he has a meaningful job. It just won't happen. If he doesn't feel like he's making a contribution to society, he's not going to stay out of trouble. I'm not talking about just any job; I'm talking about something that he feels that he has made a contribution to - society. What is unfortunate is that nine out of ten people who come to me have nothing to offer. They come to me asking for something. The first thing that I tell them is that I can't help them until they've done something for themselves. Some come to me saying that they have completed some kind of coursework, but more important are the ones who come who feel that they have the problem out of their system, and who feel that they can do something important. I got my job because I felt that there was something that I could do; my interviewer was not too enthusiastic about hiring a convict, but he talked it over with his superiors. I came back three or four days later, and I had the job.

Rehabilitation is helping the individual to change his thinking. It's not programs, or things of that nature. It's just letting him know that the opportunity is there. Times change, but the change must be in the

thinking. If the change does not happen in thinking, you can bet that it's never going to happen at all. Thank you.

-----DISCUSSION-----

Question to Encino: Do you have provision in your facility for treating persons with alcohol problems? We have found that in Maryland, 66% of the inmates have problems with alcohol, and about 80% of the crimes committed in our city are alcohol related.

Encino: The answer can come from Judge Franchini, who can respond to the whole issue of drug and alcohol related business in Albuquerque.

Judge Franchini: We had a central screening device here in Albuquerque, which hopefully will take place in other cities, where we will handle that piece of rehabilitation that involves placement with some kind of drug or alcohol program. I think one of the good things about Albuquerque is that there is an increasing effort to be slicing up what piece they can do best, and getting out of the business of competing with each other. A plan is put together which involves alcohol treatment, job preparedness, mental health, and whatever.

Encino: There is in Albuquerque an alcohol treatment program that has eight facilities. It is not part of our program, but there is an interest in integrating and coordinating the services.

Comment: New Mexico is highly unique in that there is an effort, on both the state and local level, to look at the alcohol and drug using offender.

INTRODUCTION

Jo Ann Eastham

New Mexico State Corrections Commission

I'm Jo Ann Eastham, a member of the New Mexico State Corrections Commission. I have been involved in corrections for about twelve years. I don't have anything to present as far as programs. I am still very much in the learning process. My background has been working in Santa Fe and the New Mexico Penitentiary, and the juvenile facility at Santa Fe.

We are constantly throwing ideas around in corrections. From programs in corrections around the country, they seem to be getting more done than we are. I have seen from two standpoints, that of a student and from working in corrections, that we need to educate other people as well as ourselves about corrections in general, not just rehabilitation. Rehabilitation has been talked about forever and ever. We are trying to get more people qualified education-wise. That's just an opinion from my point of view,

The first person on our panel is going to be the Honorable Daniel Lyon. He is in his fourth term as a representative from Albuquerque. He is a graduate from the law school here in Albuquerque, and a former state probation-parole officer. He is presently on the National Council on Crime, and he is also on the National Commission on State Laws. That's where I know him from. He is a committee man on the Uniform Corrections Act, and also a member of the State Bar of Criminal Justice Systems. He has carried numerous legislation in the criminal justice area, is specifically the crime sponsor, and is in the act of creating a full-time special parole board. So at this point I would like to introduce Representative Dan Lyon, who will speak on legislation in rehabilitation.

56729

LEGISLATING REHABILITATION

The Honorable Daniel Lyon
New Mexico State Legislature

Thank you very much, Jo Ann. I am happy to be here today, and I am looking forward to the discussion period more than any other aspect of it. Jo Ann Eastham has done a fine job on our Corrections Commission. As you all know, she acts fortuitously: I want to apologize. Usually I speak extemporaneously, but I want to go on record with a policy position that I can use a little farther down the road. I am hoping that we do have some discussion, in areas like the Federal Parole Board in New Mexico, work-release programs in the union, whether you want policy in rehabilitation. Thank you again for inviting me to speak on the very serious and important subject of the legislative role in the rehabilitation of criminal offenders. I'm going to skip the political formalities at this point, and jump right into the subject matter. Because it is an important subject, and an important subject that should be considered by citizens and legislators alike, I have been concerned with the criminal justice system in New Mexico for a long while.

As a New Mexico Representative, I have worked to try to improve the system since 1970. In my seven years of service, I have noticed a change taking place. A few years ago, we used to leave our car doors unlocked. It's hard to believe how much we have changed since then. A recent survey shows that fifty percent of Americans who live in cities are afraid to walk in their neighborhood at night. And crime is up. Not just in big cities, but in suburbs and small towns as well. In 1975, the criminal rate across the nation increased almost ten percent. Personal safety has become our number one domestic problem. To help solve it, we need a hard look at our criminal justice system. I feel that one area of the criminal justice system that has been badly neglected is the area of criminal rehabilitation. People feel that rehabilitation does not work. I disagree. I feel that rehabilitation has not been given a fair chance, at least in New Mexico. We are involved: legislators, citizens, correctional officers and state

officials. We need more and better rehabilitation services. And those services take time, money, and expertise. Rehabilitation is not just educational services in penitentiaries; rehabilitation takes many forms. I'll get into them.

Rehabilitation can be a halfway house or a drug orientation facility, but what is imperative is that we take the time, energy, and money to create and run these very necessary services before we can solve the alarming increase in crime. In thinking about this topic, it became quite apparent to me that the traditional method of dealing with crime (incarceration for long periods of time), has been completely ineffective. The more people who are sent to prison, and prolonging the sentences, the more the crime rate increases. It is increasing more each year because of an inadequate criminal justice system. Alternatives to incarceration which are assumed to be effective and much less expensive than sending offenders to the penitentiary for long periods of time should be investigated, rather than throwing away more tax dollars on failing enterprises. Some of these alternatives are: more use of fines; expanding probation and parole programs; residential treatment programs in the community; increased use of diversion programs; and supervised release programs. The Governor's Council on Criminal Justice Training has recommended that state and local governments develop a time table to maintain a range of alternatives to institutionalization for 1978. Also, they recommended the least drastic sentence be used, and alternatives be imposed for non-dangerous offenders.

The increase in crime is directly related to the increase in unemployment. One-half of the property crimes are committed by youths under 25 years of age, who also have the highest unemployment rate. Employment programs specifically designed for this age bracket will greatly ease the situation. Meaningful jobs not only contribute to income, but give people a sense of worth and means to participate in society. Incarceration and lengthy prison sentences have proven to be expensive and unsuccessful methods of combatting crime. New Mexico should maximize the use of alternatives to incarceration, as these are far less expensive, at least equally effective, and usually more effective than long periods of incarceration. Prisons are costly to build and operate. Nationally, the operating costs run from

\$5,000 to \$15,000 per prisoner. Last session, the Corrections Department requested a forty percent increase in the operating cost for existing facilities. Prisons are ineffective in reducing crime, and in fact, they contribute to the problem by releasing more skillful, hostile, and dangerous offenders than they take in. The prison population is made up primarily of low income and minority persons, even though the types of crimes poor people usually commit do not have as great an economic impact on society as our so-called white collar crimes. Incarceration has many costs, such as welfare payments to prisoners' families and loss of taxes from potential employment. The idea that incarceration is beneficial to prisoners and to society, in my opinion, is a myth.

Long prison sentences are correlated to higher recidivism. Stiffer sentences that seem too severe for the crime cause serious faults. In finding an offender guilty or applying for lesser offense or lowering crime, minority defendants usually receive longer sentences. Disparate sentencing has negative effects on rehabilitation, and increases bitterness and hostility. Sentencing councils made up of judges, lawyers, and people in the community to create criteria for sentencing results in less disparate punishment.

What are the alternatives to incarceration? They include: 1) Restitution to victims. Offenders who have committed non-violent crimes could be required to pay restitution to the victim and the court for expenses occurred in arrest and trial rather than incarceration. This would probably be more beneficial to all involved. 2) We could lower the prison population by the use of fines. People of low income with installment payment of fines has proven successful. Delaware is no longer jailing persons for non-payment of fines, and interestingly enough, this policy has increased the amount of money collected. 3) Expanded use of citations and summons instead of pre-trial detention. People in jail for pre-trial detention are legally innocent. The vast majority are contained because they are poor, and cannot afford bail. So what we have been shown is that if a person has ties in the community, he can be released on his own recognizance or at ten percent payment of those fines, and will show up for trial at the same rate as those who can be bonded out. In Baltimore, the Pre-Trial Release

Division of the Baltimore Supreme Bench has a very lenient pre-trial release program, and is as successful as the city jail in having people show up for trial.

4) Greater reliance on diversion projects. Diversion projects are used to minimize a person's contact with the criminal justice system, and to provide needed sentences to prevent future encounters with the law. Ordinarily, if a person successfully completes the program, the charges will be dismissed. In two popular versions of the program, there are pre-prosecution probation, and court employment projects. In Albuquerque, it is just returning to us, our second judicial district has a successful pre-prosecution probation program, sponsored by the district attorney's office. Members of the staff feel that this program has saved the county and the state a lot of money, not to mention preventing first time felons from becoming professional criminals through the training they would get in jail. Before going to court, offenders make applications in which they must admit to the crime of which they are accused. If they are chosen and successfully complete the probation period, the charges are dropped. All of this is done without the publicity of a trial, participants are allowed to keep their jobs, and maintain family relations. They remain taxpayers, rather than becoming burdens on society. In Bernalillo County, the program has considered 992 applicants, selected 309; they have had ten failures in a three-year period. The program could be made less restrictive, and should be expanded. There is a similar program operating in Las Cruces, which has been successful in its first year.

5) We could expand probation. Probation costs are about one tenth of those of incarceration. Probation is at least as effective, and often has a success rate of 94%. Probation has proved to be more successful than incarceration in reducing recidivism, rehabilitating offenders, and costs much less. 6) Expand parole. Most people concerned with corrections, lay and professional alike, agree that only 15% to 30% of those who are presently in prison need to be there to protect society. The rest could be released with no appreciable increase in crime and no threat to public society. The 15% to 30% represent violent offenders, or professional or habitual criminals. The cost of parole is about one sixth of incarceration.

In New Mexico, the success rate for parolees of 1974 to 1975 was 84.8%. In 1975, Vermont closed its penitentiary in favor of community corrections. Only forty prisoners were identified as persons actually needing incarceration of the entire state prison population, and these were transferred to a federal penitentiary. All the other prisoners were paroled and transferred to community programs. This has not increased crime in Vermont, but the cost of the correctional system has decreased. Many prisoners in the New Mexico penitentiary could be paroled or transferred to community corrections programs, which would facilitate their adjustment to society, relieve the overcrowded conditions of the penitentiary, and cost the taxpayers less, without causing additional problems to the community.

7) Increase halfway houses to the correctional standards. Ultimately, prisons are ineffective tools in rehabilitation, and must be largely replaced by smaller, community-based programs with a non-dangerous majority of offenders. United States Chamber of Commerce advocates community corrections as a means to facilitate the reintegration of the offender into the community. It is cheaper, and more effective. Essential adjustment to the community is a very important aspect of corrections, and virtually all offenders will return to society. Isolated, custodial prisons cannot adequately provide this service.

8) Expand work-release programs. Work-release programs allow prisoners to have jobs and still be strictly supervised. They are allowed to work during certain hours, and return to jail when they are not working. At the very least, a job increases one's participation in society, even if one must remain isolated most of the time. 9) Effective police training in crisis intervention. Police spend 80% of their time responding to interpersonal disturbances. Effective police training in crisis intervention can reduce repeated altercations between the same party, and therefore can release police for more serious problems. These types of calls cause 27% of all assaults on officers, and 13% of killings of officers. 10) We can develop informal forums. Forums are a way community judges can be effective in resolving differences between community parties, without resorting to the formal criminal justice system. This has been particularly useful for juvenile problems.

11) We could remove the victimless and consensual crimes from statutes. Many of the persons in jail are there for consensual or victimless crimes such as prostitution, homosexuality, and possession of narcotics. Imprisonment is not helpful at all to correct these social problems. It is more costly than providing counseling, employment, or drug therapy programs designed to help their problems. Drug addiction, for example, has been blamed for up to half of all property crimes. However, its contribution to violent crimes is negligible. It would make more sense to attack the primary problem, drug addiction, rather than the resulting behavior, possession of narcotics. In setting up a rehabilitation program, there has been some confusion lately among correctional people as to what correctional model to use. There are three standard correctional models:

- 1) The psychological model, which explains criminal activity as a consequence of mental illness.
- 2) The economic model, which points to a lack of adequate employment.
- 3) The sociological model, which believes that a person is turning toward crime because of some sociological pressures.

The model is probably a combination of all three; however, when a viable program is considered, often there is a conflict of views regarding the specific model to use.

As I stated earlier, rehabilitation does not seem to work because it has not been truly tried. There is model confusion. The programs are limited, and most importantly, there is little or no funding. That is where the legislature comes in. Until our elected legislature sees fit to experiment and fund innovative rehabilitation programs, they will continue to be made practically non-existent. The federal government through LEAA funding has provided some money for programs. But often LEAA funding is only for one year. After that, the state is expected to continue funding. Also, LEAA funded programs tend to receive funding only if they are new and innovative. Older programs, which may be extremely effective, die out. The Legislature, by its very makeup, is designed to reflect the attitudes of the community, and a community is often ambivalent towards corrections. People like to see crime stopped. Everyone likes to see crime stopped, but at the same time are not particularly concerned or enthused about having a

penitentiary in their own neighborhood. People would like to see criminals rehabilitated. But they would also like to see their community free of crime. The Legislature must find a means to provide incentive for funding if rehabilitative programs are going to work. I, for one, will continue to work towards that goal.

Thank you.

OBJECTIVES OF GOVERNMENT
IN CRIMINAL JUSTICE PLANNING

John Ramming
Governor's Council on Criminal Justice

John Ramming, the Speaker of the Governor's Council on Criminal Justice, is presently the Director of the Standards and Goals Planning of the New Mexico Governor's Council on Criminal Justice.

Let me give you a little bit of my background, to tell you where I'm coming from. I'm in business, and I think criminal justice is a big business. I served on a fifteen or twenty member board in corporations in up-state New Mexico in which three were publicly held lists in the New York Stock Exchange. I graduated from the University of New Mexico Law School, and received my bachelor's degree here. I came upon education. I'm speaking of educated people. I started a program with the New Mexico Law School Foundation, and Board of the New Mexico Welfare Institute. Criminal justice involves politics in government and state process. My background there is that I served as a coordinator in the successful race for a present United States Senator. I served on numerous boards of commission of the committee of builders. I served as a person of liaison for the last session of the governor. I served as one of three members of the Governor's team after the past session.

I've got county assistants, because you've got to have them. I have a background as a commissioned officer to be proud of. I messed up. Even though I made restitution 100%, I did, as I was expected to, a sentence in the penitentiary for two years. I spent five and a half months in a military position as part of my sentence for the offense working with juveniles. That is my background, not a background I'm proud of, but at

but at least you know where I'm coming from.

I don't by any means claim to be an expert in criminal justice. I have a background in business and law. I was, however, extremely intrigued by the idea of what the role of government should be in criminal justice planning. What I want to do first is to wander through a couple of things that we have done in New Mexico, which I think illustrate what this role is. First I want to show you what I think are common frustrations of the planning process in criminal justice. In the last few days, we have come up with marvelous ideas having to do with rehabilitation, with corrections, law enforcement, juvenile justice, the courts, every component of the criminal justice system. The biggest thing that frustrates planning in a federal correctional institution is the lack of a philosophy. What in the world are we going to do, where are we going, and how are we going to get there? The second thing I find (again this is frustrating) is a question of courts, law enforcement officers, probation officers, and every aspect of the legislative end. We do not have an adequate philosophical basis from which to work. Everyone is doing a different thing at every single level. The third thing comes from a too narrow definition of rehabilitation.

We need to broaden our definition of rehabilitation to encompass alternatives to incarceration. We need more citizen input into these problems. In New Mexico, we have heard from some excellent programs such as the Wilderness Experience, other diversion programs, and halfway houses. We have touched on alternatives to incarceration such as restitution.

The government needs to know what the system is like on the inside. (I know what it is like on the inside). We all need to change our thinking. We all need to know what's happening. That is one of the main objectives in the government in criminal justice planning. We can't get anywhere until we change some attitudes. Change is what it's all about. And change cannot occur in the system until people change their attitudes. And that's where I'm coming from.

Thank you.

DISCUSSANT

Richard Martinez
Chief U.S. Probation Officer
New Mexico

Thank you very much, Jo Ann. I understood I was the discussion leader, rather than a speaker, so I am not prepared to address you in regard to anything that has to do with rehabilitation. I am prepared, however, to try to tie together what the two speakers have said, and what I think is important in what they said. By doing so, possibly I can stimulate some constructive discussion, because I fully agree with what John Ramming said earlier about the input from the citizenry. My impression from Professor Denton today was to have as much input from those of you participating here as we could. That has been a challenge throughout my career in civil service, and particularly in the probation service. We have charted a course for ourselves which we thought was the correct course; we have gone to many meetings; we have been educated to a certain degree. We have a certain amount of security when we no longer hear about crime and corrections. We are finding that what we do know is what we are trying to apply in public works in the interest of all concerned. I was pleased to see a lot of familiar faces in the room. I have been at this position seventeen years, and at one point, as Professor Lyon indicated, I was with the state as a probation parole officer, and then fifteen years ago I went to work for the federal government. In those years, I met a lot of nice people, and I have seen a lot of careers begin and end, and I am sort of in the middle of mine. I want to think a little about the careers of those people we are trying to rehabilitate. I know you have heard this before, but isn't it a fact that some of you know criminals who have been criminals ever since they were young? They haven't changed, not withstanding all the efforts of all concerned: probation officers, courts, FBI agents, whatever. Art

Burns (retired FBI) visited shortly before this meeting a man in which we have a common interest. He asked me about him, and we go back many years. He would have been here today, and he might still show up. He is very much in as a career criminal; he wants to change, is going to change, and wants to enjoy the luxury of living at home. We don't know how long it is going to last. He is one of the honest guys who says, "It is not me who committed the crime, it is society. We should change the law. Legislation should be changed, so that a lot of us don't fall victim to this kind of thing. All I want to do is be happy," he said, "and the things that I do (pot) happen to be illegal at this time. Look around you. Look at all the people who are smoking." And of course he made a good case in point by addressing himself to an article in the newspaper, that reported someone from the staff of the District Attorney's Office was picked up with a certain amount of pot. He made another good point with a news article about a young fellow who was picked up and had a stay in a Mexican jail; a hero was made of the fellow when he escaped from the jail.

I think a lot of that touches upon what rehabilitation can and won't do. I have looked at fellows I was supposed to rehabilitate; I have received satisfaction by helping them to stay out of prison, and I took great pride in the fact that maybe I had something to do with it. Many of them very honestly told me I didn't. I've seen many of them come and go. But whatever the case, I agree that rehabilitation has not been given a fair chance in the community. And I would like to bring that up for a point in discussion. In this room, I know that there are experts in the employment field, for example, and we all know that a guy who has been in a prison situation is told to behave himself, learn the ropes, stay out of trouble, learn the computer programming business, and when you come out we will help you get a job in the computer programming program. Now what happens when the guy comes back into the society which he left? He is changed, and he experiences the changes which have happened while he was gone. It might be that (the computer business being what it is) he might have to have a license to operate a computer, and the licensing board might not license a fellow who has a felony conviction. So I thought that might be a good point which we might discuss.

We need legislation which would change the problems of a man coming out of prison, and going back and facing the discriminatory laws and discriminatory rules which exist. Anybody have any comments on that?

-----DISCUSSION-----

Comment: The fellow was talking about the program within the penitentiary to become a barber, and then who couldn't get a license to be a barber. The point which I am making is that the legislature should work toward changing many of the old archaic laws, particularly in respect to the licensing of ex-offenders.

Comment: There are several ex-felons in the state of New Mexico who do have responsible positions. But there is discrimination, also, in the context of the application, because when they ask for your past history, and you have a gap of two or three years, what do you do? Do you lie or tell the truth? Right there is a discriminatory remark. You could put that you were at Santa Fe College.

Comment: I don't think that there is a section which prevents an ex-offender from working within the Department of Corrections, but there is a policy in this state and in many other states that an ex-offender cannot work within the institution. He can work within a central office, in a clerical type position or so on, but he can't work within the walls of the institution.

Comment: We need to have better access to the right to work.

Comment: We are interested in helping the ex-offender, male or female, to prepare themselves to come out and hit the street: how to prepare for an interview; appearance; attitude, some of these main basic things that you and I know. We cannot get into the prisons because of this situation. If we get used to preparing the ex-offender for coming out, if we feel that the citizen does not really want to know what goes on behind bars, that is an entity all to itself.

Comment: In discussing the role of the government, I think that role goes beyond that of the warden. The role of the government should be to respond to the needs that we are addressing right now. People need to see what

happens behind bars, and we need to start putting pressure on the government to open up those doors.

Comment: Someone mentioned the difficulty of an ex-con or ex-drug addict getting a driver's license. We have a partial solution here in New Mexico, for after the last session we passed a reorganization tax. We have a governor and a cabinet system which goes into the federal system, so at least there will be dialogue between the different departments. You're going to have the director of the criminal justice department and director of the Department of Transportation as cabinet members so they can bring these problems up. Most of the issues that have been presented just now have been in the areas of administrative regulations.

Comment: I am serving on the Governor's Council for Criminal Justice on the Standards and Goals project. The entire group was scheduled to go to a penal institution for one day (you know, the red carpet treatment you get when you go on things like that). The previous warden saw me and said, "Hey, wait a minute, this guy is not going to go into the institution." I had already received a pardon, which I had worked very hard for, and found that the pardon does not apply to wardens, because he absolutely refused. I told the others exactly what it was like. I didn't need to find out what it was like, because I know exactly what it is like in a prison. It was the principle of the thing. It was not that he refused to let me go through, it was the thinking on the thing, the thinking that motivates that kind of decision and which is present in the institution all the time. And if that thinking applies to me, just think how many other things it applies to.

Comment: An inmate cannot get out on parole unless he supposedly has a job lined up. We have a problem with bogus job offer letters coming in. We cannot always screen all of these job offers.

Comment (Jo Ann): I have the reputation of keeping myself in hot water, but with the relationship between government and a state agency such as Corrections, I think that Corrections has a responsibility to be open and honest in their reporting about what happens in that prison. I have seen many, many corrections reports written in glowing terms about good things that they did this year. Corrections is going to remain at the tail end

of the criminal justice system until they open up and let the public know what is happening within the prison. I firmly agree.

INTRODUCTION

Moses Sanchez

I'm Moses Sanchez, from God's Country, the Land of Sunshine, Albuquerque, New Mexico. I'm in the ex-offenders program with the National Alliance of Businessmen here in New Mexico. The man who is our next speaker is a man who has dedicated himself and has made tremendous strides in the ex-offender program on a nationwide scale. This man is an attorney, has many wonderful accolades behind him, but the greatest feat that I can attribute to him is what he has accomplished in the ex-offender program. He is the Vice-President of the National Alliance of Businessmen. His domicile is in Washington, D.C. Most of the time he is skipping all over the country. He will go anywhere anytime and do anything that is necessary to propagate the ex-offender's program. It gives me great pleasure to introduce to you our National Director for the Ex-Offender Program, John Armore.

REHABILITATION AND THE PRIVATE SECTOR

John Armore

National Alliance of Businessmen

What I am going to say concerns the ex-offender. First and foremost, we allegedly are talking about rehabilitation, and partial rehabilitation is what happens to an individual when he is released from the criminal justice system and put back into a community (reintegration of the individuals who have been caught up in our criminal justice system). I think we have good reason to be concerned that we are in an area of crisis, in that our prison systems are running to an all-time high, as are the number of inmates. I think at our last count, the population is some 275,000 in our prisons across this country, and 150,000 in our county jails, another 350,000 in our juvenile justice system, another million and a half on parole, and where do we go from there? We are really kidding ourselves. We are talking about a system that doesn't work. We are talking about a prison system which has a two hundred year history of total failure. And we are trying to restructure that system by restructuring some of our basic components. Basically, corrections espouses two conflicting and contrary objectives: punishing, with the second component being rehabilitation. My question is, why is it that society inflicts punishment for the offender by simultaneously pretending to provide the services which are necessary to help him grow and release his potential for constructive self-actualization?

Correctional agencies, in my view, perpetuate a rehabilitative myth as a means of organizational survival. At the same time, they are fully aware of the gross deficiencies of society that people attest. Hence, there is a kind of a conspiracy that occurs involving the correctional agency, workers, and the correctional client; with the effect that the client becomes alienated, the worker becomes a kind of a prostitute. That is basically what it is all about in corrections. I haven't seen any symptoms of change in the last six and a half years. I think corrections has made long strides in changing nomenclature. We stopped referring to the individuals within

the system as convicts; we have moved toward referring to them as inmates, and we are taking another giant step when we refer to them as clients. But the fact remains that the system as it exists hasn't changed very much. And I really wonder whether that system exists for the survival of the people who were employed in corrections, or whether or not it exists primarily to serve the needs of the individuals who are our clients. We are concerned because it is costing the taxpayers between 5 and 21 thousand dollars a year to keep one person in one prison cell for a full year.

The business community is becoming involved in what is happening in corrections. We are taking a hard, cold look at it. We are auditing. We have a corporate task force which took a look at the correctional system of a state that is costing the taxpayers 95 hundred dollars a year. And the business community, by a responsible challenge from the governor, said we can do it for 65 hundred dollars a year. We will provide "x" number of jobs for the clients coming out of the criminal justice system to show our good faith. It was too difficult for the criminal justice system to accept and for the legislature to accept, and it has been deferred for a period of time, but the business community is continuing to prod corrections in that state. I think that is what is going to have to take place all across the country. Corrections is illegitimate. It is an illegitimate system. It is an illegitimate system run by people who don't give a damn about the system that they are serving. And you may think that I am talking about the system from an outsider's vantage point. I'm speaking as a former prosecuting attorney who took a great deal of relish and delight in sending two human beings to the institution. I am talking from a business point of view, from an insurance company's executive position. And I am talking from an ex-offender's point of view, who spent three and a half years in the California system which propagated itself as being progressive, and they ground out the propaganda saying what a system they had. They were first in the country in the area of rehabilitation.

The system doesn't do anything to rehabilitate a human being. If anything takes place in the system, it is because something takes place in the head of the individual. You've heard that. The individual reaches a point in his life where he says, "Hey, no more criminal activity. I want

some self-respect now. I've enjoyed it at one-tenth the cost of my new cage, and putting a human being in a cage is like putting a dog there." But this whole business of corrections, this whole concept called corrections bothers me. And I see the great planning, and the great courses, and I hear people talking about, "Hey, I'm going to get a Ph.D. in Corrections, or Criminal Justice." And do you know what it means? If you get a Bachelor's degree, you learn to turn the key to the right, and if you get a Master's degree, you learn how to turn the key to the left. And that is what it is all about, despite the high sound and high-faluting words. Nothing happens in the system, because the system does not give a damn about the individuals within the system that they are supposed to be serving. We're supposed to protect the community. Do we protect the community? We build a wall around an institution, and we put up gun towers. And we treat human beings as animals, and we talk down to those human beings. And that's part of rehabilitation? Nonsense. If we are going to proceed with any kind of rehabilitation, it is going to take business involvement, and nowhere do I hear this coming to pass on a voluntary basis. Government, corrections per se, view the system as its own private domain, and that wall of prison is there to keep the offender in, and also to keep the community out. And that bothers me. What we're saying about corrections all across the country today is, "Hey, we're asking you to become accountable. We are asking you to become most effective in what you are doing, or we're going to be looking over your shoulder." And whether or not there are going to be realistic vocational training programs within that institution that are going to meet the needs of the business community, and meet the needs of the inmate, or whether or not we should consider abandoning those prospects, and consider whether any vocational or academic training is of value in the re-entry process; this is what we're asking.

We help out the business community by becoming involved in the great mystique in corrections called prison industries. It is the exploitation of human beings in involuntary servitude, and that's what it is all about. The prison industry, under the guise of training, they say, under the guise of rehabilitation, they say, manufacturing license plates and other devices, brooms, mops, furniture. We refer to them as rehabilitation, and we kid

ourselves. I think we have a problem. Everyone of us in this room has a problem, a problem of recognizing who we are and what we are all about, and what we are trying to do. And let's move in with getting the job done, rather than just talking about it and studying the problem.

I have problems in reference to the Law Enforcement Assistance Administration. They spent six million dollars for a reduction of crime in this country. I think they spent some 65 thousand dollars in finding out why an inmate would want to escape from an institution. And we knew the answer before we started, but we "bummed" it. Is there ever going to be a movement arise in corrections, or are we going to just keep moving amongst ourselves, and telling ourselves how good we are, with what we are doing, and where we want to go, and what we will do when we get there? Human beings who really need our assistance, who are crying out for our assistance, we never seem to get to. We have a system of rehabilitation that really doesn't work, and we have a system of reintegration which really does not exist. We create in various funding agencies programs in competition with one another, that are funded inadequately, and really don't do a very effective job. Shouldn't there be in every community one organization, one in contract with the Department of Corrections that would take care of the responsibility of reintegrating offenders back into the community? That is called the corrections system. But we don't get to talk about that. We rely upon federal grants, and we're going to become such good grantsmen that we keep looking for ways and means of bleeding the system for our own particular ends and to hell with the inmate. And man, that's a crime.

You know (I guess I'm just as guilty as anyone else), who amongst us can say, "We're doing an effective job at what we're about." And if we're not doing an effective job, let's get the hell out and make room for someone else. But the time has got to come when we're going to legitimize this system, and we've got the tools to do it, if we unite. But what happens is that we're all fragmented, and going our separate, distinct ways, and we're all concerned with our vested interests in protecting our barriers. And if we cannot find an offender a job, we will send him in another bureaucratic shuffle down the street, and they take care of that. And in terms of housing, you have to go over here and concern yourself with housing. And

when it comes to food stamps or other assistance, you have to see this agency over here, and they will be able to take care of you. Then they wonder how an ex-offender survives when he gets out (the warden says with \$100) when we spend \$6,000 dollars to keep him in the institution. The odds are stacked against the individual making it, and I maintain that the system wants it that way. It's the injustice of justice, and I've come to the conclusion that justice is really two words: just ice. And that's really a rude awakening for me. We don't want it to work. We want to run the same people through that system year after year after year, and we're going to wash our hands of it and say "Man, we're trying to do a good job, but we can't change that system. We can't change the attitudes of the warden, and who do we select as wardens, and who do we select as Director of Corrections?" We play musical chairs around the country. It's the same people who are being shifted around through the same system.

The business community is saying to corrections, "Get with it, legitimize your system, because you're ripping the system off in the same degree as those human beings who live in the system have ripped the enemy off." That's what it is really all about. Who's ripping off whom? We keep talking about the human beings within the system, when we should be talking about ourselves. We keep talking about the caliber of the individual, the type of crimes within the system, and those that don't really want to change, when we should be looking at ourselves. Do we want to change? Are we willing to climb over the wall of apathy and indifference and hostility that we have within us? And I think that is what it is all about. Jessica Medford said, "There are fortunes to be made and professional prestige to be gained on the correctional trail." Architects, researchers, professionals, all have their hands out. And they spend six billion dollars to reform our criminal justice system. What has happened to it? It is gone. And we still have our hands out. Let's research something else in the area of corrections, or of criminal justice. Get me a federal grant. We've got the answers. We've had the answers for the past hundred years since the War Between the States, and they haven't been tried. There is one thing that is new in corrections. The difficulty we have is recognizing the fact that we are illegitimate, that we are the cause of the problem.

You know it is a little uncomfortable for me to stand up before a group of professionals, and be saying this to you. But man, it's what I feel. David Watlingberg of the Fortune Society sees the charlatans, and the rip-offs, and the corrections people who redefine their own jobs in order to get a lot of money from the system. And they work with programs guaranteed not to work. And they continue to do it. They continue to do it year after year after year, and who the hell are we hurting? We are holing up innocent human beings in our criminal justice system, the drop-outs, the minorities. I was in New Jersey two weeks ago, and they introduced their new master plan on corrections. Their new master plan consisted of a text about the size of the document which was distributed today, and it discussed where, how, and when to build new prisons around the state at a cost of expense to the taxpayer of \$126,000,000. Nowhere does it say in that report anything in reference to programming within the system, rehabilitationally or academically. No businessmen were involved in the process of planning but a group of "eggheads," Ph.D's and people with Master's degrees in corrections. We're in the process under a federal grant. After I read over the report, I found one particular section which really blew my mind, because it said, "Our study shows that although we only have a 12% minority population in the state of New Jersey, the prison population of the state is 65%, and we are going to have to study why. So we're going to have to have another study." And man, we keep studying, and we keep studying, and we keep studying, and we never get involved in any new problems.

I guess what I am trying to say to you is that I indict not only myself, but I indict every one of you for being part of that process. It is a process that really doesn't understand what the criminal justice system should be all about; a system that is a tri-partite system with each one of the units not relating to the other. The police don't talk to the courts, and the courts don't talk to the police, and the police don't talk to corrections, and everyone is going their separate and their distinct ways. And we talked about "New Directions for Corrections." We need concepts for future criminal justice planning. My advice is to tear the whole damn thing down and start over again. But that's not feasible. We've got to work with what we've got, within the context of what we've got. We're not going to change the system.

We're not going to change the system because the system is resistant to change. Let me give you an example: Women's Penitentiary in Richmond, Virginia. We went down there one day and I was with a representative from Honeywell Corporation. We went into the system and the superintendent said, "Wouldn't it be nice if we had a computer programming course for our female offenders, but we're short of money. Do you think you can help us?" The Honeywell people contacted their home office, and not only did they get the necessary computers and whatever for the program, but they donated the computers at no cost to the system, and they were ready to provide an instructor for the program at no cost to the system. We went back to the superintendent of the system with that proposal, and he said, "We've been going over some of the figures, and we really cannot afford your offer, because we don't have the necessary correctional staff to supervise that program." My curiosity got the better of me, and we started digging into their budget. They had 255 inmates at that institution at that time, and they had 265 employees at that institution at that time (of course they were all related to one another). It's all part of the system. They don't really want to change. They don't really want to do anything. How do you break down those barriers? How do you break down those walls? One suggestion I have is to get businessmen involved in corrections. I think we have to found a new era of corrections, and get rid of correctional experts. God help us with experts. Let's start putting some good, sound management into prisons. I don't think there is any secret to good management of an institution.

I spent a little time in an institution called San ... San ... (knock on table) San Quentin for awhile. There's a problem in reference to that. What do you do? The inmates run the institution and the hacks all sit on their duffs all day telling everybody what to do, and when to do it, and how to do it, and not why to do it. That's corrections. And that's the correctional instructor, the vocational instructor, sitting on their duffs with the inmates, teaching courses, not only in the California federal system, but in systems all across the country. Is that rehabilitation? What are we going to do in corrections in legitimatizing the system? The system has to be held accountable. The system will change only when we exert enough pressure on the system. That's where the National Alliance of Businessmen

is coming in. What we are doing across the country is getting businessmen to visit penal institutions, get involved in what is going on behind the walls of the institution, take a look at the system, and see what a really live, honest-to-goodness inmate looks like. We have to recognize that he does have hands, and he does not look like Humphrey Bogart, or Jimmy Brown, but that he looks and acts like everyone else, specifically you and me.

Once we can get that process across, then we can get businessmen to take a look at what type of programming is on-going within the system, and whether or not it specifically meets the needs of the inmates. We had a laundry vocational training program in the laundry of San Quentin. We did the laundry for the free people at two or three cents a pound. We had a job training, vocational training program within the institution, and we provided dry cleaning for custodial people and members of their family at five or ten cents a garment. We had a television repair training program, and we repaired the television sets of the correctional people, at cost. Who the hell are we kidding? I have seen prisons and institutions all across the country, and I have had the good fortune of visiting most of them. I have not seen many legitimate ones. The closest I have come to it is the federal system, where at least they are making a bonafide attempt to provide some realistic vocational and academic programming behind the walls of the prison. But I am ashamed that I as a human being, am not more responsible for my brothers and sisters behind the walls of those institutions, because they are behind there and they cannot get out, and they are doing a life sentence on the installment plan because we are not going to let them survive and reintegrate back into our communities.

Why is it that we have problems in reintegrating? We do not mind spending ten, fifteen, twenty thousand dollars on the system, but when they come back into the community, we require that they have a bonafide job offer prior to release, and how do you get one? I started writing letters to everyone I knew, but they said, "Hey, we're not interested. Sorry." Who is going to hire you sight unseen? Can any of you sell yourselves sight unseen to an employer? Try it. You push that inmate into "shucking and jiving" and playing games, and you set him the stage for his return back into the system because you really don't give a damn. And if it

wasn't for change in that facet of the system, everything is going to fall beside the wayside. That is part of rehabilitation, letting people in the institution know that there is someone out there in the community. And how are we going to sell them to the business community when the police do not want halfway houses in their community, and the citizens do not want them in their community? They want community-based corrections, but not there. We need a massive effort of education. We need a massive effort of education of all components of the system. There should be police officers here, police department personnel here, judges here, to tune them into the nature and extent of the problem, and they are part of the solution. Because if they are not part of the solution, they they're part of the problem, and where's the community?

I could talk on and on. I get somewhat carried away because it is my responsibility to help change the system. But man, we had better become legitimate first. Thank you very much,

ARTIS DARDEN
Galveston

I lost my name tag last night in the wind. As you can see, I'm black, the only black person here. I don't really know how and where to begin, and I'm not apologizing for my being here. If anything, I will talk about what I know probably the best to start my fifteen minute session. I will begin by saying that I don't view the system as a corrective system. I have come, in my own personal life, to realize that as far as society's concerned, there is nothing wrong, and I can't do anything about that. I'm an ex-convict. I've served with about 27,000 convicts in the Texas Department of Corrections who, according to the statistics of the experts, out of 100 of them who were bombed out, who got busted, and just weren't noted until they got to prison. So this was the problem that they had that should have been dealt with, but wasn't. I'm concerned about that. I'm also concerned about those in the society who have set out on a mission to help the ex-offender.

There is one thing that I would like to encourage everyone to help the community to become aware of: don't con us into believing that we're not responsible. The person who goes to prison is responsible for his being there. I don't think this means the Watergate people. The other thing we're doing wrong is to try and make a person sit down, make a plan, commit a crime, get busted, and go to prison. The thing that I am mainly concerned with in the prison system is making the convict aware that he does not need a damn thing but something positive to think about. You'd be surprised at the few things that people doing time have to think about. Looking over the things we have been taught this week, I have thought, "What do we need in a prison?"

I have heard a lot of talk about prison reforms. We need to take the guards out of uniform, and we need to have better living conditions, and we need to have this, and we need to have that. But the primary thing that we need is someone to help him (the inmate) to change his attitude. I am a sixth-grade dropout, and you probably noticed that I don't sound

like the other speakers at this conference, but I take great pride in the fact that with my sixth grade education (I lived in a ghetto, was poor, and no one cared anything), where I am coming from is now a 2.5 million dollar city.

What is a crime? First of all, it is a fault, nothing more or less than a fault by an individual. (I have an idea, I don't want to work for it, I can take it). I was operating with thieves. That's still a part of me. But what I'm leading up to here is that these things occur in my mind. But the crime problem is a thought problem. And a lot of this problem is intensified by a lot of people who, in the name of prison reform, and in the name of helping the inmates, are really having ideas about getting jobs, having a job when you get out. No one got me a job; a job is in your mind. There are a lot of people here with jobs. A job is in your head. If you want to work, there are jobs. We create jobs. You're poor because you think poor. I blame a lot of the crime problem on the churches. I'm a Christian; I love God; I have God within me, that's why I'm standing at this podium. But we are where we are because of what we think. Whenever a person comes to realize that whatever in this world that you would like to have is a matter of making a plan, just like my plan when I was in prison, lying on my bunk, that I wanted to change. How would I change, how would I get this redneck warden to change the problems that all the black convicts had? As smooth as this table. Everybody from my unit that was black were "niggers", and white people were "white boys." How could I change this? This was done first by my changing myself. I voided the rules by not violating them. Don't break the rules, and there's no law against that. We brought the guys around to the idea that we can beat the system by not violating their rules, and for the first time in the history of the Texas prison system, we had gone thirty days without a single punishment. We cut the cost of the prison farm from \$1,057 a month to \$548. We did something to make them take notice of. Now that was a group that believed in the idea of "Burn, baby, burn" and "Let's tear it down, it's not going to work." But I do know from my own personal experience that there is one sure way for the person to make a change in the prison system, and that is to teach the inmate that you are a human being, that the same thing that burns Jimmy Carter is burning you.

The reason that I went to crime is that I dropped out of school in the sixth grade. I saw I wasn't going to be able to make it on my \$34 a week job, and little by little, I entertained the idea that because I didn't have proper schooling that the white people were all wrong, that they were against me, and that they deserved having their stuff stolen from them. And I got caught. And I didn't know at the time that the same "genius" in me that enabled me to think and plan on how best to get into the school building and get these dirty typewriters and get out would help me to make any other plans. The National Alliance of Businessmen was not around at that time to give me ideas on planning, alternatives, goal-setting, and how to move from A to B. So as I see it today, I see nothing wrong with the prisons. It is the attitudes of people in the prisons that we need to concentrate on. I think when you make the public aware that it is not the system, but it is the thinking and the planning, then you will be able to reevaluate and do something.

Okay, one thought (I'm talking about the millions of billions LEAA has spent). What do you think would happen (I'm talking about changing the thought patterns of the criminal) if the governor of New Mexico would say, "Okay, I'm going to give ten thousand dollars and a full pardon to the first convict who comes out with a crime prevention, a prison reform, plan, that would be accepted by the legislature of New Mexico." We are talking about changing the thinking. This is what the whole ball game is all about.

I wanted to mention the "get tough" policy. Another big problem with the "street criminal" is when we find people in high places who commit crimes with two years of suspended sentences who are probated and switched off a \$24,000 a year job to a \$42,500 job. It makes me mad and makes me want to go out and break windows. So when we say "get tough" I think about what the Lord said, "He who knoweth and doeth not shall be beaten." But we work it the opposite way. A guy is illiterate, like Artis Darden who dropped out of school in the sixth grade, who stole \$40 and was sentenced to the penitentiary for life, and another man rips off millions and millions of dollars of the taxpayers' money, and gets two years in the penitentiary. That made me bitter. Now these guys with Master's degrees in Sociology or

Psychology or whatever should take these things into consideration; this is a negative impact on the street criminal. On the other hand, the whole thing is a process of changing the thinking process. My idea of that is to start in the jails. He made a plan and carried it out, and it made him go to jail. So this is what we need to find out; what went wrong. And whatever I see that a person needs, that is where I'm coming from. At any rate, the gist of this is to meet the person when he is arrested. We need to say, not "Well, John, here you are again. Looks like you'll never make it," but "Well, John, here you are again. Maybe we can do something to help you change your thinking, and learn to think and plan." This is working good. We're growing house plants in the Galveston County Jail, and we hope not to ask for a grant. We have two suppliers. We hope to work this into a \$100,000 a year business, and we hope to get the Businessmen's Alliance involved in it to develop it and market it, and this fund is going to be used for the inmates. They can post bond for each other. But this is where I'm coming from - engaging the people in something that they want to do. What is the use of vocational training when even if that person had a Master's in that trade, he would be unemployed because his attitude isn't right?

First let's make the inmates in the prison system aware of themselves, that they are human beings, and that because the system is rotten, they aren't necessarily rotten. I'm not worried about how rotten the system is; I'm worried about trying to tell the guy how he can take the same ingenuity of being a criminal, and turn that over and be a successful person. The hell with the system. Don't go into the prison system and say "Oh, you poor convict. You have been so mistreated and so dehumanized. The justice system and society is organized against you." Hey, man, keep in mind now that this person, at some point in his time, sat down and he made a plan based on the idea that "I see, I want, and I'm going to take, even if I have to kill." Just as the justice system doesn't give a damn about the crime, the crime doesn't give a damn about the system. So let's try to keep the crime in the proper perspective. Don't con him into believing that there is something wrong with him other than his attitude and way of thinking. If he can change that, he's got his problem licked. The

system has created a monster where there is no monster.

I want to thank all of you for allowing me to come up here. I had never seen the mountains. Some of us are born in little towns, and we live and die within a hundred mile radius of where we were born, and I'm going to go somewhere when I get back. Thank you.

END