

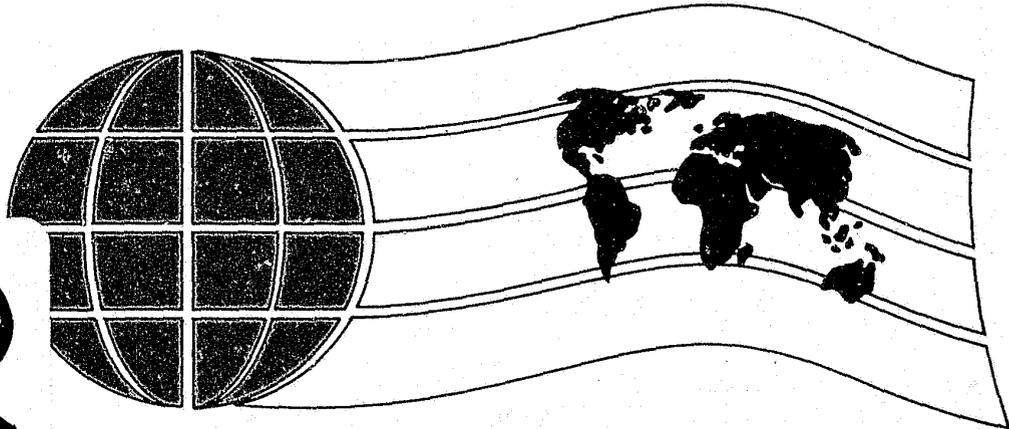
National Criminal Justice Reference Service

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International Summaries

A Collection of
Selected Translations in
Law Enforcement and
Criminal Justice

Volume 2



53170

National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
U. S. Department of Justice



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National Criminal Justice Reference Service

November 1978



National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
U. S. Department of Justice

Law Enforcement Assistance Administration

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INTRODUCTION

This volume, second in a series of International Summaries published by the National Criminal Justice Reference Service (NCJRS) focuses on post adjudicatory dispositions. This theme was chosen to give the criminal justice planner and policymaker, the corrections systems operator, and the criminal justice student a worldwide perspective on a topic that is now of great interest to the criminal justice community in the United States. NCJRS specialists selected these documents from a collection of more than 250 foreign language journals and books. Summaries of speeches, research reports, discussions, state of the art studies, descriptive narratives, and opinion pieces about post adjudicatory dispositions in Canada, Denmark, Finland, France, Japan, Latin America, Poland, Switzerland, The Netherlands, and West Germany indicate that penal reforms have been fairly widespread in the past decade. NCJRS language specialists have prepared these translations from documents originally published in Danish, Dutch, French, German, Italian, Japanese, Polish, and Spanish.

The first three articles in this volume are about capital punishment. While the trend in the United States has been toward reinstating or continuing the death penalty, writers representative of Eastern and Western Europe and Latin America discuss its declining use and possible abolishment in their countries. According to the 1969 Polish penal code, treason, coup d'etat, espionage, attempt on the life of a Government official, sabotage, embezzlement of funds crucial to the national economy, homicide, and robbery are among the crimes punishable by death. The authors of "The Death Penalty in the New Polish Criminal Legislation" suggest that the trend in Poland is away from invoking capital punishment except in cases of political crime against the State. In his speech entitled "Can the Death Penalty Be Replaced?" the author makes a plea for substituting incarceration and rehabilitation for capital punishment in France, an opinion that runs counter to traditional French practice. "The Death Penalty in Current Latin American Law" analyzes the status of the sanction in each country from a comparative law perspective.

Aspects of the prison systems of Finland, Denmark, and The Netherlands are discussed in the next four articles, three of which describe reforms and innovative programs: "The Finnish Penal System--Recent Reforms," "Education and Training Activities at the Government Prisons at Nyborg and Sobysogard, Denmark--Skadhauge Plan," "The Evolution of Imprisonment in The Netherlands." These three European countries have small inmate populations relative to their total populations and to other industrialized countries. Interestingly enough, the Finnish trend is toward less judicial discretion, while the Dutch trend is the opposite--and both are designed to reduce the inmate population even further.

Rehabilitation is the subject of the next five summaries. "A Study of Rehabilitation Activities in Prison Facilities--Japan" contains inmate responses to a survey seeking to evaluate the effectiveness of orientation and prerelease programs and individual and life guidance activities initiated since the 1972 penal reforms. "Resistance in Prisoners to Group Psychotherapy" analyzes the effect of prisoner resistance on successful psychiatric treatment at Hachioji Prison in Japan. West German social therapeutic facilities, their organization, structure, and current status, are discussed in "The Organization of Social Therapeutic Facilities," "Status Reports," and "Social Therapy for Women: Report of the First Project in Luebeck."

Juvenile detention is the subject of two articles: "Discriminatory and Unjust Nature of Juvenile Justice: Girls Labeled 'Delinquent' in Canada" discloses that girls frequently receive long prison sentences disproportionate to the severity of their crimes as a protective measure; "i.e., for the peace of the parents, educators, social workers, police, and judges, by virtue of an anachronistic enforcement of the doctrine of parens patriae." The author of "The Effect of Short Term Confinement on Juveniles" stresses that juvenile detention facilities in West Germany should strive to educate youth who are "basically good." Although the rate of recidivism should be the criterion for analyzing the effectiveness of such institutions, no causal relationship has been established because of intervening "personality and socioenvironmental factors." Facility studies are described in the summary.

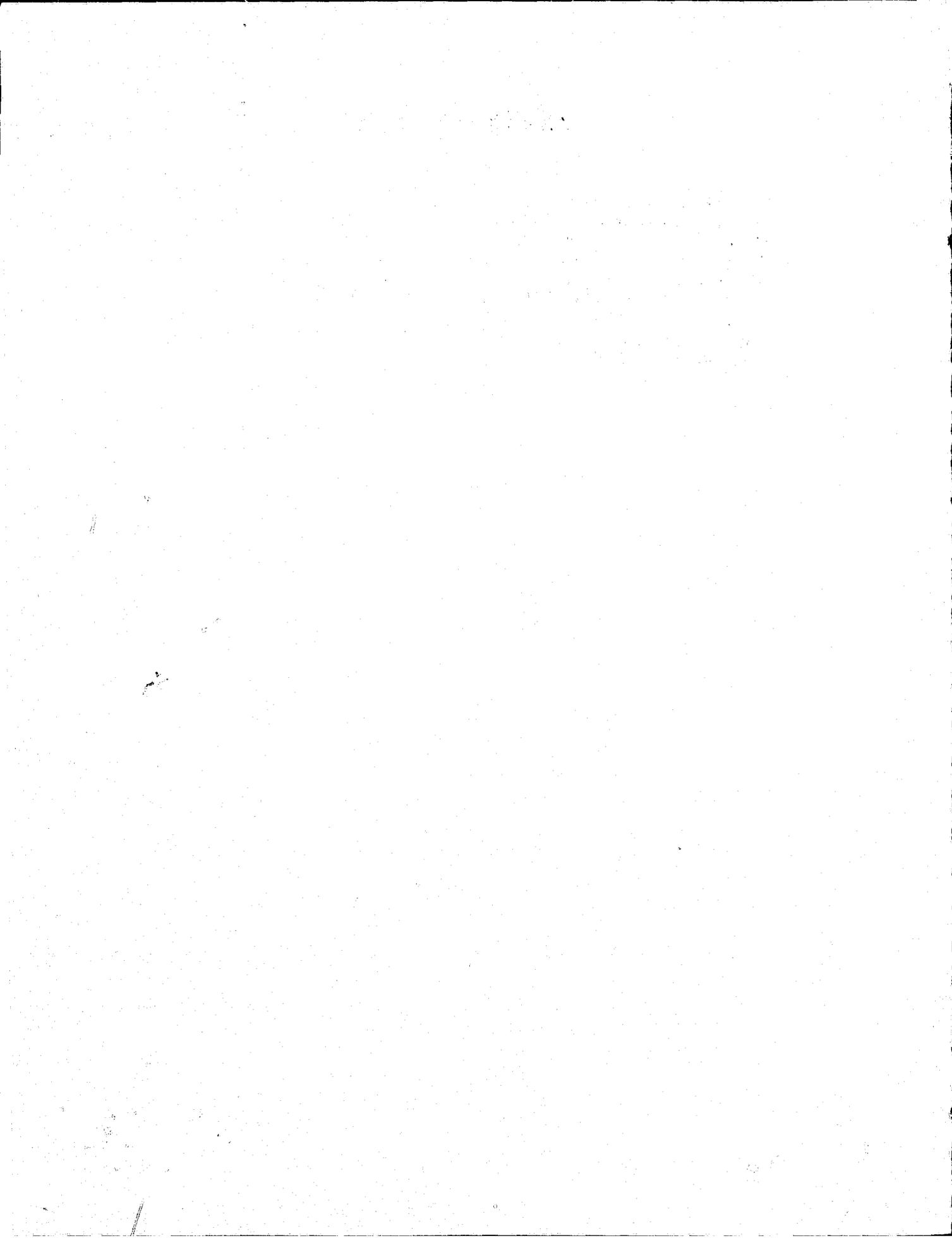
Four summaries provide insights into probation by focusing on various aspects of the subject. The difficulties involved in organizing an experimental facility in Hamburg-Rahlstedt, West Germany, for twenty-four 17- and 18-year-old probationers ("Establishment of a Therapeutic Home for Prisoners") are described. The role of the probation officer in West Germany is discussed in another article, with emphasis on compiling characteristics representative of officer types. The article, "Probation--An Attempt To Determine Its Status," tends to reinforce 1960's U.C.L.A. studies that used compatible characteristics to match probation officers and their clients. The records of 97 probationers in Offenbach/Main were analyzed in an attempt to evaluate the effects of probation. The estimated sentence remission or revocation rate provided the starting point, and the influence of probation officers and other outside influences were vital factors in the study, as reported in "The Influence of Probation on Further Criminal Behavior of Probationers: Report on a Study in Offenbach/Main." The institution of "patronage" in Switzerland is described in "Assistance to Probationers, Parolees, and Releasees in Switzerland (Canton of Bern)." The goal of patronage is to "rehabilitate delinquents on the moral and professional levels." Patronage is defined in the article as "the collection of organized and integrated assistance measures for convicts or for those in danger of delinquency, with the intent of reinsertion into society." "Patrons," who are usually nonspecialist volunteers, assume the responsibility for guiding probationers on a one-to-one basis.

Reports of two studies on the adjustment problems of two groups of life prisoners who were pardoned and released in West Germany present an innovative approach to the subject of reintegration. A study of recidivism in Poland, "Recidivism Among Convicts Who Acquired a Skill During Their Prison Term," concludes that although vocational training is an important rehabilitation activity, counseling, therapy, and education are also necessary components of a successful reintegration program.

The final four summaries discuss alternatives to institutionalization in West Germany ("Alternatives to Institutionalization Under German Law"), The Netherlands ("Alternative Sanctions"), Denmark ("Alternatives to Incarceration"), and Poland ("Alternatives to Detention in the Legislation of the People's Republic of Poland"). Writers representing Eastern and Western European ideologies seem to agree that in most cases social rehabilitation and reintegration are preferable to incarceration. Suggested alternative measures include fines, probation, parole, semiliberty, and community service programs, among others.

Publication information is provided at the end of each summary for readers who would like to refer to the documents in their original language. All of the documents represented in this volume may be borrowed from NCJRS on interlibrary loan. The identifying NCJ number after the foreign-language title on the first page of each summary should be included when requesting document loans. Please address requests for document loans to:

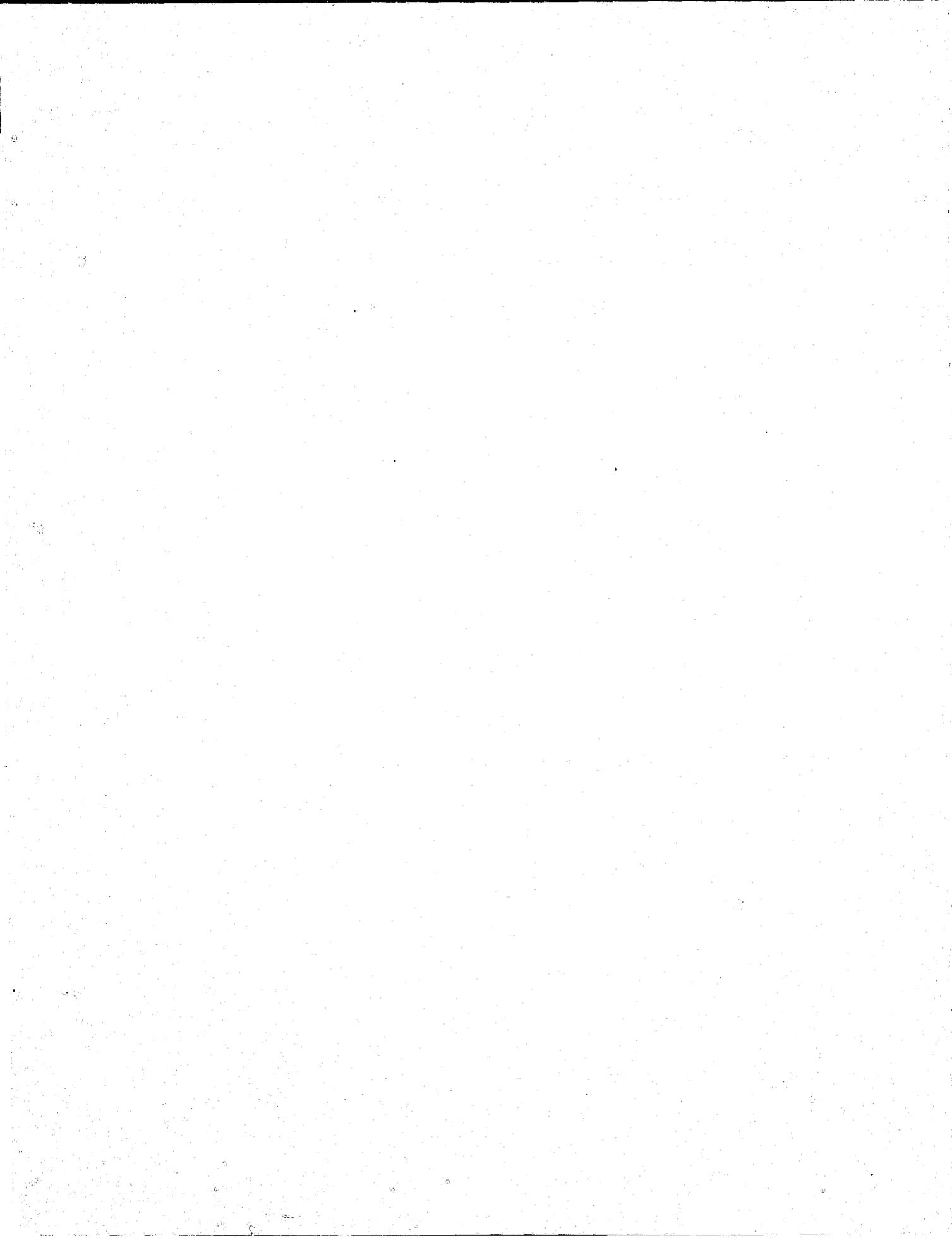
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Planning and preparing a publication of this type involves the efforts of many people. The task of selecting appropriate documents from the NCJRS data base was accomplished through the efforts of Deborah Sauvé, James Brantley, and Kevin Appel. Deborah Sauvé and Monique Smith coordinated the preparation of the translations and provided linguistic support for the editors. In addition to assuming responsibility for final editing, layout, and production, Judith Grollman prepared the introduction. Cover design is by Susan Carpenter.

*--Marjorie Kravitz
Supervising Editor*



The Death Penalty in the New Polish Criminal Legislation

La peine de mort dans la nouvelle législation criminelle
polonaise*

(NCJ 49488)

By Alicja Grzeskowiak and Georges Sliwowski

Historical Background

The problem of the death penalty is an extremely difficult and complex one in the theory of criminal law. It has been one of the most controversial issues for years, even centuries. The two principal contested points are the justification for the death penalty and the necessity of retaining it in the various penal codes. The struggle between viewpoints revived considerably after the publication of Beccaria's** work on crimes and punishments, and the ideas regarding the problem have not lost their edge, remaining sharp until the present.

After the end of the Second World War, the advent of a very pronounced abolitionist trend could be observed: in several countries the death penalty was eliminated or at least greatly curtailed. Abolition, however, remains relative, for interest continues in the use of this penalty. This tendency is reflected in projects to reintroduce the death penalty where it has been repealed or where it has not been included for a long time among the penalties in the penal codes. Interest in the death penalty is also evident in the demands for its broader application when the penalty has been reintroduced by legislation and when this application was previously limited.

* Translated from the French by Kathleen Dell'Orto of Aspen Systems Corporation.

** Marchese di Beccaria, 1738-1794, was an Italian economist and jurist from Milan. He is noted chiefly for his work, Treatise on Crimes and Punishments, in which he condemns confiscation, capital punishment, and torture, and advocates prevention of crime by education.

The notion of eliminating the death penalty develops gradually in countries where the spread of heinous crimes against human life can be observed, especially in acts of terrorism. Conversely, the idea fades when the rate of such despicable crimes decreases. Society shrilly demands the penalty when a particularly odious crime is committed. The same society calls for mercy for future inhabitants of death row when the tide of hatred and bitterness ebbs. Such is the case in Italy, but the death penalty was repealed there long ago. An adequate criminal policy can be realized through other means; for example, life imprisonment is considered a just penalty in keeping with the gravity of the crime and the perpetrator's degree of culpability.

The Death Penalty in Poland

Certain legislatures, such as the Polish one, are again providing for the death penalty in their penal codes. Polish legislators believe that the necessary conditions for the abolition of the death penalty have not yet been established, despite important arguments against it. Generally, the notion of an effective guarantee by the State against the most serious breaches which threaten citizens and their most precious property remains the basic justification for this ultimate punishment. Indeed, it is easier to do without the death penalty where it has not been used for some time than to abolish it from one day to the next. In the new penal code, Polish legislators are opting for progressive elimination of this penalty.

The penalty was also included in the previous penal code of 1932 and remained in force until 1969. It was not introduced until the last moment and after long discussion, by a one-vote majority in the codification committee (the ratio of votes was 6:5). Only five crimes were associated with the death penalty in the text of the 1932 code. After the war, the list was expanded considerably so that other crimes became subject to this penalty. They were mostly heinous crimes committed during the war and the occupation by invaders and traitors or violations of the fundamental principles of the new political government. The total number of violations which involved the death sentence rose to 64.

In principle, however, imposition of the death penalty was not limited to the provisions of the decree on summary procedure which was introduced in 1945 and remained in force until December 31, 1969: the date of the introduction of the new code for penal procedure. According to the provisions of this decree, the death penalty could be imposed in any case in which the said summary procedure was applied, even when the respective legal provision did not provide for its application. The repeal of this decree by the new code of penal procedure essentially restricted imposition of the death sentence. From that point on, only cases of an express provision of law dealing with the possibility of such a sentence were taken into consideration. The number of provisions which

allowed such a sentence was very high in the criminal laws in force before 1970; the death penalty was considered indispensable in the struggle against postwar crime, which seriously tested the very foundations of the new legal and social order.

The new penal code was promulgated on April 19, 1969, with an effective date of January 1, 1970. It introduced a considerable number of reforms with regard to the death penalty; these reforms were essential for the consistency of the new criminal legislation. They relate to all questions of imposition and application of this penalty. Parallel to the penal code and the code of criminal procedure, Polish legislators introduced a correctional code in which the application of the death penalty is also regulated. The three codes together take exception to a system which calls for imposition of the death penalty by seriously limiting its use. It should first be noted that this penalty is not included among the principal penalties; its application is provided for outside the list of these penalties. Article 30, par. 2 stipulates that the death penalty is a punishment of exceptional nature for particularly serious crimes. The death penalty is thus acknowledged as exceptional; however, this is not only a formal declaration. The fact that the penalty is considered a measure outside the bounds of the principal sanctions and that it is only applied in extremely grave crimes is significant.

These limitations can be regarded as proof of the new tendency in Polish criminal legislation. The changes represent a course of development which marks a progressive decline in the use of the death penalty and heralds its future abolition, which seems near, although no precise date can be set at the moment. In the opinion of the lawmakers, the death penalty cannot be imposed according to the rules governing the application of other penalties. The elimination of this penalty from the arsenal of principal penalties clearly reveals its exceptional character.

Crimes Punishable by Death

The following crimes are liable to penalty of death: treason against the State (art. 122), coup d'état (art. 123), espionage (art. 124, par. 1), attempt on the life of an official or of a person carrying out political activity (art. 126, par. 1), diversionary acts (art. 127, par. 1), sabotage (art. 127, par. 2), embezzlement of funds crucial to the national economy, in which the perpetrator instituted or directed the criminal undertaking (art. 134, par. 2), homicide (art. 148, par. 1), and robbery, in which the perpetrator is armed with a gun or another dangerous weapon or is acting in the company of persons armed with such a weapon or instrument (art. 210, par. 2). The crimes of treason against the State and coup d'état must be explained briefly.

Treason against the State. This crime affects only Polish nationals and consists of participating in activities of another State or foreign organization with the intention of undermining the independence of the Polish State or its territorial integrity, forcefully overthrowing its constitutional government, and weakening its defenses or acting in behalf of a foreign intelligence agency so that the perpetrator strikes at the foundations of security and national defense. Treason against the State is the most terrible and heinous crime in the laws of Poland, for it jeopardizes the independence and the integrity of the Nation and its political government. This offense is punishable by 10-15 years' imprisonment or the death penalty.

Coup d'état. This is a general offense and may be committed by a Polish national or by a foreigner. The perpetrator of this offense intends to take over the State, to violate the integrity of the national territory, or to eliminate by force or to weaken the political government; to accomplish this end, he acts in collusion with other parties.

Military offenses and genocide. Aside from these offenses, the death penalty may be imposed, according to the provisions of Part III of the penal code, only for military offenses. These involve mainly failing to follow orders of a superior in battle, refusal to carry out such an order, or feigning its execution (art. 310).

Certain offenses provided for in the supplementary legal provisions (not included in the code) are also liable to the death penalty. This applies mainly to the crime of genocide as provided in art. 1, par. 1 of the decree of August 31, 1944, on the accountability of fascist or Hitlerian criminals responsible for murder or cruelty toward the civilian population and prisoners of war, and accountability of traitors to the State. The penalty for genocide is capital punishment.

The severity of the threat is tempered by art. 30, par. 3 of the penal code: the extremely rigid character has been lost. According to the latter provision, the court is authorized to impose a penalty of 25 years' imprisonment for each count instead of death (the latter is also possible as an individual penalty provided in a special provision).

The provisions in the general part of the penal code also apply to the offenses included in the provisions of supplementary laws (art. 121) if the latter do not expressly contradict the code. The last provision regarding the death penalty is formulated in the law of January 30, 1959, on the general military obligation (standardized text of April 25, 1963). Both here and in the application of art. 310 of the penal code, the threat applies only

during mobilization or hostilities. Relevant provisions cover offenses which aim to weaken the defense of the Polish State.

Summary. In times of peace Polish penal legislation provides the possible penalty of death for 10 offenses. This number is not large compared to the previous legal state; it affirms that the death penalty is exceptional and that it can only be inflicted for extremely serious offenses. Today, although the new code has been in effect for only 5 years, doubts are arising with regard to the death penalty's application in cases of large-scale economic crime (art. 134) and even armed robbery.

Economic crime. A few words should be said about the single economic crime liable to death. The criminal activity involved must do great damage to the national economy. The perpetrator of this crime, in collaboration with other parties, makes personal use of important funds to the detriment of a branch of the socialized economy, exploiting consumers or retailers by distorting and abusing the regular activity of this economic branch. A grave disturbance is thus created in the functioning of the national economy. One of the legal signs of this offense is significant economic damage; that is, in excess of 200,000 zlotys. This death penalty can only be applied to a perpetrator who organized or directed such criminal activity. This offense thus consists of violation of the State's basis for economic order.

Armed robbery. In Poland aggravated robbery is an offense against property. Here, too, serious doubts arise regarding imposition of the death penalty. The circumstances surrounding the deed (use of firearms or other dangerous instruments) prompted lawmakers to invoke the threat of death in such cases. This does not seem at all justified, for the perpetrator himself, acting under such conditions, does not commit any offense against life or health. If, on the other hand, he commits a homicide or causes bodily harm during the act of robbery, he will be prosecuted for homicide or for injuries in connection with robbery.

Summary. The death penalty can thus be imposed in cases where the necessity of such a penalty proves indisputable. The threat of death for aggravated robbery as such seems superfluous, and a prison sentence of 25 years would be perfectly satisfactory. This penalty belongs to the second rank of severity in the legislation. Theft, aggravated or not, is an offense against property, and infliction of the death penalty in such cases seems excessively severe, even though the offense is very serious. The ideas stated above are in any case only projects for legislative reform, as the present state of regulation is different.

On the other hand, the threat of the death penalty in cases of homicide seems justified. In providing this penalty for murder or assassination (the code does not distinguish between these concepts, which are traditionally differentiated in French law), the Polish legislators took into consideration the dominant public opinion, which viewed the death penalty as a just and adequate sanction for certain cases of homicide.

Discussion

Since the 1969 code went into effect, the Polish courts have not imposed a single death penalty according to art. 134, par. 2 or art. 210, par. 2, but this course of criminal policy by the courts does not indicate a lack of necessity for the legislative threat of the death penalty in offenses directed against the foundations of government. In this case, the death penalty plays a deterrent role and aims to reinforce the notion of integrity of property within the society. As in the cases of art. 134, par. 2 and art. 210, par. 2 mentioned above for offenses against the State, the death penalty has not been inflicted in recent years. Although imposed in one case, it was not carried out but instead commuted to a 25-year prison sentence.

The death penalty as a penal sanction emphasizes the great value attached to the legal good destroyed or endangered by criminal acts; at the same time, the penalty indicates that the law regards the particular crime as extremely dangerous.

The exceptional character of the death penalty in legislation is underlined by the legal guarantees in the legislatively established system of penal law. As the court is always authorized to substitute a 25-year prison sentence when a penalty not exceeding 15 years is deemed inadequate, the death penalty is also not applied rigidly, even when it is the only sanction provided by law for a given crime (as, for example, in the case of genocide). This regulation is based on art. 30, par. 3 cited above; indeed, it permits the death penalty to be treated as an exceptional case and is included not as a declaration of principle but as an important guideline which allows Polish courts to limit infliction of this penalty. The regulation signifies that this penalty may be imposed only in extremely grave cases.

Objective and subjective analysis. Obviously, judgment in a case should not be restricted to the objective aspects of the offense, for this would lead to purely retributive action. It is absolutely necessary to analyze the objective and subjective conditions surrounding the criminal activity, which together reflect the degree of social danger presented by the crime. An in-depth personality evaluation would be indispensable in establishing a prognosis for the offender's future conduct and for the likelihood of his

eventual rehabilitation. In imposing the death sentence, statements are required which explain why such rehabilitation would be impossible even after 25 years and why permanent elimination of the criminal appears necessary. The penalty may be imposed according to the jurisprudence of the Supreme Court only in cases in which those circumstances and behavior patterns characteristic of the reformable delinquent are entirely lacking. As no penalty is capable of rehabilitating him, the death penalty protects society from potential danger. The evident subjectivity of such a decision necessitates calm reflection and study.

Legal restrictions. From a strictly objective viewpoint, these circumstances encourage limiting infliction of the death penalty. Moreover, the law imposes other restrictions: the code prohibits the death penalty for an 18-year-old minor or for a pregnant woman (art. 31). The reasons for these exceptions are clear. The physical and social development of an 18-year-old minor is not yet complete, and his personality is not yet formed. Accordingly, no serious prognosis can be made about his future. In the second case, it is primarily a matter of protecting a child. Whether the pregnancy dates from before or after sentencing means little. If the woman became pregnant after the judgment reached the res adjudicata stage or if the pregnancy was not recognized at sentencing, the previously imposed death sentence still cannot be executed. The sentence in this case must be commuted to a 25-year prison term (art. 111 of the correctional code).

The same problem exists when an 18-year-old minor is mistakenly condemned to death (for example, after his sentencing, it is discovered that his known birth date is wrong and that he is actually an 18-year-old minor). Although unlikely, this situation cannot be totally ruled out. The law of the penal code (April 19, 1969, art. XIV, par. 1) indicates that a death sentence of res adjudicata status against the parties in question and not applied at the moment the code came into effect cannot be carried out and must be commuted to a 25-year prison sentence.

The restrictions on the death penalty in Polish criminal legislation conform to art. 6 of the International Charter of Civil and Political Rights adopted on December 16, 1966, by the General Assembly of the United Nations.

Relevant legislation. The problem of the death penalty has been regulated further in two other criminal codes: the procedural penal code and the correctional code, both dating from April 19, 1969. The provisions of these codes guarantee the application of penal justice and the legality of execution. Cases which may involve a death sentence are tried by the Voievodie courts (corresponding to the court of appeals) with an increased number

of judges. While in other cases the court is composed of a professional judge and two assistant judges, in the cases in question it must be composed of two professional judges and three assistants (art. 19, par. 2 of the procedural penal code). A case involving a death sentence is tried in a higher court, the Supreme Court, with five professional judges. Limitations on imposition of the death penalty and on corresponding guarantees are also provided in art. 500 of the procedural penal code on the subject of pardons. For the final appeal in death sentences, the Chief Justice of the Supreme Court as well as the Minister of Justice and the Attorney General must give their verdict on possible extraordinary review of the judgment. The grounds for appeal are thus reviewed for each such sentence, an additional protection against unjust death sentences.

In cases of capital punishment the court gives its verdict on the value of invoking mercy for the condemned. As the judgment has become res adjudicata, the court submits the case to the Chief Justice of the Supreme Court. If there are no grounds for a request for extraordinary review, the Attorney General immediately submits the brief to the Council of State with his opinion so that the Council can give its verdict on pardon. The sentence cannot be carried out until the Council of State has reached its decision.

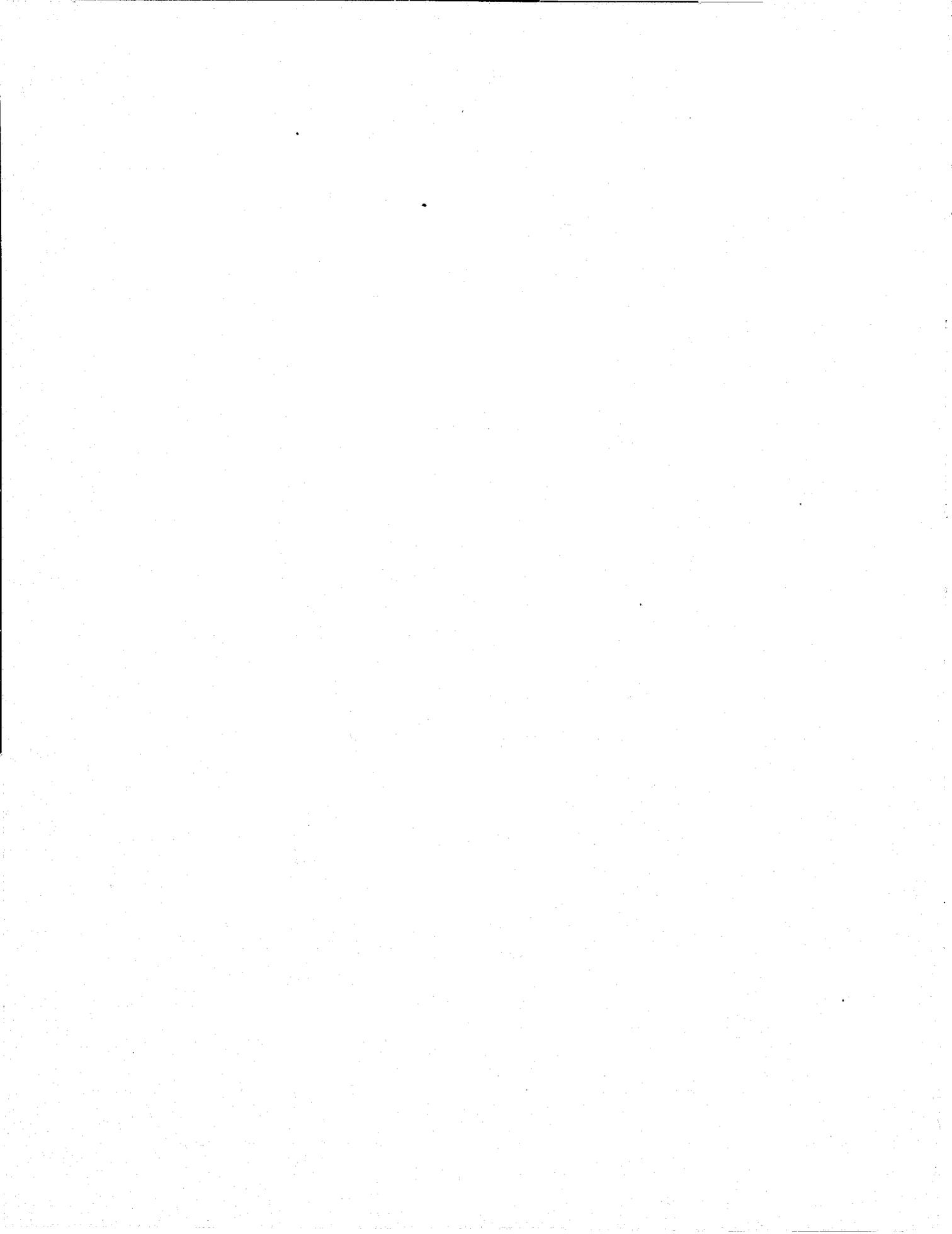
The Execution

The death sentence must be carried out immediately after the decision of the Council of State rejecting the request for pardon. The execution may be deferred, however, for those condemned persons suffering from severe or psychological illnesses until they recover. The method of execution for civilians is hanging while soldiers receive a military execution by firing squad.

The execution is not a public event. It takes place within the prison in the presence of the public prosecutor, the prison director, and a doctor. If the condemned person so wishes, a clergyman may be present. His defense counsel, who must be informed of the execution date, may also participate. An official report certifying the execution must be prepared. These regulations are stated in the correctional code (art. 109-112). Although these regulations are rather subjective in nature, they represent a guarantee, assuring the presence of the defense counsel both during the trial and at the time of the execution.

This "trptych" of legislative regulations on the death penalty articulates the idea of limiting such sentences in the future. The famous adage formulated by Dhering is thus confirmed: the history of punishment is the history of its progressive disappearance.

Revue pénitentiaire et de droit pénal, v. 101, n. 2:227-235, April-June 1977. Société générale des prisons et de législation criminelle, 27, rue de Fleury, Paris (6^e), France.



Can the Death Penalty Be Replaced?

Peut-on remplacer la peine de mort?*

(NCJ 49499)

By M. Savey-Casard

Editor's Note: This is a summary of a speech by Mr. M. Savey-Casard, honorary professor of the School of Law of the University of Lyon, before the General Assembly of the General Society of Prisons and Criminal Legislation on June 4, 1977. The discussion which followed the speech is also summarized.

In view of the ample literature on capital punishment, and despite the obvious interdependence of capital punishment and any substitute punishment, my speech does not concern the death penalty per se but errs perhaps too much in the other direction, limiting itself to a discussion of possible substitutes.

As early as 1764, Beccaria's treatise signaled a breakthrough in penal law: it called for the substitution of perpetual forced labor for the death penalty. The treatise belies Beccaria's professed humanitarianism; however, in view of the punishment-worse-than-death, it recommends subjection of the prisoner to the rod, the yoke, and the cage, resulting in his transformation into a savage beast.

Other 18th century writers such as Diderot and Brissot de Warville agreed with Beccaria that perpetual slavery would be a more efficient deterrent than death, since it would replace the single, awful moment of execution with an endless spectacle of torture.

Lest one believe that dark dungeons and iron cages smack of medieval literary exaggeration, note that when Joseph II eliminated the death penalty in 1787, he substituted a term in a dark cell so narrow that the convict could barely move. Moreover, the text put before the constituent assembly for the Penal Code of 1791 proposed the abolition of capital punishment and substitution of life imprisonment in an unlighted cell, in which the prisoner would wear iron shackles around the waist and on his

* Translated from the French by Charles Orme of Aspen Systems Corporation.

feet, receive only bread and water, sleep on straw, and remain always alone.

The written draft was modified, however, in favor of 12 to 24 years of the above solitary confinement, then finally revised in favor of the death sentence after a delegate argued convincingly that such a cruel replacement for the death sentence would not signify any progress for humanity.

The Revolution of 1848 succeeded in abolishing death on the scaffold for political offenses, but the subsequent substitution of exile in a colonial fortress evokes, in retrospect, enough horrors to temper anyone's optimism. In the realm of common law, discussions on the penal system led to the rather warped view that the narrow cell was a suitable substitute punishment, since it seemed to assure both the security of the punishment and the convict's reform.

Where Charles Lucas, first president of our Society and a staunch abolitionist, merely envisioned perpetual solitary confinement without additional severe treatment as the alternative to death, the Italians actually put a similar scheme into effect in 1889: the "ergastolo." This form of punishment includes a 6-year term of solitary confinement with forced labor, followed by a life term of forced labor in the company of other convicts --but under strict silence. The idea of the ergastolo met with little success in France, but some Parliamentarians and members of this Society recommended life imprisonment with variations in accompanying treatment, fully accepting the probability of a convict's resulting insanity. Despite objections to the idea of substituting destruction of a brain for destruction of a life, many observers believed that only a merciless punishment would set a sufficient example. But in 1908 the Chamber of Deputies abandoned altogether the idea of the ergastolo; the scaffold remained.

The lesson to emerge from this historical impasse is that abolitionists defeat their own humanitarian motives by attempting to substitute an equally harsh punishment for the death sentence. It is no better to cause someone to suffer without dying than to have him die without suffering.

In more recent times, the idea of intimidation through punishment has lost ground to the concept of rehabilitation of the convicted person through various means of social pressure: prevention; economic, social, and health reforms; instruction and instillation of moral values; and the development of assistance to freed convicts and probationers. The goal of protecting society from criminals has not been at all discarded, but creating fear of punishment is no longer seen as the only longrun solution. In retrospect, it is unfortunate that French leaders in 1907 did not note more carefully the lack of a significant rise in criminal behavior among their abolitionist neighbors; Portugal, The

Netherlands, and Belgium had successfully eliminated executions many years before.

In the absence of a replacement punishment to match the severity of the death penalty, one must offset the diminished severity by vast reform programs. Still, since society must be protected and public opinion assuaged, the person guilty of particularly serious crimes must be "neutralized" and must undergo relatively severe punishment. Monetary fines and denial of civil rights are out of the question in such cases, not to mention corporal punishment. We are left with no choice but to apply a penalty involving personal restraint, regardless of much current opposition to the latter.

Of course, an effort should be made to set capital crimes apart from lesser crimes that may already call for life imprisonment. Variations exist in different European countries regarding length of cellular confinement and the amount of forced labor. For the sake of the inmate's mental health, I find that 2 years' confinement to a cell should be the limit--long enough to protect other inmates and to observe the convict's behavior, as well as to assure the severity of the sentence.

We face the problem of recidivism when life imprisonment is commuted to release on probation--a thorny issue, especially in murder cases. Victor Hugo wrote, "He who spares the wolf kills the sheep." In view of a case such as that of Hebrant, who killed 4 times and committed 10 armed robberies after release, I hesitate to take sides on this issue. In the long run, however, I see no alternative but to allow a convict the hope of regaining his freedom, particularly if reform and resocialization remain our goals. Portugal has in fact abolished both the death penalty and life imprisonment, substituting a maximum sentence of 20 to 24 years, with eligibility for probation when half of the term has been served. Although release on probation is the more common practice here, some countries (Sweden, Denmark, West Germany) do not use this instrument for life sentences, but simply grant pardons, commuting the sentence to a temporary term of 10 to 15 years. Institutionalization should not last so long that the convict is too old to confront the formidable test of liberation. Moreover, a convict's potential for criminal behavior often diminishes with age. I believe that the bill proposed in France in 1976 to lengthen the time before eligibility for probation to a period of 24 years is too extreme. The probation period must of course be effectively administered and must continue to last between 5 and 10 years.

In general, release on probation will follow the rules of the Code of Penal Procedure. Accordingly, the judge who lays down the sentence and, in each prison, the commission charged with its enforcement--the group best aware of what a prisoner can do and of what he wants--will grant liberation only if read-

aptation to life on the outside seems possible. It is then the responsibility of the Minister of Justice, after consultation with the head of the police headquarters, to determine the measures of control and assistance so vitally important to the success of the probation period. In my opinion, these measures should be carried out by experienced and well-tested officers. They would preferably be specialists in charge of only a small number of probationers, in order to be able to closely follow their development and to intervene when necessary. Probation officers are often overworked and can only exert control from a distance, in spite of their good intentions. Since part of the responsibility of the institution of probation rests on their shoulders, perhaps they could be consulted on the inmate's suitability for probation before his release.

Finally, it would be well to study more carefully the effect of prolonged internment on an inmate. On this subject, the late P. Vernet sought to establish statistics concerning several European countries in order to see which results are associated with a long life in prison. He revealed in 1960 that cases of insanity are 10 times more numerous among those sentenced to life imprisonment than among the population as a whole (Must one attribute these results in part to the convicts' psyches themselves?). As for suicides, the cases were too few to provide reliable results, but the general impression is pessimistic. Still, deaths are neither frequent nor premature, no more than among the rest of the penal population. The conduct of these long-term convicts did not seem to raise any great difficulties; it even earned several kind measures in their favor. It is regrettable that no one was able to follow what became of these people after their release. Only the tragic developments are known.

Such are the elements I propose toward a solution of the problem of replacing the death penalty. I am sure that your observations and critiques will improve and complete the proposed solutions.

Discussion

Other members of the General Society of Prisons and Criminal Legislation commented on Mr. Savey-Casard's speech.

Mr. Perdriau agreed with the absolute need for convicts to have the hope of regaining their freedom. Since major crimes are also committed in prison, however, he still favored capital punishment--but only to assure order in the prisons.

The president read a statement by Mr. Cannat suggesting no alternative to the death penalty than life imprisonment, made more severe through greater restriction of liberties and postponement of probation. Cannat added, however, that in view of the re-

cent escalation of violent crimes and rising public opinion in favor of retention of capital punishment, perhaps one step forward would be to replace the guillotine by the firing squad in order to lend a certain dignity to execution.

The written statement of Mr. Racz of the Supreme Court of Hungary, also read by the president of the Society of Prisons, confirmed Racz' absolute opposition to the death penalty, despite its existence in Hungary and other socialist countries; however, his brief statement offered no alternatives.

Mr. Plawski mentioned, in the course of his extensive argument against capital punishment, that in certain countries, such as Sweden, major crime has even diminished since abolition of the death penalty. Holding that its effect as a deterrent is illusory, Plawski maintained that the only reason to retain capital punishment is to cultivate the vestiges of the instinct for savage vengeance, unworthy of civilization.

As a measure of transition, semiliberty should be used as it was designed, commented Mr. Hennion; release on probation would only be granted to maximum-sentence convicts after they had spent a year in semiliberty.

On the subject of the dilemma between the need to protect society and the injustice of taking another's life or of drastically and irrevocably altering his person through prolonged captivity, Mrs. Puyrigaud suggested an alternative: since those who have killed are capable of killing themselves, why not give them pills permitting them to commit suicide? They are often suicidal and may prefer death to a long detention.

Mr. Moutin made the following two important points: (1) the need for the Society to try to educate the public on its well-studied, "scientific" findings, rather than to follow a public opinion which prevents Parliament from mustering enough votes in favor of abolition; and (2) the lack of evidence in neighboring abolitionist countries to support speculation in some quarters that diminished severity of punishment would usher in a return to private vengeance.

Mr. Pinatel indicated again the evident lack of documentation to support the effectiveness of the death penalty as a deterrent and urged the Society as a whole to declare itself against the death penalty and to enumerate the pertinent scientific and social justifications for its position. It should try to break down the instinctive and visceral reactions to the topic found even in cultivated and highly qualified professional circles, to fill a gap in information, and to persuade people to speak out about this and similar controversial subjects which they often prefer to ignore.

Mr. Schulz, a visitor from West Germany, mentioned the fundamental importance, in view of its Nazi past, of Germany's having abolished capital punishment and expressed the opinion that, for the sake of humanity, both the death penalty and life imprisonment should be abolished. He added that the condemned murderers with whom he deals--those serving 20- to 25-year terms--resemble any other group of people; it was a combination of tragic circumstances that led them to their crimes. Moreover, he had never seen a recidivist among convicts sentenced for murder. Mr. Schulz recommended treatment in hospitals for those who are mentally ill--for life, if necessary--and effective measures for resocialization of the others.

On the subject of substitute punishments in Finland, The Netherlands, England, and Germany (generally, countries with Labor governments), Mr. Levade observed that the terms served in place of capital punishment were quite short--from 8 to 10 years--but the average duration is longer for other infractions; this apparent paradox should not surprise the Society of Prisons, he indicated, since its members know that it is easier to treat major delinquents in prison than to treat minor recidivists.

Mr. Levade also remarked that for every execution that serves as a deterrent, another excites someone to search for glory in the form of notoriety. Thus, the value of example is lost.

Both Mr. Levade and Mrs. Mayer-Jack suggested abolition as a first step in the right direction, with replacement of the death penalty by existing punishments. Mrs. Mayer-Jack commented that if one does not want to introduce a more cruel substitute punishment, one is necessarily obliged to fall back on existing penalties. She maintained that the death penalty is in fact irreplaceable, because there is not only a difference in degree between it and other penalties, there is also a basic difference in nature between them, since the former involves the destruction of a life. Regardless of differences in attitude between convicts (Fesch, under the influence of a chaplain, became a saint; Buffet used to say that if he were not executed, he would kill again), society has the right to punish but not to take a life. Mrs. Mayer-Jack agreed with the idea of substituting for the death penalty the highest penalty existing at present but opposed the idea of looking for a special solution that does not exist.

Other ideas were also suggested, such as that of Mr. Dutheillet-Lamonthezie, a former sentencing judge who had released two men previously condemned to death, only to see them commit murder again. Aside from various safeguards to be administered before release of potentially dangerous convicts, Mr. Dutheillet-Lamonthezie recommended that in view of the perpetual suffering of the surviving victims of violent crime and their families, a criminal's punishment should still conserve something of a perpetual character in spite of eventual abolition of the death penalty and despite

acknowledgment that life imprisonment cannot truly be perpetual. For example, the former criminal could be prohibited forever from returning to the area of the crime, in order that he not be able to "add insult to injury" for the victims.

Mr. Savey-Casard gratefully acknowledged the preceding comments and made the following concluding remarks.

In February we had thought that the simple abolition of the death penalty was a forbidden topic, but we could not help referring to it and taking sides. For those who support capital punishment and even for a certain number of abolitionists, it is irreplaceable. Let us not allow the debate to be sidetracked; the fact that public opinion does not favor abolition should not influence our conclusions and drive us to cheat by replacing the death penalty with a punishment equally severe. Capital punishment must be abandoned, but it is important that abolition not be accomplished at the price of a punishment which would impose tortures just as cruel as the death penalty.

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The Death Penalty in Current Latin American Law

La pena de muerte en el actual derecho iberoamericano*

(NCJ 46777)

By Ignacio Berdugo Gómez de la Torre

Introduction

Capital punishment in the Latin American States has unique characteristics which make investigating it both very difficult and very attractive. Investigation is difficult for the following reasons: In some countries, there is an absolute lack of data and documentation on capital punishment; legislative changes which, as a reflection of politics, change the orientation of the law; and the anachronistic status of many of the laws which, totally removed from the reality they regulate, patiently await reform.

This study is based on comparative law. The status of the death penalty in the various penal codes will be analyzed, with a final reference to special legislation, which at times unfortunately changes the overall panorama of penal order. Although this study will focus on the rigid rules of positive law, we must not forget a sad reality in many States: the illegal executions which are frequently reported. The application of "La Ley de Fugas" (Law of Escapes) in guerrilla warfare or simply the physical elimination of a political enemy by those who hold power or who systematically violate the law for their own personal gain, is much more reprehensible than maintaining capital punishment in the catalog of sanctions.

The Death Penalty in the Penal Codes

The panorama of the death penalty in the Latin American penal codes currently shows marked divisions. A detailed examination

* Translated from the Spanish by Kathleen Schofield and Mario Galarraga of Aspen Systems Corporation.

of various texts allows us to come to the optimistic conclusion that the trend is toward abolishing the death penalty. Of the 20 Latin American countries, 10 have omitted the death penalty from their lists of authorized punishments, 9 still maintain it, and 1, Mexico, still has it in some of its States. However, the countries with larger populations and cultural impact, Brazil, Argentina, Venezuela, and many of the Mexican States, are in favor of abolishment.

States in favor of abolishment are Argentina, Bolivia, Brazil, Colombia, Costa Rica, the Dominican Republic, Ecuador, some Mexican States, Panama, Uruguay, and Venezuela. States which still have the death penalty include Cuba, Chile, Guatemala, Haiti, Honduras, some Mexican States, Nicaragua, Paraguay, Peru, and El Salvador.

Argentina eliminated capital punishment from its penal code in 1921, reinstated it 50 years later in 1971, and abolished it once again in 1972. Peru and Cuba differ in that, after a period of abolishment, the death penalty was reestablished and still remains in effect in their penal codes. The 1924 Peruvian code did not contain the death penalty, but, after 25 years of abolishment, the code was modified to include the death penalty for certain crimes.

In Cuba the Constitution of 1940 eliminated the death penalty except during wartime. Capital punishment was illegal, even through the rule of the dictator Batista, until it was reestablished in 1959 by the Laws of the Revolution. In a discussion of the "comings and goings" of abolishment, the Mexican State of Aguascalientes deserves mention: it reintroduced the death penalty in December 1931 and eliminated it again in April 1932 under the same governor and legislature.

A comparative analysis of the elimination or reestablishment of the death penalty in the various Latin American codes indicates a period from 1910 to the beginning of the 1930's during which there was a great push for abolishment. During this period, not one country reinstated the death penalty; it was abolished in Colombia, Panama, the Dominican Republic, Mexico, Argentina, and Peru. This movement for abolishment clearly occurred in the period before World War II.

It is difficult to carry out a complete investigation on the subject of de facto abolishment because of the lack of official facts. Nicaragua and the Mexican States can be considered abolitionist in fact. The last execution in Nicaragua was in 1892; in Mexico, there has not been an execution in the last 20 years. In the rest of the Latin American countries, except Chile and Cuba, the execution of a criminal is infrequent and brings great public outcry.

A Study of Countries that Impose Capital Punishment

The study of these countries' codes will contain the following four parts: (1) how the death penalty is established; (2) capital crimes; (3) carrying out the penalty; and (4) reasons for not applying the death penalty. The general rule is that the death penalty is the only punishment; if judged guilty, an individual must be condemned to death.

The exceptions are Chile and the Mexican State of San Luis Potosi, where it is not considered the only penalty but an alternative to life imprisonment or to 20-25 years' imprisonment for parricide. This can lead to false conclusions on the number and frequency of executions and contradicts the previous conclusions on the infrequent use of capital punishment. Therefore, despite the statement that in these countries the death penalty is considered the only punishment, the implementation is restricted, making these countries abolitionist in fact. Nicaragua is an example of a country in which the death penalty is not applied.

It is important to analyze two points which help in delineating the area of capital crimes: (1) the position of the Latin American legislatures on political crimes; and (2) some constitutional concepts of the crimes which deserve capital punishment. This paradox of political delinquency also deserves notice because it is in this area that extralegal capital punishment occurs frequently. In a report for the United Nations by Marc Ancel, the Latin American countries appear to be firmly against the abolitionists in the possible political use of capital punishment.

The following countries' constitutions which allow for the death penalty expressly exclude it for political crimes: Mexico, Argentina, Haiti, and Paraguay. Brazil, on the other hand, has eliminated the death penalty generally, but is vague regarding this institution in political-social crimes. It is interesting to follow the evolution of this concept in the various Brazilian constitutions. The Constitution of 1967, amended in 1969, permits use of the death penalty in some cases and is clearly an exponent of the military junta.

In other cases where the death penalty is established by law for some clearly political crimes, as in Argentina, the concept is changed slightly to give a different meaning, allowing and not allowing the death penalty in principle for various offenses.

The permissive constitutions, regardless of whether or not the penal codes retain capital punishment, follow two systems: admit the penalty, or determine in which cases the penal codes may establish it. The first group includes Argentina, Haiti,

Paraguay, Brazil, and Guatemala. The second group currently includes only Mexico, although Cuba, Bolivia, and Brazil formerly held this position. Peru maintains an intermediate position, establishing the death penalty for treason and aggravated homicide and allowing legislators to prescribe it for other cases they consider appropriate.

Crimes for which Latin American legislatures established the death penalty.

- Parricide--Chile, Guatemala, Haiti, Honduras, Mexico, Paraguay, Peru, El Salvador.
- Assassination--Chile, Guatemala, Haiti, Nicaragua, Mexico, Honduras, Paraguay, Peru, El Salvador.
- Homicide accompanied by another crime--Haiti.
- Fire, flood, or other destruction resulting in death--Chile, Haiti, Nicaragua, Paraguay, El Salvador.
- Kidnaping--Chile, Guatemala, Sonora, Peru.
- Robbery accompanied by homicide--Chile, Guatemala, Haiti, Nicaragua, El Salvador, Paraguay.
- Robbery with violence to people--Chile, Guatemala, Haiti, Oaxaca.
- Robbery involving a gang--Guatemala.
- Piracy--Chile, Guatemala.
- Treason--Guatemala, Nicaragua, Chile, Haiti, Peru.
- Homicide of a foreign head of state--Guatemala.
- Counterfeiting--Haiti.
- Recidivism (specific cases)--Chile, Haiti, Paraguay.
- Various actions against the internal security of the State and Government, armed gangs acting against the Government, conspiracy, and various paramilitary actions--Haiti.

Therefore, only two crimes, parricide and assassination, merit capital punishment in all nonabolitionist countries.

Execution of the death penalty. In almost all the Latin American countries, the execution is regulated with great detail. The

countries in which the death penalty is not abolished allow shooting as the sole form of execution. The death penalty is carried out in public in the countries of El Salvador, Nicaragua, Honduras, Haiti, Chile, and Mexico. The judge determines the site for the execution in Cuba, Chile, El Salvador, and Honduras. Nicaragua and Haiti have specific sites.

The period of time from the notification of the sentence to the time of execution varies from within the first 24 hours to 3 days:

- Cuba and Guatemala--within 24 hours.
- Honduras and Mexico--after 24 hours.
- El Salvador--after 48 hours.
- Nicaragua and Chile--in 72 hours.
- Paraguay and Haiti--no regulations of this type established.

Events that can change these stated schedules are the defendant's pregnancy, a national or religious holiday, the defendant's special social position, or the defendant's mental illness.

Factors that can effect the application of the death penalty are:

- sex--female defendants are not liable to capital punishment in the majority of Latin American countries.
- age--the countries have a minimum and a maximum age limit for the death penalty varying between 22 and 60 years and over.
- consequences--the consequences of the crime are examined in some cases, and another kind of penalty might be administered.
- number of persons involved--when the crime was committed by more than one person, the nonimposition of the death penalty holds.
- prosecutorial requirements and pardon--there could be a series of requirements which would impede the use of the death penalty.

If the death penalty is not imposed, a long prison term can be its substitute. The length of this term varies according to the varying circumstances surrounding the crime--age and sex of the defendant, and consequences of the crime.

A Study of the Countries that Favor Abolishment

There is a great abolitionist tradition in Latin America, except in Bolivia. Even though some of the military governments have tried to implement the death penalty, they have failed because the countries consider that life imprisonment is sufficient punishment, and they are afraid that the death penalty could be used for political purposes; they also agree that execution is cruel and inhumane punishment. Some of the countries' constitutions actually prohibit use of the death penalty, as in Venezuela, Costa Rica, Ecuador, Uruguay, Colombia, and the Dominican Republic. Other constitutions permit the legislation of a death penalty, but the legislators are unlikely to establish it as a form of penalty, as in Brazil, Argentina, and Mexico.

The alternative punishment is a life term in prison, the duration of which can vary from one legislation to another. The established life terms are as follows:

- Mexico--up to 40 years.
- Brazil--up to 30 years.
- Dominican Republic--up to 30 years of public work.
- Uruguay--up to 30 years.
- Bolivia--up to 30 years.
- Venezuela--up to 30 years.
- Costa Rica--up to 25 years.
- Colombia--up to 24 years.
- Panama--up to 20 years.
- Ecuador--up to 16 years.

It is very important to examine the abolitionist movement in these countries. The doctrine presents a clear tendency toward abolition of capital punishment. In the bibliography used in this study, only two authors did not advocate the abolishment of the death penalty, and one of these was in favor of the death penalty only if imposed in a very restricted manner. The remaining authors took a very abolitionist stand. Unquestionably, this is reflected in the Penal Congresses and reform movements.

On paper, the Congresses have always been pro-abolitionist. Abolition was the purpose of the Congress of 1941, and, in the Symposium of Ludwigsburg of 1973, the Latin American Caucus came

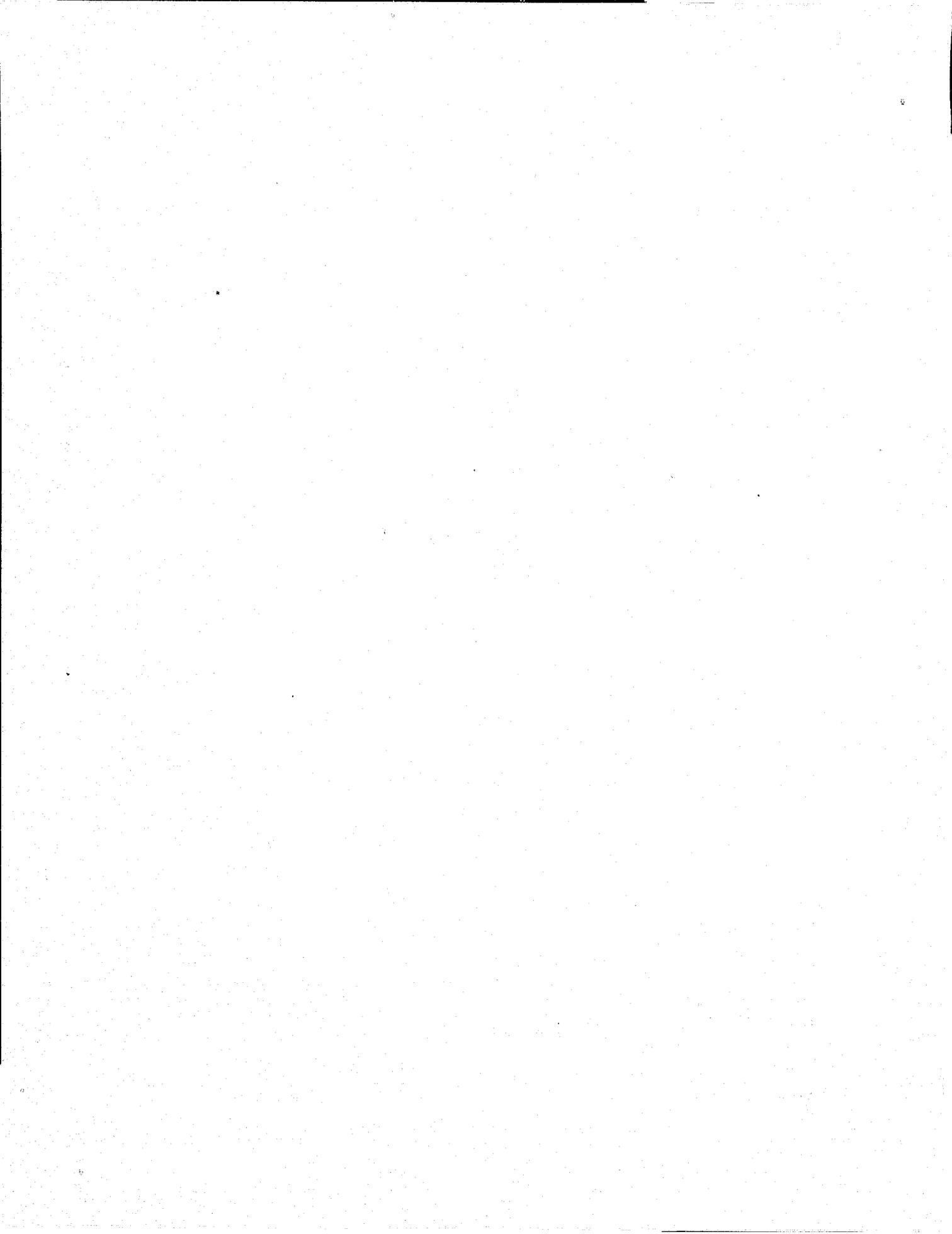
to the following conclusion: "The death penalty should be eliminated since it is an inhumane penalty."

The text of the Latin American Penal Code does not allow the use of capital punishment. In the countries that have not abolished capital punishment, the application of the death penalty should occur only in conjunction with grave crimes. The death penalty will not be reestablished in those countries that have already abolished its use. The death penalty cannot be applied in cases of political crimes, pregnant women, or persons under the age of 18 and over the age of 70. Every person condemned to death has the right to be considered for amnesty.

Conclusion

Historically, there have been many special laws reestablishing the use of capital punishment. This is normal procedure whenever a leader wishes to eliminate growing popular opposition to the government. One can conclude that even though there is a clear abolitionist perspective on the level of doctrine, there exists a contradiction in comparative law. Only those countries that have eliminated the death penalty in their constitutions have also excluded it from their laws. This group of countries includes Colombia, Costa Rica, the Dominican Republic, Ecuador, Uruguay, and Venezuela.

La pena de muerte: 6 respuestas (The Death Penalty: 6 Responses), *Studia Iuris Poenalis Vallisoletana*, Volume 2, p. 81-121. 1975. Universidad de Valladolid, Departamento de Derecho Penal, Plaza de la Universidad, Valladolid, Spain.



The Finnish Penal System—Recent Reforms

Le système pénal finlandais--Réformes récentes*

(NCJ 49500)

By Bruce Zagaris

FINLAND AND ITS PENAL SYSTEM

The Finnish judicial system has been influenced primarily by Sweden, as these two countries were united for nearly 700 years until 1809. Since independence, judicial reforms in Sweden have served as models for those in Finland. European and American law have also played an important role. The cooperation of all the Scandinavian countries in legislative matters has had a particular influence on Finnish penal law. The ministers of the Scandinavian countries meet several times a year. When they believe that an aspect of the penal law should be subject to common legislation, national commissions are established. In 1960, the Scandinavian countries founded a permanent commission to standardize criminal legislation. Cooperation in penal law has resulted in an agreement to transfer any Scandinavian sentenced to imprisonment to his home country.

Criminal Procedure

The criminal process begins with arrest and detention. The accused may be summoned to a court hearing by a private individual or by a prosecutor. In certain cases, the victim must provide precise information at this time. The victim always participates in the proceedings and always has the right to sue for damages. After a police inquiry, the public prosecutor usually assumes the prosecution of the case as he is present in court during all criminal proceedings. If "a reasonable suspicion" exists, or

* Translated from the French by Virginia Allison of Aspen Systems Corporation.

if an individual has committed a serious offense, the police are authorized to arrest him for interrogation. An individual who has been arrested may be detained for as few as 3 days or as many as 15 in special cases.

The court that will hear the case is notified immediately. A preliminary hearing must take place 8 days after the arrest. An individual stopped by the police for interrogation has the right to consult an attorney at his own expense although the attorney cannot be present during interrogation. At a court hearing, the accused may request that a lawyer be present. Release on bail does not exist.

The trial begins with the indictment. A judge presides, and the procedures are simple. There are a few procedural rules, mainly for cross-examination purposes. Reliance is placed on the investigations and the work done before the trial. The conferences between the prosecutor and the defense attorney are also crucial.

The Sentence

Sentence is pronounced by the judge. Reports, which are drafted before pronouncement of the sentence, are used in Finland only in cases involving juvenile delinquents, murder, or a defendant with a mental problem. Possible sanctions include fine, imprisonment, and special sentences, such as those for dangerous recidivists or for young delinquents.

There are four instances in which the public prosecutor and the court will not pronounce sentence. The police are authorized to refrain from making a report if a crime results from inattention, negligence, or ignorance, and if the public interest does not demand punishment. The district attorney may also choose not to prosecute. There are certain cases in which the court also has the right to dismiss and to refrain from pronouncing sentence.

In certain cases, the judge could give a suspended sentence or could require payment of a fine. The amount of a fine depends on the seriousness of the offense. The offender who is unable to pay must serve a prison term. To avoid overpopulation of the prisons, offenders may pay fines in installments. There is a minimum and a maximum prison sentence for each offense. After serving a specific length of time, the inmate may be paroled.

In early 1974, 50.8 percent of the country's prison population had been sentenced for property crimes, 11.5 percent for violent crimes, and 23.4 percent for driving while intoxicated.

(The distribution of prison sentences in Finland is illustrated in a table in the original document.)

Youthful Offenders

Finland has special sanctions and institutions for juvenile delinquents, depending on their age. Offenders younger than 15 years may receive a warning, protectional supervision, or assignment to an educational institution or a reform school. Those between the ages of 15 and 21 must appear before the court. For delinquents less than 18 years old, the proceedings are held in closed chambers. The district attorney may choose to decline prosecution if the offender is less than 18 years old when the maximum legal penalty will be either a fine or imprisonment for 3 months or more. A recent law allows the court to dismiss charges against any delinquent. A suspended sentence, the more common one for youths, may be given when the maximum prison penalty would be 2 years.

The status of youthful inmates depends on where they are placed. A juvenile delinquent sentenced to a minimum of 6 months in prison and a maximum of 4 years will be sent for the first month to a prison for juveniles for psychological examination. The prison council, composed of members experienced in judicial affairs, criminology, and medicine, decides whether a juvenile delinquent will be sent to an institution for juveniles or to some other correctional institution. About half of the delinquents are sent to juvenile institutions; those over 20 years old are usually sent to a correctional institution. About 95 percent of the delinquents are placed in a house of detention. Juvenile delinquents are not usually sent to open institutions because inmates at these usually receive higher salaries; space is therefore reserved for those delinquents with family responsibilities. Inmates at juvenile institutions may have the opportunity to complete their basic education.

Correctional Administration

In the structure of the Finnish penal system, the justice minister, a member of the cabinet, directs the courts and administrative bodies and penitentiary administration. The penitentiary administration consists of administration, departments of finance and employment, and the bureau of examination and education. An administrative council, founded in 1925 to halt abuses of power in penitentiary administration and composed of nine members who meet weekly to discuss such questions as parole and disciplinary action, directs each correctional facility. (An organizational chart depicts the administrative structure in the original document.)

Resolving Disputes

The usual procedure for resolving a judicial dispute within the prison system is for an inmate to write to the prison administration. The administration may conduct an inquiry, and if it finds an abuse of power by the director or an employee, it may take appropriate disciplinary action. The inmate also has recourse to an ombudsman for complaints against the prison staff. His third possibility is to bring suit against a prison employee.

RECENT REFORMS

Chronological Retrospective

The Finnish penal code which dates from 1889 allows the judge the latitude to determine a penalty that will be appropriate to the crime and to the offender's degree of guilt. Forced labor is an alternate imprisonment that has always existed in Finland for long sentences, and it is always imposed for a specific and usually limited length of time.

Most Finnish prisons were constructed between the late 1800's and the 1930's. These prisons, with their high exterior walls, small cells with small, high windows, and guard towers, closely resemble those throughout Europe. In 1946, a new law created open labor facilities for inmates with a less than 2-year sentence, providing them with salaries for their work. In 1949, capital punishment was abolished during peacetime, a sanction that had not been imposed for 150 years.

In 1953, secure imprisonment for dangerous recidivists was established. Unlike that of other Scandinavian countries, the legislation for Finnish institutions provided coercive treatment with no rehabilitation. Legislation in 1954 established open facilities to serve as an intermediate stage between prison and parole. These facilities generally hold long-term inmates who are serving their last 6 months. In 1974, legislation was passed which seriously limited the classification of an offender as a recidivist, resulting in a sharp decline in the numbers of such offenders.

A 1972 report to Parliament concerned the large number of people imprisoned in Finland in comparison to other Scandinavian countries. According to the report, the reason for this high number lay in the laws and the courts; imprisonment serves only to promote antisocial attitudes and to facilitate recidivism. The most important recommendation was to increase the number of open prisons which offer useful work. Inmates would fare better at less cost to the State. The abolition of forced labor was the most significant reform to result from the report. Subsequently,

many penal colonies were converted to open prisons. The two types of imprisonment in Finland are now either open or closed prisons.

Sentencing Reform

A law passed in 1975 to restrict the judge's latitude in determining sentences was designed to provide greater sentencing uniformity and to make the penalty proportionate to the crime.

Efforts To Reduce the Inmate Population

Legislation in Finland has emphasized reducing the number of inmates. Changes in penitentiary structure and in carrying out different types of punishments have also aimed at inmate reduction. Three major reforms include increasing the use of fines and of suspended sentences and liberalizing the use of parole.

Daily fines, the most frequently imposed penalty in Finland, have been increased to stress their effectiveness as a substitute for imprisonment, and new methods of calculating more accurately the ability of the offender to pay his fine are in effect.

Restrictions on the use of suspended sentences have been relaxed, allowing judges to impose them in cases in which a sentence of no more than 2 years or a fine would be involved. The only people now excluded from receiving a suspended sentence are those who have been sentenced during the preceding 3 years to a term of more than 1 year.

Parole reforms have allowed parole to be granted earlier, have reduced the parole period, and have led to granting liberty without supervision.

A recent significant reform is victim compensation. The Finnish penal code provides for monetary compensation for destruction of property, medical expenses, loss of salary or revenue, and suffering. Compensation can be accomplished in any of the following three ways: the offender could receive a suspended sentence on the condition that he repay the victim, the offender's property could be seized to pay the victim, or part of the offender's salary could be withheld for the same purpose.

The Normalization of the Prison Regime: Law 612

Law 612, considered by many the most important recent reform, is aimed at normalizing the prison experience in order to facilitate the inmate's reintegration into society. Educational, employment, and recreational opportunities are involved.

General operating rules. The primary emphasis is on increasing salaries for work done in prison to encourage inmates to work to produce merchandise for sale. The inmate is paid according to the nature of the work; he is also compensated somewhat if illness or studies or another reason prevent him from working. Inmates work an 8-hour day, 5 days a week, are paid extra for overtime, and receive a 4-week vacation each year.

Another important element in normalization is to increase inmate contacts with people outside. Visits and mail are monitored only as necessary for security reasons. Opportunities for leave have been liberalized.

Reforms have also affected penalties for offenses committed in prison. The inmate may receive a warning, lose privileges, or be placed in isolation for a maximum of 20 days. He has a right to a hearing, and the prison administration must conduct an inquiry.

Open and closed prisons. There have been no significant reforms in closed prisons; most reform involves the increased usage of open institutions. An inmate sentenced to a maximum of 2 years might be sent to an open prison if it has been determined that he is able to work and that there is no danger of escape. An inmate sentenced to a closed prison may be sent to an open institution to finish his sentence with the concurrence of the prison director. No one may be transferred from an open facility to a closed one except for special reasons.

Although the Penitentiary Administration has requested that half of all placements in institutions be in open prisons, the number of beds has not grown significantly in the last few years, primarily because of a lack of resources. The positive Finnish attitude toward open prisons is, therefore, for the moment, more concept than reality.

What lessons can be learned from the current criminal policy? There are ideas in the current criminal policy in Finland which can be adapted to other countries' penal systems. Two predominant criminal policy aims are to reduce societal expenditures for crime and to assure that the punishment and the crime are proportionate. After having gone through many changes, Finnish criminal policy once again emphasizes crime prevention and the role of punishment as a lesson to society to avoid antisocial acts.

Legislators have wanted to extend the system of societal control in such a way that the standards of criminal law reinforce other societal values. This poses problems. An interesting reso-

lution, proposed recently in Finland to accommodate changing social mores, limits the duration of legislation. On expiration, the law must be renewed. To insure that its preventive aims are met, the law must punish only the specific crime, and not a past act of the offender. The difference between criminal and noncriminal conduct must be well defined and understood.

Society should use penal law wisely, sanctioning only the most reprehensible actions. Sanctions should be equitable, and sufficient money should be spent to inform the public about crime. Instead of imposing indeterminate sentences based only on reports made during the investigation, courts should act judiciously. To obtain the best results in applying criminal law in Finland, the courts should be flexible and understanding. It has been a recent tendency of Finnish criminal policy to link penal sanctions to cultural and social needs so that the total resources of society may be utilized. On the other hand, in order to obtain a more just distribution of expenditures related to crime, there has been a tendency to use criminal justice resources in such neglected areas as crime prevention and assistance to crime victims.

Finland continues to lead the way in using such sanctions as suspended sentences as a substitute for imprisonment. Besides increased use of daily fines, other possible sanctions include reprimand by the police or the public prosecutor, warning by the court, loss of certain rights, performing work, public service, and restrictions concerning leisure, travel, or residence.

Postpenal service is another interesting subject for a discussion on reform. In 1972, a State committee on probation and parole made several proposals. The committee recommended the abolition of supervision for ex-inmates and suggested that postpenal services be available only to offenders who have requested them voluntarily. In addition, the committee proposed a new method of postpenal supervision involving self-reporting. The committee considered that an effective punishment for an offender could consist of reporting regularly to an authority. This obligation would be a punishing experience that would not remove the delinquent from society. This sanction could eventually be combined with such others as daily fines or warnings.

Minor traffic violations and morals offenses, such as pornography, abortion, certain sexual offenses, and public drunkenness, have been decriminalized. Minor property damage, such as small thefts, bad checks, and social security frauds, have recently been studied by Scandinavian criminologists with a view toward decriminalization, or rather "depenalization." Finland has been influenced by this theory to change theft laws so that petty thefts are punished solely by a fine. On the other hand, more serious penalties have been proposed for tax evasion and for safety violations at places of work. In addition, more severe

penalties are planned for certain crimes, such as aircraft hijackings, international terrorism, polluting the environment, and invasions of privacy.

Finland's limited resources, in comparison to those of its neighbors, has caused it to take a pragmatic approach to solving criminal justice problems. The notion of "cost-effectiveness" is very important. Criminal policy in Finland considers supporting the offender's family and supplying postpenal assistance to a recently released inmate as social expenses connected to the offenses. As a result, criminal policy is very often based on the efficient utilization of its penal and social resources.

Revue pénitentiaire et de droit pénal, v. 101, n. 4:573-603,
October-December 1977. Société générale des prisons et de
législation criminelle, 27, rue de Fleurus, Paris (6^e), France.

Education and Training Activities at the Government Prisons at Nyborg and Sobysogard, Denmark—Skadhauge Plan—Report 2

Uddannelses- og/eller beskæftigelsesplanerene omkring statsfængslerne i Nyborg og på Søbysøggård--Skadhauge Planen-- Report 2* (NCJ 49461)

By Bjørn Holstein and F.B. Skadhauge

Introduction

B.N. was arrested on charges of breaking and entering and theft, and was sentenced to 1 year and 3 months in prison. Before trial, he made plans to continue his education if sentenced. He was sent to Sobysogard, and after a half year of basic courses, enrolled in courses at a local school at the ninth grade level. He studied during the day and returned to prison at night.

J.A. was imprisoned on assault and battery charges. He had quit school in the seventh grade. J.A. enrolled in a training course while awaiting trial; he was released from prison before coursework began.

K.J. decided to take courses at Nyborg prison while serving a term at Sobysogard. He was driven back and forth to courses daily, but dropped out of the course before its termination.

N.N. was sentenced for selling narcotics. His education had stopped at the 10th grade. He enrolled in a course to continue his basic education while still in the arrest facility. He was released before his coursework terminated, but continued with the class on his own.

These examples illustrate the plan behind the educational and training program for inmates called the Skadhauge Plan (SP). This report will discuss the intentions and realities of the plan which began in April 1975. The plan contains three important objectives:

* Translated from the Danish by Denise Galarraga of Aspen Systems Corporation.

- Inmates should be offered a larger choice of educational opportunities and, when safety factors are not involved, they should be able to receive instruction outside the prison;
- Very early in the criminal justice process, ideally after arrest, the inmates should be able to outline a study course to be followed if they are sentenced to prison; and
- Consideration should be given to the inmates' desired study course when they are assigned to a prison facility.

Background

The immediate background for the SP program came from a 1973 proposal for increasing instructional, educational, and free-time activities for prison inmates. It was determined that inmates who have a lower level of education than the general population should be offered the same educational opportunities as a regular citizen.

Objectives

This report was a result of a joint effort of members of the criminal justice field and supervisory personnel in Nyborg and Sobysogard. The text consists of four elements: (1) an internal statistical system for keeping tabs on the operations and progress of the educational and training plans; (2) an evaluation device for measuring the reactions of inmates, criminal welfare personnel, and persons in involved institutions; (3) registration of recidivists in order to gain information on the nature and quantity of recidivists in relation to the variety of educational attempts; and (4) a postinvestigation using the interview method to gather information from the clients themselves on developments after release, and evaluations of the program.

STATISTICAL OVERVIEW OF THE EDUCATIONAL PROGRAM

More than half of the persons participating in the program are in their early 20's, and those in the next larger group are in their later 20's. Thirteen percent of the participants are younger than 20 and 14 percent are over 29. One-third of the participants are serving a 6- to 12-month term, and one-fourth are sentenced from 1 to 2 years. Relatively few are serving less than 6 months or more than 2 years.

Previous prison terms were served by 62 percent of the participants, a lower recidivism rate than the general prison population. A large number of the inmates had quit school between the 8th and 10th grades, and over 50 percent had had no further work training or educational experience.

Approximately one-fourth of the cases for SP activities were initiated in prisons in Copenhagen, 40 percent in provincial jails, and 34 percent in other State prisons. The two prisons actually involved in the SP program were Nyborg and Sobysogard. The main categories of the programs offered were special work training courses, special basic instruction and refresher courses, and continuing education programs designed to be comparable to public school grades 8 to 12. Some participants remained in the courses less than 1 month, while others participated more than 24 months. The 25- to 29-year-olds have a better prognosis for following through with the courses. Approximately one-half of the participants actually finish the courses in which they have enrolled. (Statistics describing inmates and activities during 1976-1977 are presented in a series of charts in the original report.)

INMATES' RECOMMENDATIONS AND EXPERIENCES

Questionnaires were sent to Sobysogard and Nyborg inmates who had participated in SP. Two-thirds of the respondents were under the age of 25, and most were serving a sentence of more than 1 year. Two-thirds of the respondents had had no previous training.

The returned questionnaires reflected a very strong positive attitude, although this should be tempered by the fact that the respondents were inmates. Criticisms concerned the limited scope of courses available and the lack of courses relevant to employment training. Over one-third of the respondents indicated that the SP program had made the prison term more pleasant, and a few felt that the basic benefit of the program was the chance to get into an open prison. The sample of participants, however, cannot be considered representative.

PERSONNEL RECOMMENDATIONS AND EXPERIENCES

Questionnaires were circulated among personnel to determine their perceptions of SP and their impressions of the effects of the program on the criminal welfare organization and on overall working conditions. Quantitative and qualitative analysis was conducted on 678 completed forms and letters received from persons involved with SP.

Personnel background was established based on experience in handling a training and educational course, previous participation in SP courses, knowledge of the SP program, and the ability to be an opinion leader.

A very large majority of personnel (85 percent) concluded that SP's objectives were good, and the general attitude was positive, particularly among those groups with a better background in the program. Most of the respondents indicated that they thought SP fulfilled its goals for the most part; many stated, however, that there should be stricter adherence to the objective to begin plans for the course work as soon as possible after arrest.

The personnel group with the best background in SP concluded that participation in the program made a prison term more pleasant, and not more difficult, for the inmate. Only 22 percent complained that their work had become more difficult due to the program; many felt that it had, in fact, become more interesting and challenging. From a work-operation view, however, the program did drain operations for other inmates.

RECOMMENDATION AND EXPERIENCES OF LOCAL INSTITUTIONS

Qualitative impressions were gained from 10 interviews with centrally placed representatives of four large educational institutions which have accepted inmate pupils. The general feeling is that knowledge and information on SP are limited at these locales, that there is no systematic procedure for distribution of information on SP, and that the program has occupied a modest place in the consciousness of the institutions.

Attitudes toward program objectives and means are positive, and local institutions are very willing to accept the pupils from Sobysogard. The only drawbacks were reluctance to allow more than one inmate-pupil in a course at a time and a hesitation to welcome too many inmates in the school at one time.

Interviews with pupils showed that there are no significant problems and that the local students have welcomed the inmate-pupils. Personal development of the inmates, deviation-reducing effects, and pedagogical advantages for the inmates are among the positive benefits of the program. A side effect is that the "normal" pupils can form a more realistic and undramatic conception of criminals.

These interviews point toward certain hypotheses in working out further designs for SP. The interviews provide data on the dilution principle--the distribution of deviants in large groups of normal persons--which is considered a very important factor

in treating deviants today. There is a possibility of reducing deviant behavior since the inmates are not kept continually in an environment that reinforces their conception of themselves as different. The interviews indicate that the normal school population can grow in tolerance and understanding as a result of their positive experiences with the inmates.

SKADHAUGE PLAN IN DAILY OPERATION--A RESUME

First Phase in an Educational Activity: Outlining a Course of Study

An educational activity may begin in the arrest facility before the trial or after the offender is incarcerated. The offender is given a brochure on the training and educational possibilities available in prison; the program is explained further by personnel.

Although there was much positive feedback from the questionnaires on this phase of the program, personnel indicated that they thought the prisoners were sometimes promised more than they were actually offered; there were also complaints from personnel that some prisoners abused the program, entering only in order to be placed in an open prison. Criticism was also raised concerning the heavy bureaucracy surrounding the program. Complaints were voiced that women inmates were not offered the same possibilities, and suggestions for expanded course offerings were offered.

Second Phase: Investigation Procedures

In the second phase of the program the staff of the arrest facility or a subsidiary prison reviews the inmate's study plan and approves or alters it. Later the plan is sent to the central criminal welfare organization or the program leaders at Nyborg and Sobysogard. At this time 32 percent of the plans are interrupted, either because the prisoner is released or because the resulting sentence is too short to accommodate course work. It is also possible that the educational institution involved will refuse to accept a student due either to some factor in his background or because the course is already filled. The criminal welfare organization can also reject the course plan because of overcrowded facilities or because it feels that the inmate is not suited to the course work.

Third Phase: The Educational/Training Activity Process

Thirty-one percent of the activities and courses begun are never finished. Certain clients and activities with a lower sur-

vival rate include inmates with a literary background, inmates who who begin very long-term courses, inmates who are assigned to open prisons, and activities that are started in the arrest facility. Daily transportation to and from the schools and prisons also presents a problem.

Fourth Phase: The End of an Activity

The 1976-1977 year ended with 367 completed activities: 33 driver's education courses, 104 special work-training programs, 8 substitute teacher programs, 157 courses with special instruction or refresher courses in basic subjects, 52 courses on a public school level, 10 literary courses, and 3 diverse courses. Many of the participants enrolled for further study.

SUGGESTIONS FOR IMPROVEMENT

Better methods of counseling inmates in potential course work are recommended for the first phase, and it is suggested that placement and economic problems may be solved, perhaps by arranging courses at several facilities. Further recommendations include a publication circulated regularly, describing defects and problems, better motivation of inmates, and the establishment of work groups for designing plans to improve client prognoses.

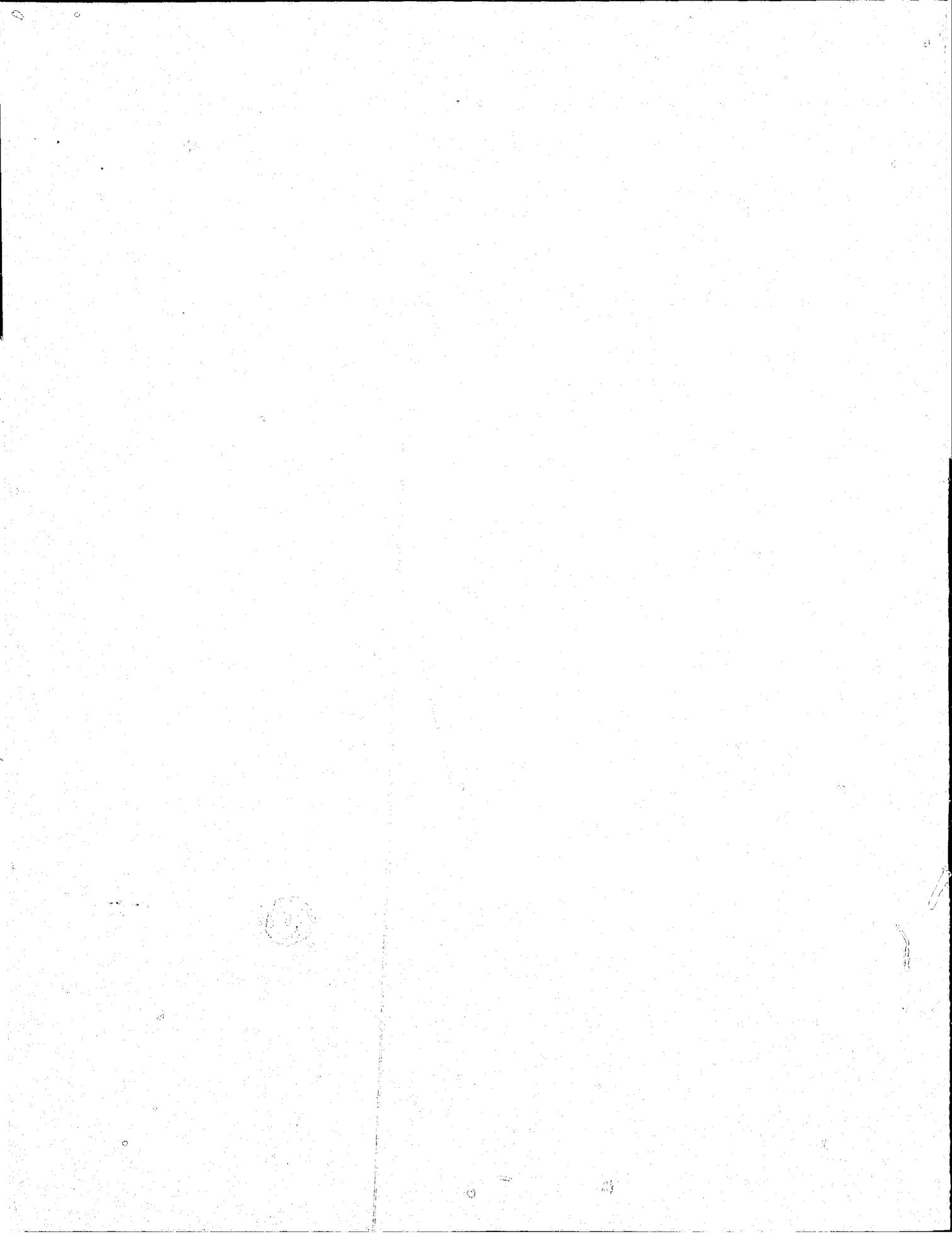
Administrative problems might be lightened if the initial stages of the activities were simplified by direct negotiation between the arrest facility and the educational institution; this would follow consultation with directors at Nyborg or Sobysgard. Optimum cooperation between the arrest facility and the criminal welfare organization is also necessary.

One of the major obstacles to the program is the lack of information on SP. There should be a systematic approach to distributing information between the arrest facility and the criminal welfare organization and to informing the inmate about the progress of his activities. An explanation of SP should hang in the cells or on the bulletin boards of the arrest facility, and information about the educational and training institutions should be distributed in the prisons and facilities. Counseling operations should be continued and expanded to include other prison divisions. A local course on the SP program might be a productive way to spread knowledge, and personnel orientation and training programs should be offered. A brief orientation notebook might be prepared for participants and interested persons. Information can also be distributed through the press and news magazines.

Finally, the SP program suffers from a capacity problem as it cannot serve as many inmates as it should. A work group ought to be established for evaluating the possibilities of distributing the program to other locales. Negotiations with related agencies should be initiated to explore the opportunities for helping released prisoners to continue the educational activities. Similar educational and training possibilities should also be available for female inmates.

The original report includes bibliographic references, the questionnaire forms, and yearly statistical analyses. Statistical tables used for analysis in the report are available.

Justitsministeriet, Kriminalpolitisk forskningsgruppe,
Slotsholmsgade 10, DK 1216 Copenhagen K, Denmark.
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The Evolution of Imprisonment in The Netherlands

L'évolution de la peine d'emprisonnement aux Pays-Bas*

(NCJ 49493)

By L.H.C. Hulsman

Introduction

Compared to the prison populations in other countries, the Dutch penitentiary population appears relatively restrained. This article examines the Dutch penal system in relation to the following questions: (1) Is it true that the Dutch penitentiary population is relatively small or is this only the result of deceiving statistics or "eclipsing"? (2) Can the penitentiary population size be attributed to relatively short sentences or to the relatively low frequency of sentences actually carried out? (3) Which factors contribute to making the penitentiary population relatively smaller than those of comparable countries?

A second matter of interest concerns the conflicts which arose in the 1970's regarding the Dutch penitentiary institution. A study of these conflicts will also allow us to investigate qualitative aspects of imprisonment in The Netherlands, as well as its evolution, and to draw some general conclusions about resulting criminal policy.

Dutch Penitentiary Population: Size and Composition

Places of confinement in The Netherlands' penal system include correctional establishments (e.g., prisons, penitentiaries, state workshops); state asylums, private asylums, or other psychiatric establishments; and special establishments for juveniles, especially reform schools. Detentions in police headquarters following action on arrest warrants will not be considered here.

* Translated from the French by Deborah Sauvé of Aspen Systems Corporation.

People may be detained in establishments of the first and third categories as a result of (1) provisional arrest warrants, as is the case for 40 percent of the total penitentiary population; (2) straight prison sentences pronounced by judicial decision, which represent 30 percent of the population; (3) revocations of sentences of conditional imprisonment or probation, producing a small percentage of the total; (4) principal sentences for straight imprisonment, as opposed to subsidiary sentences for nonpayment of court-imposed fines (representing less than 1.5 percent of the population), or for conditional sentences; (5) sentences for juveniles which involve confinement and of which reform school is the major type, accounting for approximately 3 percent of the total; (6) placements in state workshops, a sentence which is seldom inflicted any more and which will be eliminated; and (7) decisions which place individuals, such as those suffering from mental disorders, at the disposition of the Government, representing 17 percent of the total detainees at the end of 1975.

The total number of those confined as of December 31, 1975, was 3,550 for 1963, 2,880 for 1969, 1,750 for 1972, 1,620 for 1973, 1,550 for 1974, and 1,687 for 1975. During the past 15 years, the detained population as of the reference date diminished by approximately 40 percent.

In order to determine whether this marked reduction in the number of inmates is genuine, one must examine the possibility that the figures could result from transfers to other types of total institutions, particularly psychiatric establishments and juvenile homes. Because readily available statistics exist for the number of free beds in psychiatric facilities, it is possible to ascertain that the number of patients has most likely decreased rather than increased. Juvenile homes have undergone an even more marked decrease in the number of residents than have penitentiary establishments. It can be concluded, therefore, that a substantial reduction has occurred in the percentage of the Dutch population detained for deviant behavior.

When the Dutch penitentiary population as of December 31, 1975, is compared to that of other countries, the following figures (presented on the following page) result:*

* Summary of separate comparisons made by Irwin Waller and the Dutch Ministry of Justice in 1976.

<u>Country</u>	<u>Number of detainees per 100,000 inhabitants</u>
The Netherlands	20
Belgium	60
France	55
U.S.	200
Poland	190
Canada	90
Sweden	61
Japan	45
Norway	37
England and Wales	75

During the period in which the Dutch penitentiary population diminished so sharply, it was not a question of a decrease in the number of people housed annually in penitentiaries or other establishments either to serve a sentence of imprisonment or for purposes of preventive detention. In fact, this number increased by 20 percent between 1964 and 1975. Furthermore, the decrease was not a result of a reduction in the number of prison sentences or a pardon/reprieve policy applied to sentences involving confinement. On the contrary, the decrease resulted almost exclusively from a reduction in the length of prison sentences pronounced by the courts. The evolution of the length of straight prison terms is depicted in the following table:

<u>Year</u>	<u>More than 3 years</u>	<u>1 - 3 years</u>	<u>6 - 12 months</u>	<u>3 - 6 months</u>	<u>1 - 3 months</u>	<u>less than 1 month</u>
	%	%	%	%	%	%
1959	0.9	7.0	16.1	19.7	26.3	36.0
1966	0.5	4.6	11.6	15.4	16.9	51.0
1970	0.3	2.4	7.5	15.5	16.7	57.6
1971	0.3	2.9	7.9	14.7	16.9	57.3
1972	0.4	2.4	7.0	14.8	17.3	58.1
1973	0.5	1.3	8.3	31.0	31.0	58.9
1974	0.6	1.8	7.5	31.3	31.3	58.6
1975	0.7	2.2	7.7	33.2	33.2	56.2

One must bear in mind that the number of cases placed at the Government's disposition decreased sharply in the course of recent years, from 1,973 cases in 1968 to 98 in 1975, with an average length of 3 years' imprisonment in each case. Part of the increase in prison sentences, therefore, can be considered a shift from placing individuals at Government disposition to imprisonment; this does not of itself imply that the number of longer actual confinements has also increased.

Analysis of the Relative Leniency of the Dutch Penitentiary System

The penal system of The Netherlands differs considerably from those of other countries in that it makes much less use of deprivation of liberty. This same relative mildness also appears in less measurable aspects; e.g., hearing atmosphere, relationships between inmates and guards, and the manner in which the press reports on crime.

Many factors at work in The Netherlands, relating to urbanization, population increase, changes in lifestyle, religious issues, social relations, massive immigrations of deviant cultural groups, demographic structure (i.e., high representation of the 15- to 24-year-old age group, which usually supplies the greatest number of identified delinquents), and the growth of the country as a center for world transport and youth tourism, play important roles in the nature of the penal system. A distinction must be made among environmental factors, societal factors, and penal factors.

Concerning the environment in which the penal system operates, the following aspects are noteworthy: (1) The Netherlands has a particularly well developed system of social security, supplying not only allocations on a general basis but also actual occupations for those who have difficulty integrating themselves into the normal work market; (2) a vast network of youth centers exists, in which the youths themselves, encouraged by subsidies, have considerable influence; (3) the extensive network of social services, comprising approximately 8,000 social workers, is much more client-oriented and much less "treatment"-oriented than comparable systems in other countries; (4) the mass media play quite an important role in overcoming the isolation of minority groups and give a certain amount of attention to the penal system as a social problem; and (5) the social work system, including the offender reclassification function and the "Coornhert Liga" (Dutch Association for Penal Reform), comprises a formidable lobby for improving the correctional system.

Among the factors within the penal system itself which contribute to the reduced sentence length are those originating from legal dispositions in relation to prosecution and sentence severity. The principle of expedient prosecution is in force in The Netherlands: one only prosecutes when a favorable result can be expected. The public prosecutor, therefore, has agreed to proposals which would resolve cases in the social context outside of the penal system. Dutch law also includes a general minimum for sentences which makes it possible to punish most crimes by assigning a light fine and, even in cases of serious crime, to limit punishment to a conditional sentence of 1 day. The penal judge has practically limitless power to pronounce conditional sentences for both first-offenders and recidivists and for light infractions and serious crimes alike.

A second category of contributory factors is the composition (i.e., the number and the formation) of the diverse services which make up the penal system. The number of public prosecutors and members of the judiciary who sit on penal cases is reduced. Moreover, inflicting a straight sentence requires more time than do other solutions. The system's reduced capacity in this sense results in a strong self-limiting tendency.

Another limiting factor is the solid position occupied by offender reclassification in the penal system. The number of professional social workers involved in reclassification far exceeds the number of jurists who, either as judges or as magistrates of the public prosecutor's office, are engaged in penal proceedings. Although reclassification is financed by public subsidy, it has nonetheless retained the characteristics of an independent organization which does not belong to the hierarchy of other penal functions. The social investigation report, prepared by the reclassification section, depicts the crime situation from the offender's point of view and also presents a profile of aspects of the offender's personality other than those directly concerned with the crime. This report also includes concrete information on the often serious consequences which certain sanctions could have for the subject and his or her family.

Yet another factor is that, in the entire penal process, purely judicial considerations have a relatively minor role; this fact facilitates interaction between the penal system and other sectors of the society. Thus, unofficial or informal agreements between jurists in the penal system and nonjurists in and outside of the system present less difficulty than usual.

The significant deescalation within the penal system during this decade is therefore not the result of a conscious policy, but rather an unintended combination of all the factors cited above.

Development in the Mid-1970's

In the middle of this decade, the diminution of the penitentiary population appears to be drawing to a close, and the correctional system is beginning to be the object of numerous heated conflicts. There is considerable debate about the construction of new penitentiary establishments, the quality of corrections, particularly the prison system, and the delay in serving sentences.

The Problem of New Construction

At the beginning of the 1960's, no one was able to foresee the coming decrease in the correctional population. A program of

new penitentiary construction was prepared to respond to the then-current situation; it primarily involved replacing the most run-down of the Dutch correctional facilities, the prisons. A concomitant improvement in security through new techniques and a considerable reduction in the number of guards were also planned.

The construction project was put in abeyance for several reasons, one of which was the economic forecast. Moreover, several prisons were closed as a result of the sharp decrease in the number of inmates at the beginning of the 1970's. Following prison disorders and incidents during this same period, a commission was formed to consider the future of prisons in The Netherlands. The Van Hattum Commission decided that, contrary to the projected expansion, prisons should remain small and should be utilizable in times of crisis; this view could not be reconciled with the proposed implementation of technology to reduce personnel needs. The recommendations, particularly those having to do with the size of prisons, were adopted in principle by the prison department and the Parliament.

With an improvement in the economy at the beginning of the 1970's, a certain number of projects conceived in the 1960's were reinstated, including two penitentiary establishments: a prison in Maastricht and another in Amsterdam. As the implementation of such construction plans does not fall under the principal jurisdiction of the Ministry of Justice, the Ministry and the Justice Committee of Parliament were not informed at first of the Amsterdam project. The outcry which greeted the news of the project's implementation caused Parliament to adopt a motion of opposition. The Justice administration, however, decided that the project was too far advanced to be stopped. Therefore, the Amsterdam project is still underway, and the Maastricht project has been completed. Two of the most important projects conceived since the war are thus in contradiction to the principles of officially adopted criminal policy.

The Quality of Sentences of Confinement

When one places the notion of the "quality" of Dutch corrections in an international perspective, and notably in that of its neighbor, Belgium, The Netherlands seems to give a rather favorable impression. As an index of that "quality," one may use the proportion of inmates to correctional personnel. The same memorandum of the Ministry of Justice cited earlier furnishes the following figures (presented on the following page) on this subject:

<u>Country</u>	<u>Number of personnel per inmate</u>
The Netherlands	1.3
Belgium	0.5
France	0.4
Denmark	1.1
England and Wales	0.5

Similarly, when one considers the composition of these personnel, The Netherlands appears in a favorable light. Of the 4,000 personnel (excluding prison department administrators), approximately 2,500 are guards. The administration and staff (including medical personnel, qualified psychologists, and prison chaplains) number about 400; 200 people are group leaders, and 370 are involved with penitentiary support services. More than 100 people are responsible for training and education of prison personnel. One must also count 85 professional social assistants who work exclusively in penitentiaries and who are not under the control of the Department of Penitentiary Establishments but of the Department of Reclassification under the Ministry of Justice.

Certain establishments, particularly those for juveniles, make use of regimes offering inmates a worthwhile way to occupy their time. Moreover, open and semiopen facilities allow inmates to maintain reasonable contact with society. More and more use is being made of short furloughs with the inmate's family. Most establishments are small and have a capacity of 100-150 inmates; the largest is the new prison at Maastricht which contains 228 beds.

One of the most striking features of the Dutch system is the relatively strong representation of the medical and social sectors, which has not led to a treatment regime. Overall, the official goal of that policy is merely to offer assistance, and detention and sentence length do not serve as means to compel inmates to accept this offer.

However, if one contrasts the "quality" of confinement to officially formulated policy, a much less favorable picture results. Policy goals concern security on the one hand and preparing for the inmate's return to society on the other. Official doctrine states that the best security is the least security. The starting point of the official philosophy is that links between the inmate and society should be maintained and improved and that the penitentiary administration should seek out contacts in free society so that inmates do not lose touch with the outside world. In actual practice, however, the concern for "security" and "maintenance of order, peace and quiet" dominates prison life. The Dutch penitentiary administration remains a hierarchical organization in which pre-

venting escapes and maintaining order and tranquillity through a strict application of the rules--and only as an exception can the inmate invoke these rules to claim his rights--determine the overall climate.

This general picture is borne out by the chronicle of attempts to improve the legal situation of inmates. Improvements were announced in this area during 1964, but it was not until 1973 that a substantive proposal was presented to the general States. The adopted bill gives inmates a rather limited right of complaint involving measures taken by prison administrators which infringe on rights guaranteed to inmates by provisions in force in the establishments. However, inmates cannot invoke any rights in practice because prison directors have discretionary powers which remove them from the jurisdiction of certain provisions. It is evident that, during 13 years and despite assurances to the contrary, no real progress has been made in this area.

Another interesting example of the true nature of priorities in the penitentiary administration is the reorganization which took place in 1971 following the closing of several prisons. It became necessary to relocate inmates in facilities far from their places of residence; this considerably reduced the possibility of visits from parents and friends, representatives of the reclassification department, and counsel. The goal of "maintaining contact with society" was subordinated to the necessity of reducing the number of correctional personnel. Nothing was said at the time of the possibility of giving up the disbanding because of its harmful effect on the "quality" of detention or of the possibility of translating the reduction in personnel through a reduction in security, thus maintaining the existing quality.

The Delay in Serving Sentences

A considerable delay in carrying out prison sentences appeared in 1975. Sometimes 1 year would pass before those sentenced to serve short terms could do so. This delay began to grow rapidly. It resulted partially from the decrease in available places in prisons following the 1971 reorganization and partially from an increase in the number of short sentences. Of the numerous proposals to remedy this situation, only a review of provisions relating to preventive detention was implemented. In addition, a bill was passed which expanded indictments for driving under the influence of alcohol. As most Dutch courts normally punished this infraction with straight prison terms, the adoption of this bill multiplied the number of short prison terms: in 1970, convictions for driving under the influence of alcohol numbered 9,000; in 1974, 12,000; and in 1975, the figure had reached 20,300. Many of these convictions were for short prison terms. An intensification of prosecution for drug-

related crimes also caused a greater number of sanctions involving confinement.

Thus, in spite of the policy of reducing prison sentences which was adopted during the mid-1970's, the number of short sentences increased considerably. The Government had initially relied on making up for the delay which would be caused by lack of available prison space by enacting a mass pardon measure, especially for sentences of 14 days and less pronounced before January 1, 1975. The delay increased nonetheless.

A dynamic policy on the part of the prison administration developed to combat the delay. In the space of 1 year, the capacity of Dutch penitentiaries was increased by 700 places, a 25-percent increase over the pre-1975 capacity. The number of paid personnel increased from 3,200 in 1974 to 3,900 in 1976, and the total personnel appointed in 1975 and 1976 reached 1,200. Despite this drastic measure, the delay in carrying out sentences was not notably reduced. A second mass pardon was rejected by the Government, which feared the opposition of the judiciary.

Another interesting consequence of the penitentiary administration's reaction to the delay involved the use of the Grave prison as an emergency solution. At Grave, an old fort which had served as a psychiatric establishment was transformed into a temporary prison for offenders serving short sentences. A retired police officer was named director, and the majority of the guards were recruited from young aspiring police officers who had not yet found a place in the police academy. Only a very small percentage of the staff were qualified prison personnel. Naturally, a great number of protests were raised against this initiative.

However, to the great surprise of many, this improvisation, from nearly all points of view, distinguished itself favorably from most Dutch penitentiary establishments. Both experienced inmates and regular prison personnel were particularly satisfied with the climate at Grave. An important element of the prison's success was that the heavy bureaucratic atmosphere was completely absent because nearly no one knew the usual regulations or was concerned about a career in the penitentiary environment. Moreover, relations between guards and inmates were on somewhat of a level; as all sorts of arrangements were lacking in the establishment, inmates and guards were forced to improvise together to find solutions.

Conclusions

Although the Dutch prison administration and penal system, overall, are milder than those of neighboring countries, they do not distinguish themselves to a great extent in their evolution

and structure. The prison department's management reflects the organized elements which together support the system with their interests and ideologies--the police, the judiciary, and the penitentiary administration. Penal system policy, therefore, results from the interests of those organizations which carry the system.

Moreover, the true priorities of the penitentiary administration show themselves to be incarceration and security. During the 1970's, only a very small and slow evolution in improving the quality of confinement sentences has been made. That evolution is so slow that the distance between the quality of life inside and outside penitentiary establishments has grown considerably. If one considers that distance as a measure of quality, and rightly so, then the quality of corrections has worsened during the last 10 years. The structure of the penitentiary system is quite capable of improvising when incarceration is concerned, but not when confronted with the question of improving the quality of detention. Notable progress in the quality of detention can be attained only within the framework of a different approach to the penal system in its totality.

Revue de droit pénal et de criminologie, v. 57, n. 10:865-879, July 1977, (Special issue: Prisons). A.S.B.L. Revue de droit pénal et de criminologie, Palais de Justice, 1000 Brussels, Belgium.

Foreign Prisoners in The Netherlands

Buitenlandse Gedetineerden in Nederland*

(NCJ 49478)

By K. Mesman Schultz and G. Methorst

INTRODUCTION

In February 1975, the United Nations Social Defense Research Institute (UNSDRI) initiated an international investigation into the problems of foreign prisoners in penal institutions. UNSDRI wanted to (1) obtain information concerning problems and difficulties experienced by foreign prisoners; (2) identify the most frequently occurring management problems for the staff of penal institutions with a population of foreign as well as nonforeign inmates; and (3) explore appropriate research methods to approach these problems.

To meet these objectives, two questionnaires were drawn up; one was to be answered by the prisoners, the other by the staff of penal institutions. The Netherlands was 1 of 15 countries participating in the project, and this report discusses the results of its survey.

About half of the foreign prisoners of seven penal institutions were randomly selected to be interviewed, and at least one of the staff members of each of these institutions participated in the program. A small part of the questions for the prisoners related to background information. The other questions concerned problems resulting from imprisonment and ways to handle these problems. The questionnaire for the prison staff contained questions about problems created by foreign inmates and ways to solve these problems.

* Translated from the Dutch by Welmoet Bok-van Kammen of Aspen Systems Corporation.

RESULTS

Background Information

For the 100 prisoners questioned, the breakdown of country of origin is as follows: Western Europe, 39; Southern Europe, 22; Arab countries, 16; North America, 12; Far East, 8; and other countries, 3.

The most frequently mentioned age was between 21 and 35 (41 percent). Almost all of the prisoners (87 percent) were less than 35 years old. The most frequently mentioned occupations were skilled laborer (30 percent), self-employed (18 percent), student (15 percent), and jobs in the hotel business (13 percent). Most prisoners planned to stay only temporarily in The Netherlands (43 percent). A minority (35 percent) was there to work and/or to live. A few remarked that their only reason for coming to The Netherlands was to commit a crime. Most had come with friends and/or relatives (63 percent), while a small percentage (35 percent) had come alone. At the time of their arrest, almost half of the foreign prisoners (47 percent) had been in The Netherlands less than 1 month, and 70 percent less than 6 months. Only 11 percent had been there longer than 5 years. The reason for arrest was in most cases a crime against property (45 percent). Some were arrested on drug-related charges (33 percent) or assault (11 percent). Almost all of them (82 percent) knew that their criminal conduct was punishable by law in The Netherlands.

Foreign Prisoners' Problems

A majority of the problems of the foreign inmates seemed to have centered around language. Almost half (49 percent) did not understand or hardly understood any Dutch; 56 percent did not speak or hardly spoke Dutch; and 66 percent did not read or hardly read any Dutch. Another frequently mentioned problem was the feeling of being victims of discrimination. Some mentioned lack of contact with the outside world as an important problem. Many had little or no contact with friends and/or relatives, who often lived too far away for visiting. Only a few were in touch with their consulates. When asked about contact with their lawyers, 87 percent answered that they had seen one within a week after arrest. Not everyone agreed about the quality of the contact with these lawyers; 27 percent considered it poor, while 41 percent found it good or satisfactory.

Concerning their opinion of contacts within the institution, 57 percent of the prisoners considered their relationship with the staff satisfactory or good; 36 percent considered it poor. In general, the foreigners were more satisfied with their contacts with other prisoners; 61 percent had a reasonable or good rela-

tionship with Dutch inmates; 70 percent with inmates of other countries besides their own or The Netherlands, and 75 percent with inmates of their own country.

Some mentioned food as a problem, while other difficulties related to recreational activities. Ninety percent did not know of any recreational activities designed specifically for foreigners; however, 95 percent participated more or less regularly in the general activities for inmates.

Solutions

In answer to the question of what could be done to solve their problems, most foreign inmates answered that they wanted to be treated in the same way as Dutch prisoners. For some, this meant the same visiting rights or an equal sentence; for others, freedom after release instead of the obligation to report to the alien registration office, or the possibility of staying in an "open" prison.

To solve the problems of isolation, some expressed the desire to meet fellow countrymen from other prisons or to improve inmate access to foreign literature. Regarding the language problem, many proposed courses in Dutch. Another suggestion was to appoint guards who spoke one or more foreign languages. Some considered the best solution would be to serve their sentences in their own countries.

Correlations Among the Answers

In general, it could be said that the longer the foreign inmate had been in The Netherlands before his arrest, the better he was adjusted to the difference in food customs, the better he spoke the Dutch language, the more he was involved in the activities of the institution, and the less he felt discriminated against. A prolonged stay in The Netherlands also seemed to correlate with increased contacts with the outside world. Prisoners who judged their contacts with other inmates (Dutchmen and fellow countrymen, as well as other foreigners) and prison staff more positively had fewer adjustment problems and were more involved in prison activities.

Staff Problems

Like the prisoners, the staff of the institutions also considered language a major problem which had easily led to misunderstandings and consequently tensions and aggression. Language differences limited the prisoners' participation in recreational activities and hampered a progressive regime. Because of the lan-

guage problems, extra attention was often paid to foreign prisoners, a gesture which was considered favoritism by Dutch inmates.

One or more of the following measures had been taken to deal with these problems: language courses for the staff, the use of interpreters, allowing foreigners to have radios to listen to programs in their own language, discussion groups for foreign inmates, information sheets about prison rules in different languages, better library facilities, and nonverbal recreational activities.

The very limited contact of the foreign prisoners with the outside world did not create special problems for the staff. They did observe that rehabilitation for foreigners hardly existed, the alien registration office was not very sympathetic, and the consulates did not readily offer their services. A frequent and good relationship with a suitable lawyer was hard to arrange. Some institutions attempted to bring foreign inmates in contact with organizations concerned with foreign nationals in general or to involve them in discussion groups in which volunteers from the outside world could participate.

No special problems except for the language difficulties were observed in the contact of the foreign prisoners with the staff and the other inmates. The feeling of being discriminated against increased in prisons with a high concentration of foreign inmates. Therefore, too many foreign prisoners in one institution did not seem desirable.

Staff Solutions

To handle the problems concerning foreign prisoners, the staff agreed that the measures they had already taken should be increased and improved. Some suggested working with special units for foreigners or appointing permanent guards for foreign prisoners. Better supervision of the guards dealing with foreign inmates was considered advisable.

Conclusion

Language difficulties and contact with the outside world seem to be the major problems of foreign inmates. Because of some deficiencies in the UNSDRI survey, no further attempts were made to analyze the data. A future survey could examine which problems are specifically related to foreign prisoners and which to inmates in general, and how the different problems are interrelated. Subsequently, scales could be developed to measure the problems to be expected for each individual. These scales could be used to determine the usefulness of investing in a problem-solving project and to ascertain which individual would benefit the most from a

certain project. The development of delinquency among foreigners, the attitude of the court, and the role of the alien registration office deserve closer attention.

Wetenschappelijk Onderzoek- en Documentatie Centrum, Ministerie van Justitie, Plein 2b - 's-Gravenhage, The Netherlands. March 1976, 33 p.

A Study on Rehabilitation Activities in Prison Facilities—Japan

Gyōkei Shisetsu ni okeru Kyōka Katsudō ni Kansuru Chōsa Kenkyū*
(NCJ 49800)

By Kyōichi Asakura, Hideo Tenbashi, and Shunroku Okabe

Introduction

A series of official penal reforms effective in Japan since 1972 have led to further development of rehabilitation activities among those serving prison sentences. These rehabilitation activities include recognizing the need to aid youthful offenders to complete their basic schooling, assigning useful work, regarding time spent in rehabilitation-related activities as part of daily worktime, and reducing worktime on Saturdays to 4 hours, leaving 4 hours of leisure activity. This study arose from a necessity to know the actual rehabilitation situation and to clarify new modes of prisoner treatment.

Research Objectives and Methods

Research objectives. The goal of this study was to clarify the rehabilitation situation, plan for enhancement of treatment of prisoners with attention to differences in type, and contribute to the development of rehabilitation and leisure activity.

Research methods. A survey was made of 2,000 randomly selected inmates at 25 institutions having various kinds of rehabilitation programs. The responses of 1,999 inmates were regarded as valid.

Two types of questionnaires were used. One concerned rehabilitation activity time by institution, while the other dealt with the impact of rehabilitation on prisoners. The first type

* Translated from the Japanese by Michael McCaskey of Aspen Systems Corporation.

distinguished 44 different kinds of rehabilitation activities in terms of amount of time participating and time of day, whether the activity was counted as part of mandatory worktime, and frequency of supervised group activity. The form directed to the prisoners was divided into 18 areas, with 107 items, including amount of participation in rehabilitation activity, hopes for and expectations from such activity, etc.

The institutional form covered January, April, July, and October 1975. The form for prisoners covered the time from their entry into prison until May 31, 1976, and face-to-face interviews were conducted with prisoners in July and August 1976. The survey in the field was conducted largely by those handling rehabilitation activities in the institutions.

Analytical procedures. The material from the institutional questionnaires was first analyzed in terms of the amount of time spent on each of 44 different activities, and information was arranged according to institutions as a whole, size of facility, and type of inmate handled. Information from the prisoner questionnaires concerning participation in activities and expectations from and satisfaction with activities was put into a computer and analyzed in relation to types of prisoners.

Rehabilitation Activity at the Institutions

The survey collected information on various aspects of rehabilitation activities at the 25 different institutions for 4 different months in 1975. This institutional information could then be compared with the information given by individual prisoners.

In the 25 institutions, the 44 kinds of rehabilitation activities were reported to have taken place on a total of 23,713 occasions during the 4 months studied. Most of the supervised activity came under the heading of educational activity. Total time spent on the 44 different kinds of activities in the 25 institutions over the period studied was 27,811 hours and 56 minutes. Activities were most commonly held on weekday afternoons (71.6 percent) and evenings (11.8 percent); 96.6 percent of weekday afternoon activity was counted as part of assigned worktime.

There was considerable variation in the types of rehabilitation activities offered at different institutions. The largest institutions offered a broader range of activities, with varying amounts of time spent on each. On the other hand, since the largest institutions tend to house older and more hardened offenders, little or no time was spent on activities more suitable for younger offenders, such as middle school education, reading guidance, and unsupervised activity. Apart from these instances,

however, the larger the institution, the more the activities and the greater the time spent on them.

All institutions gave the greatest time and attention to orientation of new prisoners and prerelease preparation. Middle-sized institutions also gave a significant amount of time to individual guidance as a third major activity. Small institutions generally gave only small amounts of time to activity other than orientation and prerelease sessions, although significant time was given to compulsory education leading to completion of the standard school curriculum. The larger and medium-sized institutions devoted significant amounts of time to moral training, while other institutions spent very small amounts of time on this. All institutions provided physical training, with medium-sized prisons offering the most and small institutions the least.

Rehabilitation for the Individual Inmate

In terms of level of participation, the most frequently attended activities were entry orientation and prerelease preparation, as well as constructive social activities. Religious activities were least attended. Life training activities, involving social reeducation, were relatively well attended, followed by personal guidance. In terms of inmate satisfaction with activities, however, inmates generally expressed relatively low satisfaction with the entry and prerelease activities and the greatest satisfaction with personal guidance and social activities. Life training activities were rated as least satisfying.

On the other hand, when asked to express dissatisfaction rather than degree of satisfaction, inmates reported a generally even level of dissatisfaction with all activities, and more particularly with social activities, feeling that all could be improved. Under the general category of life guidance, including such activities as physical training, moral training, reading guidance, and entertainment, the most attended activities were physical training and entertainment, while moral training and reading guidance were poorly attended. On the other hand, in terms of the inmates' desire to attend, reading guidance and entertainment or hobby activities were rated highest, with moral education, group training, physical training, and educational lectures getting low ratings.

Inmates generally regarded moral training, group training, and educational lectures as the least worthwhile activities, while reading guidance, as well as entertainment or hobby activities, were regarded as the most worthwhile. Of the sample of 1,999 inmates, 712 preferred free time, 607 wished to continue the current life guidance program, 403 preferred to spend the time at work, and 202 preferred job training when asked about their preference for possible substitutions for the life guidance program.

In regard to inmates' preferences in educational lectures, of 1,444 respondents, 798 wanted regular education classes, 172 wanted a variety of separate classes, 19 requested safety training, and 12 wanted vocational training. Another 198 preferred lectures by a chaplain, and 159 preferred a social worker. In the case of group training, of 1,240 surveyed, 696 preferred safety training, 225 regular educational classes, 70 vocational training, and 177 a variety of separate classes. Only 3 preferred training by a chaplain, and 15 preferred a social worker.

Regarding activities which inmates wished to see increased or introduced, 766 of 1,999 respondents wanted motion pictures, 235 wanted plays and other stage entertainment, and 111 wanted group hikes. The least popular were educational lectures, moral training, and etiquette.

In one survey inmates were asked to rank their degree of preference for each major type of life guidance activity, in terms of desiring it, finding it tolerable, or not wishing it. The result provides a picture of the feelings of the inmates about each aspect of life guidance separately, not relative to other aspects. A total of 1,999 respondents were involved--virtually the entire inmate sample--answering each of eight questions.

<u>Aspect</u>	<u>Desirable</u> %	<u>Tolerable</u> %	<u>Uninterested</u> %
Educational lectures	33.2	55.6	11.2
Reading guidance	61.6	35.4	3.1
Group training	28.	49.1	22.9
Moral training	32.3	53.4	14.3
Independent activity	34.8	53.3	12.
Etiquette and social department training	35.8	53.7	10.5
Entertainment and hobby activities	58.7	35.9	5.4
Physical training	44.2	43.1	12.7

This information, as well as other aspects of inmate surveys, was broken down further into prisoner groupings.

In addition to the survey material presented in this report, inmate responses were gathered for other types of activities, including interviews with volunteer social workers, religious instruction or sermons, communications education, public school completion education, individual guidance conferences, and discipline. Discipline referred to disciplinary guidance by officials at the institution when an inmate's behavior called for it and included warnings and admonitions. This study concluded that, with some exceptions, those who had a high rate of attend-

ance for a particular activity had a low rate, or no rate at all, of requiring disciplinary activity.

Conclusions and Prospects

Common features for all institutions. In order to make penal rehabilitation effective, it is necessary to give close attention to different types of educational and rehabilitation activities. Three main types may be classified as (1) entry orientation and prerelease preparation; (2) individual guidance, including special individual guidance; and (3) life guidance, including independent activity, physical training, reading guidance, moral education, group training, and entertainment and hobby activity. These activities are most time consuming and occur with the highest frequency.

It is important also to consider not only frequency of and time spent in an activity, but also the activity's content. Judging from problems in inmate satisfaction with such key activities as entry and prerelease sessions, it will be necessary to reconsider their content. On the other hand, for those activities which received generally positive responses from inmates--reading guidance, entertainment, and hobby activities--it would be desirable to augment and reinforce them. The introduction of new activities, some of which were suggested in the survey and received positive inmate responses, should be considered. The problem of how to allot time for rehabilitation activities and to what degree they may replace more traditional inmate work activity remains to be solved. Who should manage rehabilitation activity is also a key question. The survey found that inmates generally favor the present type of manager, rather than specialists or extrainstitutional personnel, but this fact may simply reflect the inmates' inclination toward keeping the status quo.

Special features of institutions. Inmate groups confined to large- and medium-sized institutions spent significantly more time in rehabilitation activity than groups of inmates from medium- and small-sized institutions. Differences in inmate attitudes toward various rehabilitation activities may be due partially to differences in the quality of the activities available to the inmate groupings in the various institutions.

The data presented in this survey may be used in considering effective ways of handling rehabilitation activity programs in penal institutions. Among the subjects remaining to be studied are an analysis of the relationship between rehabilitation activity and the increase or decrease of rule violation and the need for disciplinary activity. The data gathered in this survey may also be arranged in other ways for different analytical purposes. It may be that con-

sideration of the data presented here will lead to the development of new methods to improve rehabilitation activity. Many subjects remain for study on the question of rehabilitation in penal institutions.

Hōmu Sōgō Kenkyūsho Kenkyūbu Kiyō, n. 20:39-62, 1977. Hōmu Sōgō Kenkyūsho/Research and Training Institute, Ministry of Justice, 1-1-1 Kasumigaseki, Chiyoda-ku, Tokyo, Japan.

Resistance in Prisoners to Group Psychotherapy

Jukeisha no shūdan shinriryōhō ni okeru teikō ni tsuite* (NCJ 35222)

By Yoshie Matsumoto, Keiko Kamahara, Toshiko Shirai,
and Eiko Katakura

Introduction

Although much effort has been made in group psychotherapy since the Second World War, therapeutic treatment has been practiced mainly in juvenile detention homes rather than in prisons. It is very difficult to practice therapeutic treatment in prisons for various reasons: (1) prison is widely recognized as a place for executing penalties, and there is little legal basis to introduce therapeutic treatment there; (2) prisoners have to work so that it is difficult to make time for therapy; (3) both prisoners and the staff (wardens, guards, etc.) are reluctant to try something new which may cause unexpected confusion; and (4) in comparison with the number of prisoners, there is a lack of manpower (i.e., specialists in psychiatry, psychology, and education).

When we first introduced group psychotherapy to Hachioji Medical Prison, we encountered strong negative reaction from inmates as well as complaints from the staff about the difficulties associated with therapeutic activities. Such aversion appears as resistance during group psychotherapy. Prisoners, because of past experiences, are especially cautious about entering into any meaningful relationship with authorities; thus, they naturally express aversion and distrust of therapists in many ways.

This resistance makes rapport between donor and receiver difficult and may suspend therapy temporarily. Resistance, however, is not necessarily totally meaningless. It has some positive elements, since therapy without resistance means therapy without

* Translated from the Japanese by Keiko Nishimoto of Aspen Systems Corporation.

response. Therefore, a full understanding of the resistance mechanism is required for effective therapy.

Purpose and Procedures

There has been no corroborative research into the basis, significance, or qualitative change of resistance. There is still quite a bit of ambiguity about it. The purpose of this research is to analyze resistance and to clarify its dynamics and the development of therapeutic treatment.

Resistance can be divided into two categories: (1) resistance at an early stage of therapy, such as distrust toward therapy and therapist; and (2) resistance at a later stage of therapy, such as resistance toward changing ego or self. In this report we will discuss only the former.

In order to achieve our research goals, we tried to ascertain the type of resistance at an early stage of therapy, the inmates' institutional environment, and inmates' personal character and traits.

The research subjects were 55 inmates who joined group psychotherapy: 8 normal inmates who have character problems; 15 physically handicapped inmates who are medically and physically capable of attending meetings; and 32 mentally disturbed or handicapped inmates who are capable of joining group activities. For supplementary information we used their classification, investigation papers, and records of personal histories taken from interviews. We also sent out questionnaires to 139 staff members of Hachioji Prison and attained a 70 percent response as of September 1, 1971. The group psychotherapy method is an open system. One main therapist, one subtherapist, and one prison guard are assigned to a group of 8 to 10 inmates. The psychotherapy is client-oriented as a rule, but sometimes the subtherapist gives interpretation and leads the group.

Observations and Findings

Resistance at an early stage. We defined an initial resistance as any repulsing or rejecting reaction toward therapy during the first 10 sessions. We determined the characteristics of resistance and evaluated its strength (See Tables 1 and 2). Strength is graded according to the number of repulsing expressions. The therapy was observed and tape recorded. In order to obtain objective results, three coresearchers checked and evaluated the data separately. Disagreement in the results of the three researchers was resolved through adjustment after confirming discussions.

TABLE 1

RESISTANCE

Positive Type (express themselves voluntarily
with their own words)

<u>Characteristics</u>	<u>Prisoners' Responses</u>
Doubt and dissatisfaction about a meeting	<ol style="list-style-type: none"> 1. Purpose is not clear. 2. We cannot get a conclusion. 3. Atmosphere is too formal. 4. There are no common topics.
Distrust in a therapist	<ol style="list-style-type: none"> 1. We are treated like guinea pigs. 2. We don't believe in therapists.
Feeling toward other inmates	<ol style="list-style-type: none"> 1. We are causing them trouble. 2. They look down on us.
Distrust in prison staff	<ol style="list-style-type: none"> 1. Only the problem ones are called for therapy. 2. Results are used against our interests. 3. Recorded tapes are disclosed.
Precaution against prison	<ol style="list-style-type: none"> 1. No use talking in a prison.
Doubt about purpose and significance of meeting	<ol style="list-style-type: none"> 1. Therapeutic meeting is not necessary for me. 2. Meeting is meaningless.
Other	<ol style="list-style-type: none"> 1. I don't like it (no reason given). 2. Miscellaneous.

Passive Type

- Speak up only when called.
- No expression.
- Yawn and pay no attention.
- Superficial answers and absenteeism.

Consensus was obtained on over 70 percent of the items at the first meeting.

As is apparent from Table 2, resistance among the mentally handicapped participants shows a very peculiar pattern. It is very weak from the beginning, gains strength all of a sudden at the third session, and then disappears. Resistance in the normal inmate group, however, is very strong during the first three sessions, then decreases, and gains strength once more during the last three sessions. As for the characteristics of resistance for the normal and physically handicapped group, doubt and dissatisfaction about a meeting is the most common reaction (44 percent), followed by distrust of prison staff (27 percent), distrust of therapists (11 percent), and ill feeling toward other inmates (10 percent). For the mentally disturbed, resistance may also indicate doubt about the purpose of a therapeutic meeting.

Institutional environment. Institutional environment was scrutinized from two perspectives: (1) level of understanding and attitude of institution staff toward group psychotherapy; and (2) difference in daily treatment in prison according to the type of inmate problem.

A questionnaire was sent to each staff member after 3 months of introduction to group psychotherapy (approximately at the completion of 10 sessions). As a general trend, most of the staff had some kind of knowledge of therapy. Many of those surveyed gave a positive evaluation of its effects, but it is questionable whether they had a substantial understanding of it. Most of them regarded therapy as something like "advice," "answers to questions," "foreseeing accidents," or "satisfying a grudge." Although they evaluated it positively, their evaluation was based on superficial observation of the inmates' adaptation to an institution. Daytime guards who have more opportunities to observe therapy gave it a higher value. About one-third of the total staff regarded therapy as a hindrance.

In terms of differences in treatment, the three separate groups live in different environments. Mentally disturbed inmates are exposed more to a therapeutic situation from the very beginning. They are accustomed to private therapy sessions and show a high degree of dependence on and trust in the institution staff. Moreover, 80 percent of the group, with the exception of the medically incapable, attend the therapeutic meeting.

The normal inmate group spends most of its time working. Therapeutic meetings can impede this work schedule. Only 10 percent of the inmates from the same cell block attend meetings. They do not really look forward to therapy as a change because

TABLE 2

Strength of Resistance* and Comparison Among Different Groups

Inmates		Session									
		1	2	3	4	5	6	7	8	9	10
Normal	Average R	1.87	1.50	1.62	0.87	1.00	0.87	0.87	1.57	1.42	1.44
Physically handicapped	R	1.22	0.88	1.22	0.88	0.33	0.42	0.71	0.66	0.60	0
Mentally disturbed	R	0.28	0.28	2.42	0.14	0	0	0	0	0.28	0

* Strength of resistance is expressed as a degree of R based upon frequency of resistance:

- | | | | | |
|---------------|-----|-----|--------------------|-----------------|
| positive type | R 1 | ... | verbal expression | 1-2 times |
| | R 2 | ... | verbal expression | 3-4 times |
| | R 3 | ... | verbal expression | 5 times or more |
| passive type | R 1 | ... | passive expression | 1-2 times |
| | R 2 | ... | passive expression | 3-4 times |
| | R 3 | ... | passive expression | 5 times or more |

they are exposed to enough variety through work and exercise periods.

For the physically handicapped inmates, however, therapy does not interfere with daily treatment but rather provides opportunity to vent pent-up complaints. They are forced to spend a large portion of their time resting and have a monotonous life-style. About 25 percent of this group attend a therapeutic meeting.

Personal characters and traits. As is shown in Table 3, many withdrawn or immature inmates attend group psychotherapy. More than one-half show a strong inclination toward crime and have a lasting delinquency which began rather early in life. Half of them also have family problems and previous institutional experience.

Institutional environment and early-stage resistance. As was mentioned before, group psychotherapy was not necessarily understood or recognized by the staff when it was first introduced. Even at this early stage, however, resistance was expressed differently among different groups according to their environment. It may be inferred, therefore, that the institutional environment can be a determining factor for initial resistance.

We will now compare initial resistance shown at two different times: (1) during the initial introduction of therapy when the institution did not have any therapeutic atmosphere; and (2) later when the therapy became an official institution for the entire prison (1 year after introduction). We observed 21 inmates who joined group psychotherapy as soon as it was introduced (Group A) and compared them with another 16 inmates who attended therapy 1 year later (Group B). They all attended more than 20 sessions (See Tables 3 and 5). The mentally disturbed were excluded from these groups since their environment is somewhat different.

More than half of the inmates in Group A exhibited strong resistance at an early stage while those from Group B showed weak resistance. Whether resistance was strong or weak, the A group definitely showed tenacious resistance lasting even after the 10th session. As to type of expression, Group A exhibited resistance more actively while Group B spoke only when called, or resisted in a very passive way like yawning. It is apparent from these observations that resistance is conspicuous when therapy is first introduced. This type of resistance is inherent in a prison and consequently differs from resistance that is generally seen at group psychotherapy in normal society. Although

TABLE 3

Type of Resistance and Character, Delinquency Degree,
Family Relationship, and Institutionalization Experience

Degree of Resistance ¹

	Group A (21) ²						Group B (16) ²						Groups A & B (37)						
	S D	S C	W C	W D	no	T	S D	S C	W C	W D	no	T	S D	S C	W C	W D	no	T	
Character Type																			
hyperactive	2		1			3	2			1	1	4	4		1	1	1	7	
withdrawn	3	1	1	3		8				4	1	5	3	1	1	7	1	13	
immature	2	3	1	2		8	1			2	1	4	3	3	1	4	1	12	
unstable	1		1			2		2			1	3	1	2	1		1	5	
Depth of Delinquency ³																			
early deep	1	2	3	2		8	2	2		4	2	10	3	4	3	6	2	18	
early shallow	3		1	1		5							3		1	1		5	
late deep	2	1		2		5	1					1	3	1		2		6	
late shallow	2	1				3				3	2	5	2	1		3	2	8	
Family Problem																			
problems	4	3	2	1		10	1	2		2	2	7	5	5	2	3	2	17	
no problems	4	1	2	4		11	2			5	2	9	6	1	2	9	2	20	
Prison Experience																			
yes	5	2	1	2		10	2	1		3	2	8	7	3	1	5	2	18	
no	3	2	3	3		11	1	1		4	2	8	4	3	3	7	2	19	

¹Degree of Resistance--S--Strong; D--Disappear; C--Continue; W--Weak.

²Group A--inmates who joined therapy at beginning.
Group B--inmates who joined therapy after 1 year.

³Early delinquency--younger than 20 years.
Deep delinquency--has continued more than 5 years.

TABLE 4

Type of Resistance Among Old (A) and New (B) Members

Resistance*		A	B	Total
Strong	Disappears	8	3	11
	Continuous	4	2	6
Weak	Disappears	6	7	13
	Continuous	3	0	3
None			4	4
Total		21	16	37

*Resistance--

Strong: R 3 or more than 3 R 2

Weak: No R 3 or less than 2 R 2

Disappears: No resistance by 10th session for a duration of more than 3 consecutive sessions or no resistance at 10th session.

TABLE 5

Type of Expression of Resistance in Groups A & B

Group	Positive	Passive	Total
A	12	9	21
B	4	8	12
Total	16	17	33

resistance can impede the smooth introduction of group psychotherapy in a prison, it can be altered when the institutional environment changes.

Relationship between personal traits and resistance. It is likely that such personal traits as character, degree of delinquency, and family background also have something to do with an early-stage resistance. We investigated these elements for both new (B) and old (A) members in relation to early-stage resistance. There is no strong trend in terms of character, but hyperactive people show strong resistance in the beginning which soon disappears. It is also very hard to identify a specific trend in degree of delinquency for measuring resistance. Inmates from broken families have a tendency to show strong resistance, while inmates with happy family lives do not develop strong resistance. Moreover, inmates with previous institutional experience are apt to show strong resistance.

It is interesting to refer back to Table 3 to compare the same character type with the same degree of delinquency for Groups A and B. Groups A and B definitely show a difference in resistance, meaning that an institutional environment plays the most important role as a determining factor of early-stage resistance.

Resistance and the therapeutic process. We chose the 12 inmates from Groups A and B who had continued more than 20 therapy sessions and judged them on their progress. Judgment and evaluation of the therapeutic process were made from the standpoints of degree of commitment, sympathy, emotional control, insight into self, and willingness to improve. Whether resistance was strong or not, as long as it disappeared during the first 10 sessions, therapeutic progress thereafter seemed favorable. Those whose resistance was weak and disappeared showed favorable progress in sympathy and emotional self-control. Those whose resistance was strong and disappeared did not show emotional progress, but they showed favorable change in self-insight and willingness to improve.

Conclusion

An early-stage resistance certainly impedes development of therapeutic treatment and causes it to stagnate. At the same time, however, this resistance can be altered into motivation for therapy development. Prolongation of this initial resistance, through lack of technique on the part of therapists or information from institutions, must be avoided. However, therapists should be willing to accept resistance based on distrust

of human relations. They must try to cultivate a trustful relationship, which can be formed rather easily in a prison with a favorable atmosphere for therapeutic treatment.

Japanese Journal of Criminal Psychology, v. 11, n. 2:1-11,
April 1976. The Japanese Association of Criminal Psychology,
11-7, 2-Chome, Hikawadai, Nerimaku, Tokyo, Japan.

The Organization of Social Therapeutic Facilities

Zur Organisation der Sozialtherapeutischen Anstalt* (NCJ 52062)

By R. Driebold

This study seeks to describe goals for the development of a social therapeutic institution, translate these goals into a concrete organizational form, and recount pertinent practical experience. It should be noted that the organization of each facility varies, depending on factors such as the number and specialties of personnel.

It is already clear that a therapeutic institution can be developed only through a step-by-step process whereby intermediate goals are set. Furthermore, the facility's structure should not diminish the potential development of either personnel or inmates.

Fundamental to any thinking about a social therapeutic facility's organization is the belief that structure, since it is an expression of particular principles, has a direct influence on the attitudes and behavior of the organization's members.

It is also assumed that the concrete actions of these members are to some extent determined by the goals of the organization. In a therapeutic institution, actions of the staff must, therefore, be influenced by the therapeutic concept, and at the same time, the therapeutic concept must be expressed in the structure of the institution.

Structuring To Promote Resocialization

The conventional institution is organized for detention so that communication between personnel and inmates is controlled

* Translated from the German by Kathleen Dell'Orto of Aspen Systems Corporation.

from above only. Regulations specify that contact with prisoners must be formalized and confined to essentials, preventing open personal conversation between staff and inmates. Imprisonment thus only intensifies the prisoner's social isolation.

The structure of the conventional prison is characterized by an enforced closed social system in which the prisoner is released from role obligations such as self-support and fatherhood, and made subject to a clear-cut, inflexible system of rules to be followed. As he has no opportunity to help shape his everyday life, the prison stay essentially means loss of independence. All learning is negative, for the inmate must acknowledge that recognition and rewards are bestowed as favors and that superficial good behavior is more effective than genuine attempts at behavioral change.

In a traditional prison, employees cannot report, much less punish, all infractions of the rules because they are overworked and overburdened with guard duties. They are virtually forced to overlook violations, so that indebtedness marks the relationship between inmates and staff: in return for their generosity, employees expect good behavior from each prisoner. Overlooking infractions becomes a way for guards to maintain order in the prison, but at the same time this precludes open interaction between guards and inmates and, therefore, a chance to function under normal conditions.

The effect of the traditional prison's organization on inmates is to make them form their own subculture. This inmate subculture supplies prisoners with rationalizations for their guilt complexes and enables them to create stereotypes of prison employees and of justice in general.

The employee is viewed as a representative of the institution and the inmate as a person who committed a crime. Cliches like "criminal" or "crook" are used on one side and stereotypes like "keeper" or "monster" on the other. The prisoner can avail himself of roles in the subculture which satisfy his need for recognition, but the norms and values of the subculture only reinforce his negative experiences.

The picture sketched here may not correspond exactly to today's typical prison situation. In some institutional areas there are more relaxed penal forms which give the prisoner greater opportunities to shape his everyday life. Experience shows, however, that simple liberalization in the form of greater freedom for prisoners is not sufficient to alter their social capabilities. This requires not only extensive structural modification of the whole institution, but also a quantitative change in inmate-employee interaction, and this is dependent on the institution's personnel.

Structuring To Express the Therapeutic Concept

Criminal behavior, which can be viewed as the result of certain circumstances (family, school), is expressed in the affected person in the form of inadequate behavioral capabilities. Basic abilities like the capacity to (1) act reflectively with respect to expectations and norms, (2) anticipate the expectations of others, and (3) tolerate a certain discrepancy between one's needs and the possibility of their fulfillment, are underdeveloped.

General goals of social therapeutic intervention are:

- Improving competence in social situations by imparting both the ability to deal with individuals and with groups. In a work situation this means that the people learn to judge correctly both their own accomplishments and those of others, so that they can adopt behavior which permits active control of their work, work climate, and relationship with supervisors.
- Modification of the limited possibilities for activity, by providing appropriate social opportunities such as education and the opportunity to form interest groups with outsiders. In the work situation this means that they can improve their career prospects with training and school certificates. To change their work situation after release, it is important for them to understand how to promote their interests at work and how to use outside organizations such as unions and parties to represent their interests as they perceive them.

The use of therapeutic methods in a closed organization requires consideration of the institution's special circumstances. A basic condition for effective therapeutic intervention is the creation of an environment conducive to therapy. An organizational form must be developed in which all the interacting parties are given opportunities for self-expression and determination of their own behavior. According to this notion, therapy is not what a therapist does to a client but rather is a cooperative effort between the two.

Of course, the therapist does have power over the client; it is the therapist who determines the client's stage of development and thus the prisoner's further stay in the institution. In this context it is important that power over therapeutic goals be used constructively. Decisions in which the client is not involved and the motivation for actions of personnel must be made as comprehensible to the client as possible.

For a closed institution to be therapeutically effective, it is essential that the contact between collaborators be in the

form of dialog between equals. Formal custody should be replaced by a personal relationship in which the client can consider himself an accepted participant. To achieve such interaction, some of the employees' control functions must be delegated to the client community. For instance, waking inmates in the morning, maintaining work and therapy schedules, and scheduling visiting times are functions that can be assumed by the inmates themselves, when fixed times and rules are prescribed. The alcohol prohibition can be more effectively enforced if the inmates police each other and report infractions. Success depends, however, on how extensively the inmates have replaced their subcultural values and norms with therapeutic ones.

Basically, inmates' behavior, when not directly related to security, can be regulated by rules jointly worked out and acceptable to all. In the process, the employees should gradually assume the role of observing how the inmates regulate their own behavior.

The institution's therapeutic orientation must be established with relation to the outside world. This requires that the altered orientation of the social therapeutic institution be expressed in redefined goals for the institutional framework. The institution's method of operation, as well as decisions and suggestions for changes, especially by the management, should be clearly interpreted to other institutions, courts, and probation officers.

Organizational Goals

The organization of a social therapeutic institution should aim to achieve the following goals: (1) development of an organizational form in which deprivation resulting from imprisonment, a traditional power structure, and the formation of an inmate subculture can be prevented and (2) translation of the therapeutic concept into institutional structures and guidelines for the employees' activities.

Organizational form. The goal of the social therapeutic penal system is to overcome the effects of the traditional prison. Elimination of deprivation can only be achieved through fundamental modification of the organizational and decisionmaking structure of the traditional prison. In accordance with the goals of the social therapeutic facility, all groups must be given opportunities for self-determination. This includes greater internal freedom of movement for inmates (open cell doors, lockup only at night, civilian dress) and altered opportunities for contact on the inside (living in groups, conversation with staff) and with the outside (visits, released time, vacations), as well as as-

signment of responsibilities to the inmates (maintenance of quarters, assumption of communal tasks).

Decisionmaking. General guidelines for structuring the facility's operational procedures with regard to decisionmaking must be developed collaboratively by all personnel. A committee composed of representatives from all the institution's personnel groups should be formed to implement the guidelines. The most important task is to emphasize the development of guidelines for solutions to common problems. Based on their experience and stage of development, inmates should be directly involved in working out the general guidelines; at least it should be guaranteed that the inmate's experience with the social therapeutic institution will be weighed.

Decisionmaking and internal rule formation also include the contributions of both staff and inmates. To this end, the institution should have a treatment meeting, regular staff discussions, problem-solving groups, and a therapeutic orientation in administration. In the treatment meeting, the treatment program is drawn up by the various staff groups working with inmates. Treatment measures, including relaxed rules for released time and freedom of movement, should be understood to be the result of common problem-solving efforts.

In regular staff discussions, actual decisions are taken according to the principles agreed to in treatment meetings, and adherence to principles is assessed. Discussion between staff groups on special treatment problems should be possible here, and common reactions to processes within the institution should be formulated. The task force for problem solving will be working with the various groups within the institution to develop internal regulations affecting the communal life of the institution. They then make suggestions to which any group in the institution can take exception.

In this decisionmaking structure, the institution's administration must act as an intermediary with the outside world. To the greatest extent possible, individual accountability, which is a consequence of the bureaucratic structure of the penal system, must be replaced by group accountability. The chances of resolving conflicts with authorities in favor of the institution's therapeutic goals are especially great when the administration possesses professional therapeutic expertise.

Experience with group decisionmaking by personnel shows that cooperative action can be successfully realized only if the laborious process of collaborative rulemaking for the general regulation of the institution is successful. Staff hesitancy about assuming altered roles can affect the process as much as willingness to compromise and reduction of exaggerated expectations on the part of professional specialists; at this point the problem

of maintaining therapeutic goals becomes acute. Yet if the new goals of the institution are not worked out together, the opportunity to share decisionmaking in meetings is viewed often as a demonstration of power by the other side. On the other hand, a power bid is made when the professional experts define for themselves what social therapy must be, thus precluding the dialog between equals which provides opportunities for self-development and establishment of identity.

The experience of personal accountability and inclusion of prisoners in the decisionmaking process may be difficult for inmates. In an institutional meeting in which the participating groups were equally represented, it was found that the inmates, in particular, felt they could not assert their interests; they developed feelings of powerlessness. It became clear that objective discussion and cooperative thinking and behavior must first be fostered among inmates. Use of problem-solving groups which deal only with limited problems such as those concerned with daily schedules and communal living demonstrate that the development of cooperation can only proceed step by step.

Crucial preliminary work for cooperative thinking and joint determination of goals by personnel and inmates must therefore be accomplished in other institutional groups (group therapy, plenary meetings) where the goal is to involve inmates with appropriate experience in development and modification of general guidelines and in fundamental decisionmaking.

Staff participation. The function of guards, especially, but also of administrative staff, must be changed to include participation in treatment processes, a decisionmaking role on treatment issues, and establishment of functional authority for personnel.

In addition to sharing decisionmaking, this can be achieved through (a) distribution of guards as group advisors, (b) assumption of special program supervision by guards, (c) group diagnosis and therapy planning by personnel, and (d) assumption of cotherapy functions by guards.

The distribution of guards as group advisors changes their role by making them direct, equal discussion partners with the inmates in conflicts and problems. Furthermore, as members of the living group they can seek to develop therapeutic interaction with the inmates. They discuss inmate business in the group and prepare inmates to reach decisions. Special program supervision alters the viewpoint of employees because they must pursue a different goal; such programs can provide training in work and leisure-time behavior for inmates.

Group diagnosis and therapy planning by personnel involve observation of the inmates in various institutional spheres and group development of possible treatment steps based on the observations. Assuming cotherapy functions enables guards to diverge from their traditional roles in group therapy and plenary meetings. Experience with such changes has indicated that employees' attitudes toward inmates can be changed only if the employees are given background information on inmates, included in decisionmaking and therapy planning, and also provided with concrete therapeutic activities, so that they become motivated by their own experience with inmates' change.

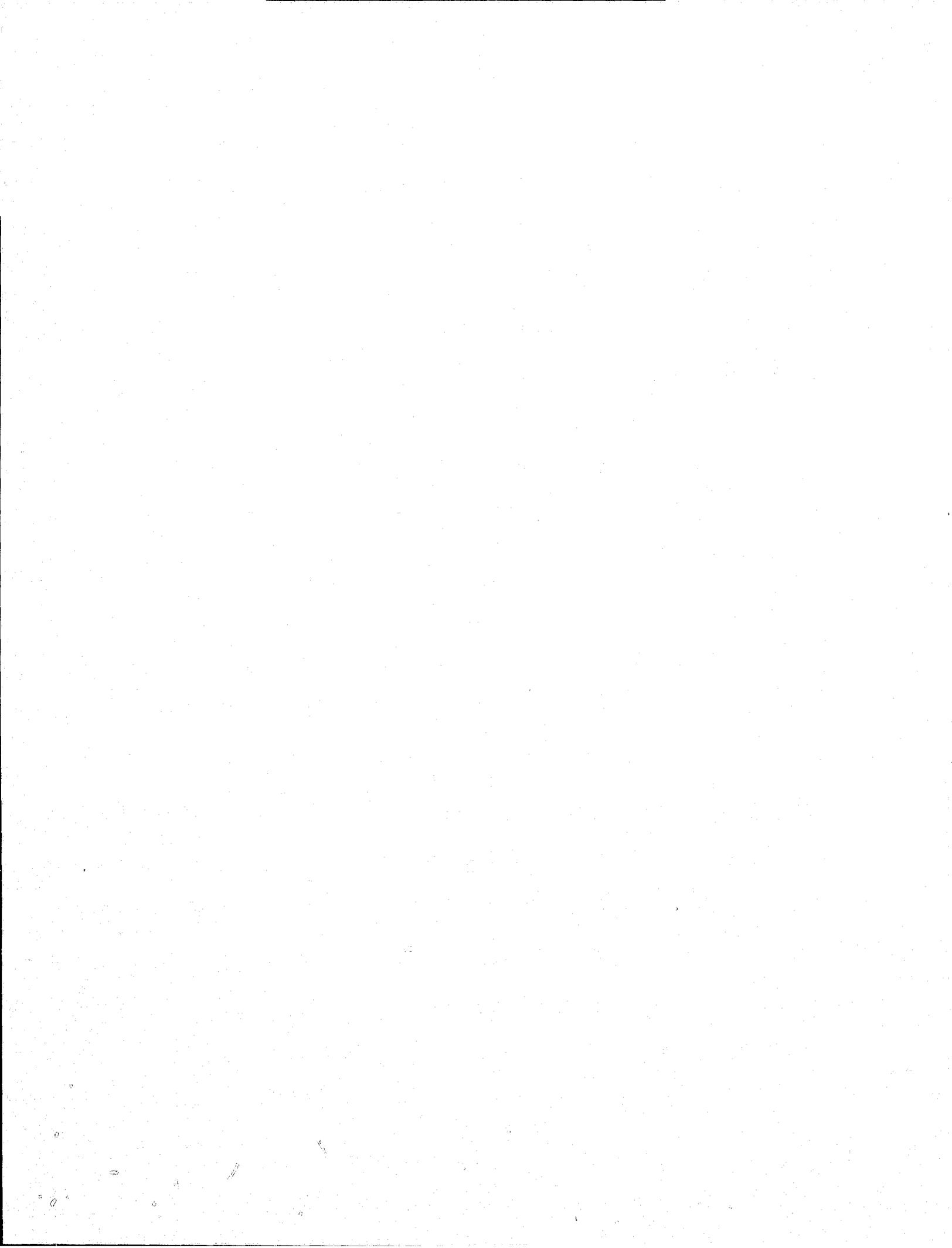
Inmate groups. Removing communication barriers between personnel and inmates requires that staff members accept inmates as human beings without becoming too close to them or uncritical of irresponsible behavior. To integrate inmates into institutional activities, (a) inmates must be divided into groups formed with the supervision of a social worker and a guard, (b) all members of the institution must attend plenary meetings, and (c) inmates and staff must cooperate in problem-solving groups.

Small inmate groups must be formed so that inmates can present their own interests and see them in connection with the interests of others. Inmates can also be taught to understand decisions and their foundation in social contexts, and their formation of values can be influenced.

The plenary session, as the common forum for all groups, permits exchange of information and elucidation of individual viewpoints and of conflicts between persons or groups; alternative viewpoints and conflict solutions should be furnished.

Intensive staff contact with inmates in client groups reduces stereotyping on both sides. In plenary meetings, inmates prove articulate participants, encouraging staff to begin modified dialogs with them. This process is limited, however, by the fact that many employees cannot comprehend what motivated the inmates' criminal behavior.

Organizing to express the therapeutic concept. For the social therapeutic penal system, goal-setting means organization of the institution to express the therapeutic concept. Institutional communication lines must be structured so that they do not undermine therapeutic goals. Development of a therapeutic environment also depends on the extent to which the institution's communication structure is open and whether the institution can develop a communication style which allows all persons involved an opportunity for self-expression.



CONTINUED

1 OF 3

To guarantee a therapeutic environment in the facility, (a) inmates must be divided into small groups (up to 12 persons), (b) inmates must be able to take charge of communal tasks, and (c) all members of the facility must meet regularly. Division of the inmates into groups allows them to learn from one another and permits determination of the nature of inmates' relationships among themselves and with staff. Here inmates can also be shown the necessity and possibilities for change.

Taking charge of communal tasks is important in preparing inmates to assume responsibility for their own actions and for those of others. The communal group delegates tasks to individual prisoners, who are accountable to the community.

Experience in inmate groups and the plenary session has shown that they are significant tools for changing inmates' attitudes and behavior. Discussions of frequent everyday problems of communal life provide an occasion for change, as existing conflicts are transformed into those experienced in family, school, and job training.

The communication style of group members is decisive for formation of a therapeutic group structure. Between personnel and inmates, but also among inmates, communication must proceed without condescension. Observations in inmate groups and in plenary sessions show that the staff is always in danger of falling into the role of individuals wielding power irrationally, with provocation by the inmates, for the inmates' experience with total institutions like homes and prisons cause them to behave dependently. In this context, the success of collaboration and interaction in other committees such as treatment meetings and problem-solving groups is important.

To integrate inmates more completely into the therapeutic process, treatment must be planned together with inmates in the treatment meeting. An essential function of this meeting is to make the results of therapy comprehensible to inmates.

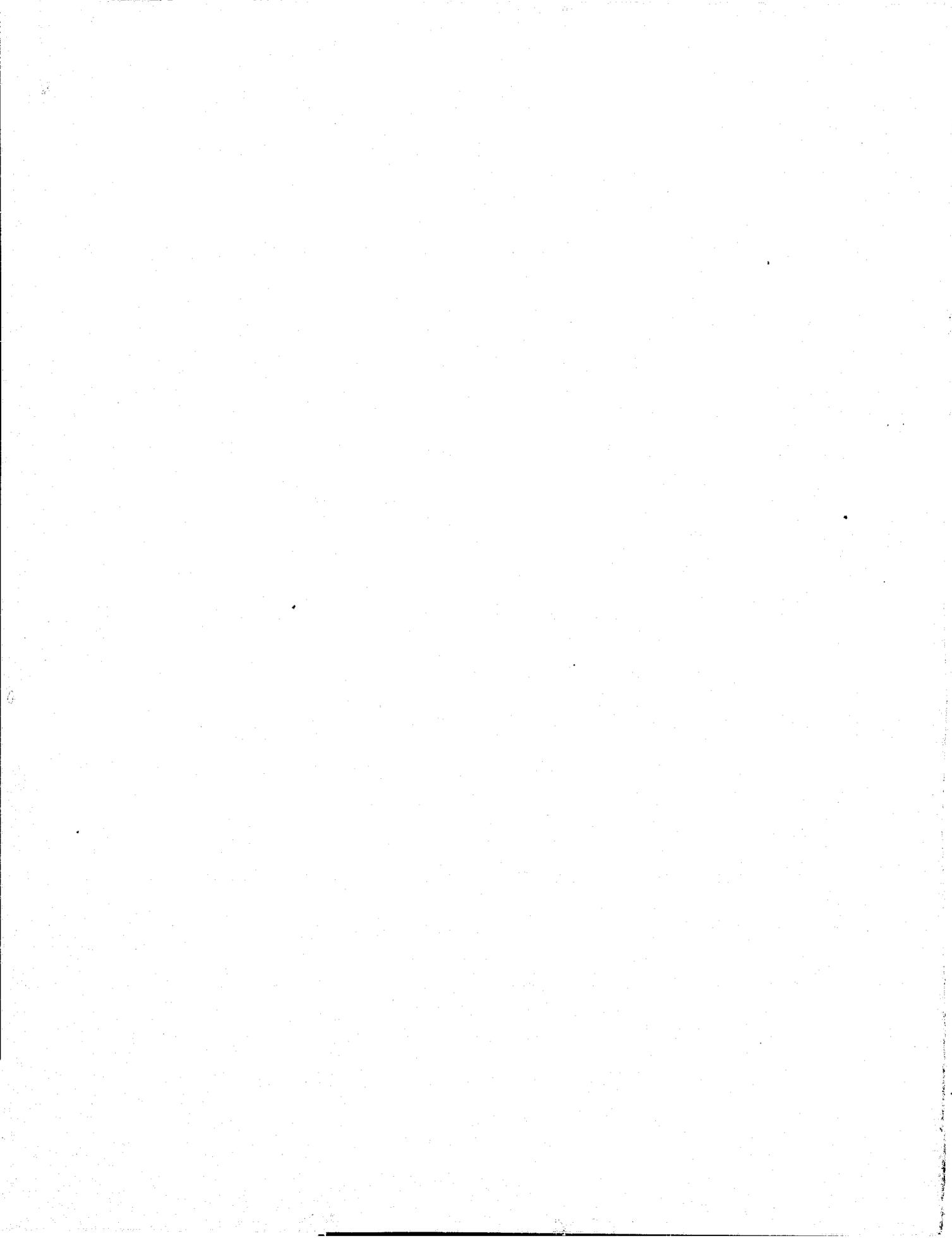
A further possibility for improving inmate identification with goals is inclusion of fellow inmates in therapy either by encouraging participation of fellow inmates in treatment meetings or by publicizing problems of individual inmates and seeking solutions together in client groups, plenary meetings, and group therapy. Experience in treatment meetings has shown that communal development can promote desire for personal change. Only when the inmate becomes aware of his own part in development of a treatment program can real activity be expected. This is often achieved even when negative decisions about released time, vacations, or freedom of movement continually call communication into question.

Supervision, seen as outside support in objective assessment of therapeutic practice, is indispensable in the social therapeutic institution. On the one hand, conflicts in relationships resulting from group decisionmaking by personnel and from changes in function must be constructively resolved. On the other hand, it is essential that the problems which develop out of the greatly altered contact with inmates be confronted. The institutional groups each have specific obstacles to interaction which must be dealt with: for the inmate, inability to form relationships due to environmental loss (exclusion from the family) and alienation (welfare, prison); for the guard, the experience of being the instrument of a hierarchical structure; and for the professional specialist, the gap between training and practice as well as the humiliation from disappointment about failures.

Interpersonal conflicts among personnel result from experiences connected with the institution's structure and with new, not yet clearly defined tasks, and probably also from uncertainty about the effectiveness of traditional methods as well as from the pressure to find new ones. Conflicts which are frequently manifested as competitiveness or demands for power can seldom be resolved by the affected party. For that reason, supervision is necessary, at least until the work situation and procedures have been adjusted in a manner acceptable to all the staff.

Interpersonal problems of inmates are unexplored territory for personnel. The constellations which develop are difficult for employees to comprehend, as they are often drawn into the inmates' problems. Furthermore, employees encounter inmates in various situations and roles, complicating relationships. The staff must therefore be assured of an objective view which interprets the perplexity and the diversity of contact with inmates.

Sozialtherapeutische Anstalten: Konzepte und Erfahrungen, 2. Auflage (Social Therapeutic Facilities: Concepts and Experiences, 2d Edition, NCJ 45457), Selbstverlag Bundeszusammenschluss für Straffälligenhilfe, Friedrich-Ebert-Str. 11a, 5300 Bonn-Bad Godesberg 2, West Germany. 1977. p. 16-29.



Status Reports

Sachstandsberichte*

(NCJ 52063)

By G. Schmitt

The following characteristics were noted during a survey of several Social Therapeutic Facilities (STF's). The status reports provide this information and represent the situation at each facility as of March 1976.

- Definition of social therapy.
- Admission procedures and criteria.
- Experiences with the site of the facility.
- Personnel and organizational structure.
- Education and training of staff.
- Therapeutic options.
- Obstacles to therapy.
- Work, training, and instruction.
- Correctional structure, "openness" to the outside, preparation for release, aftercare opportunities.
- Existence of scientific research projects.
- Supervision.
- Contact and relations with regular corrections.
- Cooperation between internal and external therapists.

* Translated from the German by Virginia Allison of Aspen Systems Corporation.

Bad Gandersheim Social Therapeutic Facility: Test Facility

In October 1972 a model social therapeutic facility opened at Bad Gandersheim. By mid-1975, it employed 1 lawyer, who served as director of the facility, 3 psychologists, 2 social workers, 1 teacher, 1 sociologist (who is responsible for the scientific observation of the project), and 12 employees from the regular correctional service.

The goal of this experiment is the development and testing of organizational models and treatment methods established by law for the STF's. The aim of this facility is to build a therapeutic community of inmates which will develop the social competence of the offenders in the areas of family, work, school, and peer group relations. The offender will thus be better able to fulfill the demands and expectations of society and to develop appropriate responses to his own feelings and those of others, and to desires, needs, conflicts, and problems.

The Bad Gandersheim facility can accommodate a maximum of 20 inmates accepted from regular correctional facilities. Candidates must be between the ages of 21 and 35, have at least 18 months left to serve in their sentence, have an intelligence quotient (IQ) of at least 80, have no mental disorders, serious psychotic personality disorders, or alcohol or drug dependence, and present no serious security risk.

The inmate is first admitted on a trial basis. In a 2-week entry phase, the therapeutic staff attempts to break down old norms and values, produce a feeling of community, and set the inmate at ease, using elements of group dynamics, role-playing, and other therapeutic tools. After this phase a 3-month basic program begins, in which the inmate is required to participate in group and individual therapy, social training, and an educational program.

At this point, a committee reviews the inmate's activities and performance, reports from specialists, and other information to determine whether he should continue the program and whether its therapy methods are suited to his needs; if so, he is accepted into the program.

The town of Bad Gandersheim was found generally to be an unfavorable location for a social therapeutic facility, due to its limited size (about 7,000 residents), its economic orientation toward service occupations (at the spa), and its limited employment opportunities for released inmates. It does, however, provide favorable contacts for the inmates, and the attitude of the town's residents toward them has not been negative.

The organization of the facility as a therapeutic community means primarily that the inmates are given the opportunity to develop constructive social relationships with others. Decision- and rule-

making activities are conducted as far as possible with the cooperation of the inmates, and the facility is organized so that it serves as a learning ground for locating and solving problems as well as for accepting increased responsibility.

Staff training is for the most part internally organized. Every 2 weeks there is a class discussion of goals and procedures, therapeutic methods, and specific situations which have arisen in the facility.

Specific therapeutic measures are based on the personality, academic and occupational abilities, and the contact behavior of the inmate. Individual, group, and behavioral therapy are used to help support the inmate and correct improper behavior. Instruction is given to inmates lacking adequate work skills. Role-playing is used to help inmates alter their behavior with regard to others.

Activities outside the facility form an important part of the therapeutic program. In effect, inmates are taught proper contact behavior within the facility, then are allowed outside it to try out this newly learned behavior. Inmates may be allowed out for visits to relatives, sporting events, indefinite leave, group outings, or a therapeutic outing accompanied by a staff member.

One of the major obstacles to therapy encountered in this facility has been lack of adequate work opportunities. The physical construction of the facility has also caused difficulties, as the inmates' living quarters are distinctly separated from the therapy and administrative areas, an undesirable situation. Another problem has been the lack of anonymity for facility inmates in such a small town. An adequate system of aftercare, while considered important, has not been developed at Bad Gandersheim, and only sporadic contacts with released inmates have been established.

Dueren Social Therapeutic Model Facility

The goal of social therapy in this facility depends on the type of disturbance shown. Most of the inmates in the STF's suffer from some developmental psychopathy (emotional and educational neglect). A smaller group are neurotic. Mentally disturbed, typical borderline cases, and psychotics are rarely accepted into such facilities.

At Dueren criminal behavior is thought to be a result of early childhood emotional and educational neglect or other environmental factors. The social therapeutic staff at the Dueren STF base their work on a single personality theory and one pathology. Treatment is based on a psychoanalytic view of offenders.

Candidates for this STF are chosen by two selection facilities. Those who are initially accepted by the Dueren STF go through a 2-6 week observation phase, during which they are given analytical interviews and a series of detailed psychological tests. A thorough biographical case history is made from the viewpoint of in-depth psychology. Final acceptance depends on the results of these procedures and requires that the patient be clearly motivated, show at least average intellectual and emotional development, an IQ of at least 100, be less than 35 years old, and not be a habitual offender nor have an alcohol dependence.

The location of the facility in the center of Dueren is not considered ideal. A larger city would have offered greater employment and educational opportunities for patients.

The facility's staff includes employees trained in the area of corrections, an attorney-facility director, a medical director, two psychologists, two social workers, and a teacher. The legal director has authority over the entire staff, with the exception of the medical director. The facility thus has double leadership--one legal and administrative, the other therapeutic. This situation can cause problems and hinder the therapeutic goals of the institution.

The staff members who are not part of the therapeutic teams generally have had no training in therapeutic matters or in handling emotionally disturbed persons. Such training would likely result in some role conflict among correctional staff accustomed to acting solely as guards.

The therapeutic opportunities at the Dueren facility, particularly in the areas of occupational training, are extremely limited. Among the factors which have hindered therapeutic efforts are a shortage of therapeutically competent staff; the linking of social therapy with a sluggish bureaucratic administrative structure concerned only with the observance of detailed regulations; the required, but unrealistic combination of therapeutic and administrative functions in each staff member; the fact that the legal basis for a stay in an STF is punishment (a fact which confuses punishment and therapy and can therefore hinder effective therapy); and the lack of an intensive exchange of information with comparable institutions.

Occupational training is available at the Dueren facility. Certain inmates are allowed outside the facility for work, study, or other reasons. In addition, they may be allowed up to 12 days a year of personal leave. This permission helps to prepare them for release, enabling them to find work and housing, among other things.

The Dueren therapeutic facility has had little contact with regular correctional institutions. However, one advance which has been

made in this area is the requirement by the Nordrhein-Westfalen Justice Ministry that candidates for regular correctional positions spend some time working in the Dueren facility as part of their training.

Erlangen Social Therapeutic Research and Test Facility

The Erlangen facility was opened in 1972. This report discusses its status as of the summer of 1976. The building is located in the center of the city, an ideal location since it provides inmates with all the training opportunities necessary for a return to urban life.

The facility has a capacity of 36 inmates, and it accepts adult, male inmates from the Bavarian region who demonstrate a need for this type of treatment. No drug addicts or habitual criminals are accepted. Transfer to the facility is voluntary, and candidates are given 2-3 weeks of psychological testing to determine their suitability for the program.

The facility's staff includes 2 psychologists (1 to serve as therapeutic director), 1 teacher, 2 social workers, 1 social worker with training as an instructor in group dynamics, an administrative director, and 20 supervisory employees. The staff meets regularly to discuss administrative and therapeutic matters.

All inmates are required to work; therapeutic sessions are held either during or after working hours. Some inmates are allowed to work outside the facility; most of these are already skilled.

Because lower social classes are somewhat overrepresented in this facility, therapy must be strongly oriented toward immediate goals. In addition, a therapist within an institution must take into account the fact that incarceration involves a unique living situation. Therapy thus involves sensitizing inmate-patients, teaching them to verbalize feelings and resolve conflicts to prepare them for the demands of outside reality.

Therapy is divided into three phases. During the 4-month entry phase, the inmate works only within the facility and is "taught the rules" of individual and group therapy sessions. Expectations are clarified. An 8- to 10-month therapy phase follows, during which a therapy group is taught to work together. For the last 2-3 months of this phase, inmates may work outside the facility and participate in outside activities. The goal of this phase is to teach recognition and alteration of inappropriate behavior. During the 6-month training phase, the inmate is given more free time outside the facility, with the goal of practicing the new behavior learned within the facility. There is no further regular individual therapy. Inmates with academic deficiencies (such as in German and mathematics) which would interfere with occupational training are required to do class work.

Gelsenkirchen Correctional Facility

This facility also bases its work on the principle that deviant behavior is the result of faulty learning processes; correction of this behavior depends on learning to recognize it and then acquiring new, socially acceptable behavior. This new learning process is carried out within the facility in a therapeutic "training" community. The social therapeutic work is carried out in four major areas: special psychological-therapeutic measures, individual and group work both inside and outside the facility, occupational training and work, and educational advancement.

The Gelsenkirchen facility follows the same guidelines for acceptance of inmates as does the Dueren facility. The city of Gelsenkirchen has a population of 365,000 and is a center of heavy industry. This relatively one-sided economic structure results in widespread unemployment due to a lack of small and middle manufacturing trades in which released inmates could find jobs.

This STF is directed jointly by a correctional administrator and a therapeutic director. The facility is administered with a conference system comprising three types of conferences. The weekly treatment conference involves the therapeutic team as well as other department directors and staff members. It is concerned with the acceptance of inmates and therapeutic questions. All facility staff members attend personnel conferences three times a week, during which general correctional problems are discussed. The inmate conference is headed by an elected inmate; all inmates and the facility director attend. The inmates discuss the living situation as well as correctional problems and present proposals to the director.

Before the opening of the facility, prospective staff members were given a 3-month course on their expected duties and problems, taking into consideration the areas of psychology, sociology, criminology, and group dynamics. New staff members receive 12 hours of instruction per week. The therapeutic techniques used in the facility include behavioral therapy, individual and group therapy, transactional analysis, and role-playing.

This STF has a three-phase treatment program similar to the Erlangen facility. Occupational and work therapy is used extensively to help develop creativity in the inmates as well as to teach appropriate behavior in a job situation. Occupational training is offered in the areas of metals and electrical work.

The facility houses 54 occupants. A schedule is drawn up for each resident, in which the time spent in occupational training, therapy, and academic instruction is controlled. Work duties and therapy are obligatory, although time spent in classes may be counted as worktime. Restrictions on free-time activities, supervision, and excursions outside the facility are gradually relaxed as the inmate progresses in the program.

Hamburg-Bergedorf Special Facility

Decisions regarding admission into the Hamburg-Bergedorf special facility are made by a selection committee which meets monthly. Its greatest problem in selecting inmates for the facility is that of priority--a matter which is decided according to extent of need rather than "suitability." However, because of practical limitations, the committee must also consider the candidate's "treatment capacity." This special facility accepts more inmates with personality disturbances than do most others. Ten places are reserved for sex offenders.

The facility is located in a suburb of Hamburg near a university clinic. This setting is good for cooperation between scientists and researchers at the university and the social therapeutic correctional specialists. In addition, the setting near a large city is advantageous in terms of work opportunities for released inmates.

This facility, like most others, is directed by both an administrator and a therapist. The medical director, as well as several other staff specialists, is from the university clinic. Staff members attend regular conferences similar to those held in the Gelsenkirchen facility. Lower-level staff members were selected from among a group of volunteers. Before the facility opened, they spent 6-8 weeks training in the psychiatric area, and their ability to work with disturbed persons was tested.

At Bergedorf, each inmate is required to work, for productive work is considered an essential component of the treatment and reintegration program. With few exceptions, all work is done outside the facility. Inmates working outside are allowed to earn normal pay. However, out of their earnings they are required to pay for their lodging in the facility, support their families, pay off debts, pay compensation to victims, and with the remainder save money to be used upon their release. The facility does not have its own teacher; so inmates take courses from outside institutions and correspondence schools.

The therapeutic structure is similar to that of other social therapeutic facilities, although it is divided into four phases. The entry phase serves to habituate the inmate to the facility and to the relative freedom that it offers; during the second phase, groups of inmates are allowed to work outside the facility under supervision of correctional staff; in the third phase, they may work at a place of their own choosing, unaccompanied; the final phase is that of preparation for final release, in which the inmates are given a great deal more time outside the facility for work and personal leave. Aftercare is considered an important part of the treatment process, and releasees may talk out their problems and difficulties with facility staff members.

Luebeck Social Therapeutic Division

The Social Therapeutic Division (STD) for women of the Luebeck Correctional Facility was opened in 1974. One wing of the facility was specially remodeled for the purpose. A separate, new facility was considered unnecessary, as the STD was easily distinguished from the rest of the correctional facility, was physically independent, and had its own gardenlike courtyard.

The division is directed by a female doctor specializing in psychiatry and neurology. Supervisory staff members came as volunteers from the regular correctional field and had to be prepared to add a therapy-oriented dimension to their heretofore purely custodial function.

Staff members were given a 5-day course before the facility opened to discuss medical and psychological matters as well as expected problems in its daily operation. In addition, short discussions are held each morning and afternoon for those persons on duty, and larger discussions are held every 2 weeks for the entire staff for the purpose of information exchange, feedback, and training.

Inmates are accepted without regard to type of offense; they must be 20-30 years of age, have an IQ of at least 80, and the need, desire, and capability for treatment. Independent of these criteria, pregnant inmates and those who have borne a child in jail must be accepted into this program; there is no other accommodation available in the correctional system for these women.

Inmates work 40-hour weeks doing cleaning, washing, cooking, and sewing. Most inmates are allowed outside the facility about 6 months before final release. The division has no instructional programs of its own, although inmates may take part in courses offered in the main correctional facility.

Aftercare is seen as an important part of treatment. However, the inmates come from all areas of the country, and regular contact with them has not been possible. Most released inmates have nevertheless maintained occasional contact with facility staff on their own.

Ludwigsburg Social Therapeutic Facility

The Ludwigsburg facility is housed within the Hohenasperg correctional hospital, although it is independent of it. Certain facilities such as the visiting room, game court, etc., are shared with the hospital.

The personnel and administrative structure of the Ludwigsburg STF are similar to those of others reporting. Supervisory staff

fulfill both custodial and therapeutic duties. Acceptance criteria and procedures are also similar, and here, too, newly accepted inmates are given several weeks of psychological tests before final acceptance.

The Ludwigsburg therapeutic concept is also based on the view that criminality is the result of inadequate social development, and the program seeks to correct unacceptable behavior through the use of group and individual therapy, group activities, and other therapeutic measures.

Various group meetings are held regularly to insure a continuous flow of information and recommendations among therapists, supervisory staff, and inmates. Inmates work approximately 30 hours per week. Work opportunities within the facility are not good, and no classroom instruction is available. Occupational opportunities outside the facility are also limited.

Most of the facility's supervisory staff were transferred from the regular correctional hospital; newly employed officers are given the same 2-year training as officers of regular correctional facilities. The therapeutic staff feel that the STF's ties with the hospital have hindered the work of the social therapeutic facility. The planned construction of a new, separate building for the STF should help to improve its services.

Ludwigshafen Social Therapeutic Facility

At Ludwigshafen, as at other STF's, the goal of social therapy is socialization--teaching the individual to develop according to socially acceptable expectations.

The State of Rheinland-Pfalz has no selection facility, so three or four members of the therapeutic staff make a yearly visit to juvenile and adult correctional facilities to test candidates for the program. Beyond the common formal criteria (age, sentence remaining, etc.), acceptance depends primarily on need for treatment and readiness to change.

The facility's staff includes psychologists, supervisory personnel, social workers, and a teacher, as well as part-time chaplains, psychoanalysts, and a sociologist. Staff members and inmates hold meetings to discuss therapeutic, administrative, and correctional matters.

Treatment is carried out primarily through group interaction among inmates and between inmates and the correctional or therapeutic staff. Group and individual therapy is used extensively to help the inmate increase self-esteem, set goals, and improve behavior in regard to others.

Work opportunities at the facility are extremely limited, and occupational training is not available, although certain inmates may take part in classes in the city. Courses are offered in such subjects as German, mathematics, and English; attendance is voluntary.

From a theoretical viewpoint, the following conclusions may be drawn from the work at Ludwigshafen: The relations established with the therapist are more important than the therapeutic technique; an obvious hierarchy is more helpful than a pretense of democracy; therapeutic success appears to depend on problem identification by therapists and inmates; and classical therapy models can be used in a correctional setting only in modified form.

Sozialtherapeutische Anstalten: Konzepte und Erfahrungen 2. Auflage
(Social Therapeutic Facilities: Concepts and Experiences, 2d Edition, NCJ 45457), Selbstverlag Bundeszusammenschluss für Straffälligenhilfe, Friedrich-Ebert-Str. 11a, 5300 Bonn-Bad Godesberg 2, West Germany. 1977. p. 221-307.

Social Therapy for Women: Report of the First Project in Luebeck

Sozialtherapie für Frauen: Bericht für das erste Projekt
in Lübeck* (NCJ 49464)

By Klaus Böhme, Heinze Bühe, and Henrike Schlutow

On January 5, 1974, the first social therapeutic division (STD) for women in the Federal Republic of Germany was opened at the Luebeck Correctional Facility. Three years have passed, and it seems appropriate to review the planning and implementation of this first attempt to open social therapy to women inmates.

Legal and Organizational Foundations

As a result of planning efforts inaugurated and coordinated by the Justice Ministry of the State of Schleswig-Holstein, in which the director of the Luebeck Correctional Facility and the designated head physician of the STD took part, the following organizational plan went into effect on May 1, 1974:

I.

A social therapeutic division is to be established at the Luebeck Correctional Facility with 20 places for female inmates.

II.

The treatment of the inmates in this division should produce the effects which have thus far been lacking in the field of social therapy.

Inmates are to be placed in the STD only with their written consent. Admission procedures are presented separately.

* Translated from the German by Virginia Allison of Aspen Systems Corporation.

The treatment, care, and control of the inmates are the duty of the psychiatric service, the psychological service, and the social service. These services are to be supported by guards specially trained for social therapeutic supervision.

III.

The STD director is a psychiatrist.

This head physician directs the admission of inmates and their possible return to the general correctional population; treatment measures; and the use of the specialists mentioned in Part II.

The head physician cooperates in the initial and advanced social therapy training of the division's supervisory staff.

The head physician represents the STD outside the facility in the social therapy field.

IV.

An officer from the correctional and administrative services will be appointed by the controlling authority as head of the administrative and supervisory services.

The administrative director carries out the duties of the correctional office and the security forces. He is responsible for the division's coordination with the facility's offices (main office, work management, fiscal management, etc.) and works directly under the facility director. He must coordinate all important decisions with the head physician.

The supervisory service also assumes the duties of the inmate employment service.

V.

The head physician is not bound by the instructions of the facility director in the areas listed in Part III. The facility director may override any orders of the directing physician which endanger the security or order of the facility or which go against correctional department rules. The controlling authority may settle any disagreements.

The head physician may question an administrative decision of the facility director which concerns or affects the STD. If no agreement can be reached with the facility director, the head physician may request a decision of the controlling authority.

In this model, the STD is considered a definite transitional system, in which the specialized administration was already separated as an independent functional area and granted autonomy, but the administrative and supervisory functions were left up to the facility director, or to an office of the selected correctional administrative services subordinate to him. A total dissociation of the STD from the existing organizational structure of the correctional system and its removal from the facility grounds were not practical because of legal and therapeutic considerations. In addition, financial constraints limited construction. Economic independence and the complete autonomy which would inevitably result, while therapeutically desirable, would have added a significant financial burden to the project.

Spatial Relationships

A completely separate building was provided for the STD. The building has a large, gardenlike courtyard, which serves for gardening as well as free-time sports and recreation. The office space for female "attendants" (formerly guards), the therapy specialists (physician, psychologist, social worker, and administrative director) are on both floors of the building, completely integrated with the living and working space of the inmate participants. A kitchen, dining room, gymnasium, library, visiting room, bathrooms and nursery were also included in the building.

Converting the participants' rooms from cells represented the largest construction expenditure. The old iron doors were changed to simple wooden doors, light switches were installed, and the typical small cell windows were enlarged. The color schemes of the rooms eliminated some of their institutional character.

Personnel Structure

Despite much deliberation, especially from the therapeutic point of view, it turned out quite well to recruit "attendants" for the social therapy exclusively from among officer-volunteers with conventional correctional experience. Since the participants also had prison experience, the gradual approach toward a therapeutic working union would be a process which could change mutual difficulties into increased mutual understanding. Role stereotypes and biases had to be torn down on both sides.

Before the opening of the division, eight attendants were given 8-12 weeks of familiarization with therapeutically oriented psychiatric institutions in the Schleswig State Hospital and at the Luebeck Psychiatric and Neurological Clinic. The attendants and the administrative director also took part in a weeklong seminar conducted by the division's future therapeutic specialist, in which some basic principles of social therapy were examined.

An intentional and externally recognizable hierarchical personnel structure was considered neither desirable nor necessary for therapeutic reasons. For the same reasons, uniforms were eliminated. "Official channels" within the division and a reporting system among participants, attendants, therapists, and administrators were replaced by a therapy-oriented organizational structure. However, a complete democratization of all divisional decisions according to the model of the therapeutic community could be described only as a distant goal.

Therapeutic Plan

Women in the STD undergo three phases of therapy: entry, treatment, and transition.

In the entry phase, 6 weeks at most, emphasis is placed on personality diagnostics. Investigative psychological examinations; compilation of biographical case histories; and explorations from psychopathological, sociopsychiatric, and psychological points of view furnish the bases for a decision regarding the inmate's suitability for final acceptance into the STD. Of course, an attempt is made to conduct the diagnosis before acceptance into the division if possible, in order to prevent an unnecessary traumatizing return to the general prison population. The findings gathered during the entry phase serve also in the planning of an individual therapeutic plan which should not, however, have the character of a long-range, concrete program.

The treatment phase should, if possible, extend over a period of 1 to 2 years. Less than 6 months produces little promise of success. The emphasis of the work with the participants should be in the area of milieu therapy. In this phase it seemed particularly important from the beginning to make contacts with relatives who will be rejoined by the inmate after release, in order to become as familiar as possible with the special problems of individual social backgrounds.

In the transition phase, the participant must be led gradually out of the closed group situation. While in the treatment phase the main emphasis was on training and "trying out" social behavior patterns in a supervised, realistic, but limited social situation, it is desirable in the transition phase to transfer the newly learned behavioral and integrative possibilities to the unstructured sphere of life in a pluralistic society with its conflicting interests. The inclusion and involvement of essential role models or reference figures from social groups which would later accept the released inmate (family, work world) is considered to be a particularly important measure in this transition situation.

Admission Criteria

If the STD were forced to select its participants based on such criteria as frequency of recidivism or classification as a "habitual criminal," and if the assignment were to be made as a result of judicial decision without previous consultation with the STD and without substantial possibilities of refusal by the STD in cases where the offender lacked qualifications, an antitherapeutic climate would soon develop. Poorly motivated, severely disturbed personalities with strong antisocial leanings would infiltrate the social therapeutic free space and would use it to accomplish their own interests. The response of the therapeutic teams would be either resignation and the construction of a pseudo-therapeutic dummy operation, difficult to see through from the

outside, or recourse to custodial principles of order with a resulting loss of the therapeutic approach by those who were willing to cooperate.

It was therefore not difficult to orient the selection criteria as far as possible toward therapeutic viewpoints. We were unable to refuse entirely the admission of mothers with infants and small children, as other accommodation possibilities within the framework of the correctional community were not available. We did, on the other hand, reject the notion of acceptance without the use of some fundamental selection procedures (perhaps also somewhat half-heartedly), on the assumption that the first traumatizing separation from the mother could be spared many infants and small children, even though the identification with the new role could become an element of social stabilization for the new mother. Finally, it was foreseeable that the presence of children in a women's division would have a positive influence on the group climate.

The following preliminary selection and admission criteria were set: Admission procedures begin with the preparation of a psychiatric-psychological examination, which includes all medical evidence and all documents which could be obtained from criminal proceedings and the correctional process. The cooperation of the facility administration and the general correctional authorities is essential. Transfer to the STD must not in any case be construed as a "promotion" or a "removal."

In a biographical case history, pathological and criminogenic personality factors as well as pathogenic environmental factors in particular must be examined. Through investigative psychological examinations, the personality picture obtained from exploration and case histories is rounded out and made as objective as possible with the help of reproducible procedures. The following investigative instruments should be used:

- personality questionnaire--Freiburg personality inventory; Giessen Test (alternative Minnesota Multiphasic Personality Inventory);
- projective testing procedures--Rosenzweig PF Test, Thematic Apperception Test, Rorschach Test;
- intelligence and achievement tests--Hamburg-Wechsler Intelligence Test for Adults, alternative Intelligence Structure Test, d2 Test, Concentration Achievement Test.

Too much emphasis should not be placed on the positive motivation of the inmates during the selection procedures. Inmates as a rule could hardly develop accurate expectations about what

takes place in a social therapeutic division. It is sufficient to begin with a readiness on the part of the inmate to cooperate in the entry diagnostics described above.

For inmates from the Luebeck Correctional Facility, the selection procedures are carried out by STD staff. For selection from other divisions, opinions and examinations from these facilities' psychiatrists and psychologists, using the established criteria, may be accepted. The final decision is to be made by the medical administrator in consultation with the members of the therapeutic teams.

In the development phase of the project, the following absolute limitations should be observed: age of probationers, between 20 and 35 years; length of sentence remaining to be served, 12-24 months; intelligence quotient according to Hamburg-Wechsler, at least 80-85; absence of mental illness or depression of the schizophrenic or manic-depressive type as well as clear personality changes brought about by brain dysfunction. As relative criteria for rejection, extreme variations of abnormal personality structure and final stages of cerebral-neurotic personality development (phobic and anacastic syndromes, severe deviations in sexual behavior, severe alcohol or drug dependency) were established.

Internal Organization

On the staff level, there are two meetings a day (one each shift), in which all attendants and therapeutic specialists participate. The entire staff meets once every 2 weeks for an afternoon of meeting and learning. Each attendant undertakes the special care of one or two inmate participants and is also--as far as is therapeutically possible--present at individual discussion sessions as an educational experience. Treatment conferences at intervals of 1-2 weeks were recently begun, in which the further therapy plan is defined and the results of treatment up to that point evaluated; inmate participants, attendants, correctional administrators, and therapists all take part.

An inmate participant's day begins at 5:30 a.m.; working time is 7 a.m.-12 noon and 1:30 p.m.-4:30 p.m. Individual and group therapy also takes place during these times. Participants, attendants, and therapists eat dinner together. The hours from 10 p.m.-11 p.m. are available for individual free-time activities and for voluntary therapy. Participants are allowed to wear their own clothes during free time.

Visiting rules allow visits by relatives every 2 weeks. Since visits are conducted in the participants' own rooms, only certain persons may receive visitors at a given time. A schedule was developed to which the participants themselves must agree.

Rules for gifts and packages are the same as for the rest of the correctional system; cash gifts are deposited at the cashier's office. Mail is censored, according to general correctional system rules, by the administrative director.

Going to work is the primary outside activity. Authorized trips (to work, for personal supplies) may be made in the company of an attendant. Group visits to shows, excursions, and participation in enrichment courses are permitted to inmate participants accompanied by their attendants. Furlough requests must be formally approved by the facility director on the recommendation of the directing physician.

Realization of Therapy

The number of therapy specialists at the moment allows one individual session (60 minutes) per week; in conflict situations, more sessions are available. The discussion sessions are led according to psychotherapeutic and behavioral therapeutic guidelines. Each participant takes part in a weekly small group session led by a psychologist and an attendant. There is also a weekly large group session which includes all inmate participants, all attendants on duty, and the therapy specialist.

In work therapy, those participants least able to bear the burden of working--mostly in the entry phase--are given domestic chores. After assuming more responsibility, they advance to dressmaking but without the pressure of quantitative production. When they show good integration and motivation, they enter the production-oriented, and also the best-paying, industry tasks. In the transition phase, the participants are, to the greatest possible extent, established as free workers in a trade. The establishment of cliniclike occupational therapy has not been essential.

Establishing a general therapeutic environment is emphasized as much as individual therapeutic activities. This requires a great deal of openness and readiness to communicate, especially from the attendants who must constantly avoid both giving orders and directions and structural handicapping, even when these are constantly, explicitly, and almost provocatively demanded by inmate participants. The care principle at the STD (one attendant/one to two participants) involves establishing the shortest possible feedback and revision routes. Milieu therapy consists on the one hand of rejecting authority in those areas where it could only hinder therapy and on the other hand of rejecting subordination in those areas where it would be possible for participants to regress.

Current Statistics

As of December 31, 1976, 37 women had been accepted into the division. Of these, 21 were discharged, 4 at the termination of their sentence, and 17 on probation. The average age was 29 (in an age range of 19-50). The average length of stay has been almost exactly 1 year. (Tables in the original document show marital status, offense, and frequency of contact with the division after release).

Summary

One major problem of the division has been that it is not distinct from the remainder of the correctional system, undoubtedly a disadvantage resulting from their close proximity. In addition, the attendants have had to adjust to a new role and change their hierarchical orientation from keeping a safe distance from the inmates to that of a close, therapeutically oriented situation. Selection problems will also have to be solved in the future.

The greatest deficiency of the Luebeck STD is in the transition phase. Because of personnel restraints, the division's primary orientation is still internal. Although it has always been seen as a necessity, it has not yet been possible to completely encompass the family and occupational environments to which the inmate will return and to offer appropriate therapy or counseling after release. We are attempting to correct this situation through increased hiring, but problems still exist. Internally oriented therapeutic processes are only one pillar of the bridge in a responsible and socially integrated life. However, the bridge also requires a buttress in the familial and occupational environment--an environment from which various criminogenic environmental factors have contributed toward a stay in an STD.

References are provided in the original document.

Monatsschrift für Kriminologie und Strafrechtsreform, v. 61, n. 3:180-191, 1978. Carl Heymanns Verlag KG, Gereonstr. 18-32, 5 Cologne 1, West Germany.

Discriminatory and Unjust Nature of Juvenile Justice: Girls Labeled "Delinquent" in Canada

Le caractère discriminatoire et inique de la Justice pour mineurs: les filles dites "délinquantes" au Canada* (NCJ 49495)

By Marie-Andrée Bertrand

There are few criminological facts as universal as the disparity--quantitative as well as qualitative--between official female and male delinquency. Of course, differences of social class and race have always coincided with clearly differential rates of repression and disturbingly unequal treatment; the penal vulnerability of the undereducated, the economically disadvantaged, and the members of oppressed ethnic groups has been established a thousand times, if not explained and corrected. In the case of women and young girls, however, reassuring or tautological commentaries have, until recently, pointed up the insignificance of their delinquency; this led the public to rejoice over the fact that half of the human race was "naturally" less criminal than the other and to imagine that the rare women sentenced received lighter penalties than their male counterparts. In reality, the situation of women in regard to penal law and criminal justice is far from being so unequivocal and privileged.

It is true that, compared to official male delinquency, feminine criminality is banal and not very threatening. Certain analysts of the female condition have recently contributed to our understanding of this insignificance by noting the absence of women from positions of power; the place they hold in the occupational hierarchy; their domestication through learning feminine roles; their "privatisation" or transformation into private property by marriage; their propensity to resolve their conflicts through mental and physical illness; their indirect and vicarious way of living; their criminality as accomplices of a lover, a husband, or a son; and the often trivial and wasteful charac-

* Translated from the French by Deborah Sauvé of Aspen Systems Corporation.

ter of their activities in and outside of the home. However, from an epistemological and methodological point of view, it is probably Frances Heidensohn¹ who has contributed the most to a renewed study of the problems presented by this phenomenon in inviting us to utilize two continuums rather than one to measure the conformity and deviance of two human groups which are not called to the same type of behavior.

However lamentable the world of adult women as seen through their banal or lacking criminal performance, it is less astonishing than that of young girls, such as it appears in light of their delinquency and treatment by the organs of justice. Measures of "protection" (placement for 20 or 40 months in resocialization institutions in the absence of a penal situation), "mitigated" sanctions (that is, milder but longer), and preventive internment already constitute for these girls the prelude to the confinement their mothers knew. The use of their bodies is denied them ("sexual immorality"). Their attempts at mobility are punished ("vagabondage," "other form of vice"). But, one might ask, isn't that the condition of all minors, regardless of sex, whether they come under the penal laws or not?

This article proposes to define the special condition of delinquent girls through the treatment reserved for them in the justice apparatus for minors in Canada. A previous study concerning feminine delinquency in Poland, France, Belgium, Venezuela, and Colombia demonstrated that the Canadian situation is not unique.

Research Methodology

Very relative importance of numbers. The study from which this article is drawn concerns women and young girls accused of felonies or misdemeanors. Of particular interest here is the relative importance or insignificance of women or young girls in relation to the whole. The absence of agreement between criminal statistics and criminal "reality" is not an obstacle to this study. Other authors would probably look for hidden female criminality, and this is a completely worthwhile topic of study. In this work, it is not the place of women and young girls in an imagined, possible, or even real but unknown deviance that we wanted to study: rather, it is the place assigned to them in the activities (i.e., arrests, indictments, and convictions) of the police, courts, and correctional/protection establishments in Canada.

¹Heidensohn, F., "The Deviance of Women: A Critique and an Enquiry," British Journal of Sociology, v. 19, n. 2:160-176.

Statistical analysis. In this article, the preferred instruments for demonstrating the discriminatory treatment of delinquent girls in Canada are the Canadian Federal statistics. The criminal statistics in general are strongly discredited and attacked for their limitations, but they are more fundamentally criticized as products of a social order, products whose clearest function is to cloud our knowledge of the mechanisms controlling the way in which that social order functions and dominates.

Prior to the works critical of official reports on criminality, the author of this article was situated for more than 10 years close to the source of statistical production, where official counts and criminalizing labels are elaborated.

Initially, our first hypotheses about the weight of religious, cultural, and later sexual variables in the determination of crimes were outgrowths of clinical work, in the strict sense of the term. (Several hundred young male and female delinquents participated in interviews in which the subject and his or her parents gave their versions of the "problem" and incriminating facts.) The differential labeling was noted as a result of the nearly daily contact with judges, probation officers, police officers, and parents. Later analysis of the texts of certain articles of the criminal codes clarified the differences observed between female and male delinquency.

This examination testified to such inequalities that we were anxious to see whether they were being hidden by the official documents as well as official statistics on delinquency and its treatment. Of course, a good portion of the vexations imposed on girls--and not on boys--in the criminalization and corrections process do not appear in the official statistics. All the same, one finds in these "social representations" the irrefutable demonstration of great injustices and discriminations.

Three principal sources of data on delinquency among girls. In Canada, as nearly everywhere, one finds three structures from which the amount and description of juvenile delinquency are drawn. They are, in chronological order, the police services, the courts, and the establishments for the protection of youths. The probation services are just beginning to furnish reports which are utilizable in research.

We are interested here in the proportion of girls among minors charged, brought before the court, and subjected to both the mildest and severest measures. We also wish to define as well as possible the "nature" of girls' delinquency as it is perceived and sanctioned and to compare it to that of boys'. In other words, we are interested in the differential aspect of treatment of delinquents according to sex.

Although all the data used in this article were compiled by one central agency, Statistique Canada, their internal coherence varies greatly. The police statistics are entitled "Statistics on Criminality and the Enforcement of Traffic Regulations." The most recent, 1972-1973, will be of particular use. The reports of juvenile courts are published under the title "Juvenile Delinquents," the last of which also appeared in 1973. Finally, Statistique Canada also receives reports from the resocialization centers in the different provinces entitled "Establishments for the Protection of Youths." For purposes of comparison, reports from 1963 to 1973 concerning juvenile delinquents and minors placed in these establishments will be used.

Delinquency Among Girls

Delinquent girls among persons charged. In Canada, 70 percent of all persons accused of penal infractions in recent years were adult men, 17 percent were young men, 11 percent were adult women, and 2 or 3 percent were young girls.

The unimportance of girls' delinquency is also seen, and in an even more precise way, in the crime rates for each sex and age group; i.e., the number of persons accused per 100,000 of the same sex and age group in the Canadian population. The respective rates in 1971 were 6,461.7 persons charged for adult men (per 100,000 persons of the same sex and age group); 2,436.6 for boys; 662.6 for adult women; and 457.5 for girls. Thus, the chances of being accused of a crime, if one is a girl of less than 16, 17, or 18 years*, are less than one-half of 1 percent. These figures certainly indicate the insignificance of this combined age and sex group in the eyes of the police force. What is its relationship to the court?

The law for juvenile delinquents and its morals provisions. In Canada, as in several other countries, when a youth is a "penal minor" and the court proves that he has committed a felony or misdemeanor, he is not "declared guilty" and "sentenced": he is "declared a juvenile delinquent" and the court makes a decision or hands down an order pertaining to his case.

Young Canadians, however, are not only subject to all the laws regulating conduct of adults, but also to the dictums of an additional law, the Law on Juvenile Delinquents, which stipulates that "sexual immorality" and "any other form of vice" give agencies of repression the right to intervene in minors' lives.

* The age of penal majority varies in Canada according to the province.

These provisions, the imprecision and moral or totalitarian character of which have been criticized for at least 20 years without any change resulting, remind one of laws of attitude. They impose the obligation to be chaste, even virtuous, but do not describe facts or precise acts, which are the sole objects of a well-made law. The discretionary power of the services of repression and of the justice system (police officers, probation agents, juvenile court judges) is thus extended to a considerable degree. It will be seen in the precise case which interests us that it is especially girls who are labeled "delinquent" as a result of their "sexual immorality" and their "in-corrigibility." They especially are judged delinquent for vagabondage and immoral conduct, clauses which are no less vague and which figure in the category "other crimes" of the criminal code.

Girls among delinquents. In 1973, 44,157 boys and girls were declared juvenile delinquents by the Juvenile Courts of Canada. This figure represents a "real" increase in relation to 1972 (42,183); i.e., it is not concomitant with a demographic increase in this age group. However, these figures referring to the number of youths taken in charge by the court are somewhat the result of chance, as demonstrated by an unpublished study by Guy Tardif, professor at the School of Criminology in Montreal. In 1975 Tardif interviewed the persons responsible for law enforcement for juveniles in 26 municipalities of Quebec (13 in which delinquency is high and 13 in which it is not). He concluded that innumerable caprices, strokes of good and bad luck, informal practices, and ignorance on the part of the reporters make statistics on juvenile delinquency completely untrustworthy. "These statistics aren't worth the paper they're printed on," said one of Tardif's associates. We must repeat, however, that what interests us here is not the official figure of delinquency, but rather the proportion of activities which the police and the courts claim to dedicate to girls in relation to those which they dedicate to boys.

In this perspective, it is interesting to note that, from 1963 to 1973 inclusively, the number of boys declared delinquent climbed from 15,594 to 36,058 (plus 231 percent). During the same period, the number of girls declared delinquent went from 1,962 to 8,095 (plus 412 percent). Thus, girls represented 11.17 percent of the juvenile delinquents in 1963, but 18.33 percent of the total in 1973.

At the risk of repeating ourselves, let us recall what the statistics signify and especially what they do not signify. One certainly cannot demonstrate, on the basis of these figures, that "delinquency is on the increase," and these official reports do not allow one to affirm that "delinquency among girls is growing twice as rapidly as that among boys," as several authors have rashly

claimed. This increased presence of girls among official delinquents can be explained, at least partially, by the greater visibility, the greater participation of women in extrafamilial life; i.e., educative, commercial, leisure, and work activities. It may also result from a new vigilance on the part of the police forces and the courts with respect to persons presumed inoffensive until now. Among the definite affirmations which these increases allow us to make are the following two: official juvenile delinquency (of both sexes) in Canada has tripled between 1963 and 1973, and in this expanding phenomenon, girls occupied a greater and greater place over the years, exceeding their prior contribution. These two facts are not devoid of meaning, but in the analysis of the hypotheses which combine to explain them, one must first recognize that the services for juveniles themselves "produce" official delinquency.

The nature of delinquency among girls.

● In 1973, girls represented 11 percent* of the youths brought before the court for infractions against the Criminal Code, but they only constituted 4 percent of perpetrators of property crimes involving violence and 16 percent of the delinquents found guilty of nonviolent property crimes. In the area of crimes against persons, 13 percent of the youths convicted were girls. The comparison in this regard with 1963 is rather striking, as girls 11 years ago made up only 5 percent of the youths found guilty of crimes against persons.

● In the matter of Federal laws, including among others the law on juvenile delinquents, the law on narcotics, and the law on food and drugs, girls represented 30 percent of the youths recognized as delinquents in 1973. This high proportion is only explained by the overrepresentation of girls among youths falling under the law on juvenile delinquents. Since the law includes all of the dispositions of the Criminal Code, only its additional clauses, described above, are invoked here; i.e., sexual immorality and incorrigibility. These are feminine crimes: 70 percent of the youths declared delinquent for reasons of "sexual immorality" or "incorrigibility" are girls.

● The provincial statutes which bring youths before the Juvenile Court are principally laws on alcohol; in this regard, girls account for 37 percent of the minors who consume alcohol either in prohibited places or before the age of 18.

* Percentages rounded off.

** The clause on incorrigibility is not to be found literally in the law on juvenile delinquents. We are told that it is a way to seize "recidivists."

● As for infractions against municipal ordinances, they implicate so few youths that we do not consider it useful to go into their analysis.

In short, juvenile delinquency as it manifests itself before the Juvenile Court is largely masculine. The combination of two factors, age (young) and sex (female), leads to a low probability of being charged and judged for antisocial violent behavior. For any 100,000 persons of this age and sex, this delinquency is so insignificant that it is impossible to measure, especially concerning crimes which constitute a real social danger.

However, we will now see that the Juvenile Courts have recourse in astonishing proportions to long-term measures of confinement in the cases of girls, even after having described and judged their behavior as nondangerous.

Judgments and Dispositions in the Case of Juvenile Delinquents

A whole arsenal of measures and methods of judgment is put at the disposal of the juvenile judge who has to know about the affairs of youths accused of delinquency. Concerning judgments, the most utilized of the methods is the postponement sine die (21.9 percent of the cases in 1973). The most utilized dispositions are probation (23.4 percent), fines or restitution (23.4 percent), and suspended decisions (15.8 percent).

In general, the same boy-girl ratio (1 girl to 4.5 boys for all provinces combined) is found in regard to the different methods of judgment and the different dispositions. However, boys are subjected to probation more often than girls; moreover, judges impose more fines and restitution measures on girls (proportionally) than on boys. The most serious measures, transfer to the Adult Court and indeterminate detention, are applied to only approximately 200 minors (0.5 percent), and boys are subjected to them significantly more than are girls. This again confirms the impression of unimportance and nondangerousness of girls' delinquency in the eyes of the juvenile judges.

Place Occupied by Girls in Establishments for the Protection of Youths

Grounds for placement in protection establishments. All of the youths found in protection establishments have not necessarily been placed there by order of the court, and all are not there after having been declared delinquent and with a view to rehabilitation for a court-imposed length of time. For example, in 1973, 3,561 young persons were admitted into establishments for the protection of youths, but only 1,897 were there for reasons

of delinquency. Other reasons include protection, return from a placement, and request of those in custody. Statistics from 1973 show that (1) the girls who represented 18 percent of all youths brought before the Juvenile Courts accounted for 40 percent of the population of the protection establishments; (2) the majority of them are not imprisoned following a crime, but rather as a result of the enforcement of protection laws; (3) Quebec is responsible for nearly all of the confinements for reasons of protection, accounting for 800 of the 878 girls and boys in this category--of these, 597 are girls; and (4) Ontario is the only province which makes significant use of two particularly imprecise grounds--"return from a placement," whether in a foster home or the family home, and "other": of the 693 children placed in protection establishments on these questionable grounds, 305 are girls.

In short, girls are interned in protection establishments from two to three times more often than their presence among youths brought before the court would indicate. They are confined in the absence of a penal case much more frequently than are boys. Ontario and Quebec distinguish themselves by their utilization of weak grounds, unclear from the juridical viewpoint, in the placement of youths, and especially of girls, in protection establishments. Let us examine the length of placements practiced by these two provinces.

Length of placements. Statistics testify to the existence of patterns specific to each province. In Ontario, 85 percent of the boys and girls in protection establishments are placed there for stays of less than 9 months. In Quebec, 74 percent of the girls enjoy such short stays, as do 57 percent of the boys. However, while stays of 2 years and more are imposed on 1 percent of the boys and girls in Ontario, 14 percent of the boys and 11 percent of the girls experience this fate in Quebec.

But isn't this too linear a view of the functioning of these prisons for youths? Since Ontario undertakes placements outside of the protection establishments which then result in the return of more than 300 minors, the stays thus accumulated are not brief. Are the curves illustrating the length of placements in protection establishments during 1973 typical? A diachronic analysis reveals that the accent has shifted considerably throughout the years, passing through trimodal curves. In 1963 for example, longer placements were more frequent in the two provinces and for the two sexes; bimodal curves show a central tendency around medium-length placements; distributions clearly show a return to placements of 3 months and less dominating the practice.

Throughout this evolution which results from multiple cultural and economic factors, the distributions take into account

similar practices in the cases of boys and girls within a single province, practices dominated by grounds that have nothing to do with the gravity of the reproached behavior.

Increase in the number of girls placed, decrease in the number of boys. Between 1963 and 1973, the number of youths entrusted to establishments for their protection remained approximately stable at around 3,500 children. The number of boys detained has tended to decrease since 1970; the number of girls has increased. Thus, Quebec and Ontario, which had placed respectively 305 and 332 girls in the establishments in 1963, confined twice as many in 1973 (693 and 591).

Conclusion

Of course, criteria of adult males are responsible for the definition and treatment of deviance among minors. These criteria vary according to whether one is deciding on or treating boys or girls.

Largely underrepresented among perpetrators of serious crimes (and of crimes of all types), girls fall into the hands of the apparatus of justice which utilizes other norms than the penal case to intervene in their lives. Although they enter the penal system through the "back door," girls are overrepresented among minors who are the object of placement. They are finally subjected to treatment and internment measures of a length analogous to that characteristic of institutional placements among boys.

One should not see in these remarks any kind of defense of long-term placements for serious delinquents. Internments should be abolished (progressively and rapidly) since the "best" institutions, those which practice "reconditioning," cannot even justify their coercion with their success rates, which evidently constitute a very weak ethical defense. These penal moratoriums are unjustifiable, for boys as well as for girls. They are particularly unjust, however, when their anchoring point is the temper of the judge or the rejection, immoral conduct, or absence of the parents.

It is for their protection (officially) that one interns difficult girls; i.e., for the peace of the parents, educators, social workers, police, and judges, by virtue of an anachronistic enforcement of the doctrine of parens patriae. Girls are confined for their own good and are kept confined, in a good number of cases, until their legal majority.

It is probably not inappropriate to see here certain concrete consequences of patriarchal and sexist attitudes disguised as the benevolence of which A. Platt² spoke in relation to the founders of the juvenile courts.

French, English, and Dutch abstracts as well as references, charts, and a table are included in the original document.

²Platt, A. M. The Child Savers: The Invention of Delinquency. University of Chicago Press, 1969.

Déviante et société, v. 1, n. 2:187-202, September 1977. Editions médecine et hygiène Genève, Université de Genève, CH-1211 Geneva 4, Switzerland.

The Effects of Short-Term Confinement on Juveniles

Die Wirkungen der kurzen Haft auf Jugendliche* (NCJ 43550)

By Thilo Eisenhardt

Introduction

Current options in the Federal Republic of Germany for the treatment of juveniles with antisocial behavior include counseling, child welfare work, and juvenile court assistance, as well as the activities of model detention facilities.

Juvenile detention was established during the National Socialist regime by the October 4, 1940, supplement to the Juvenile Code. Several reasons for its establishment can be distinguished. The main reason was the attempt by the Justice Ministry of the Reich to replace incarceration and fines for juveniles with more appropriate measures. Further reasons for its implementation under the Nazi regime were certainly system-oriented. During this period, it was considered an "honor" to be living within the community. Juvenile detention was thus a natural feature of a system which excluded the delinquent juvenile from the community for a particular length of time but then allowed him to return.

From the 1940's until 1977, various laws were enacted regarding juvenile detention. Early detention laws emphasized physical labor. Typical daily activities included physical exercise and educational community activities. Personal inspections, discipline, and regulations were strict.

The current (1977) German Juvenile Code provides for three disciplinary measures for juveniles which do not have the legal effects of punishment: warning, imposition of special duties, and juvenile detention. The Juvenile Code guidelines state that

* Translated from the German by Virginia Allison of Aspen Systems Corporation.

the disciplinary measures should serve to awaken self-respect in a juvenile who is basically good, making him realize that he has committed a punishable offense and must answer for it. Herein lies their educational value. These sanctions are applied only when it is expected that the juvenile will gain this insight and conduct himself properly in the future. Three forms of juvenile detention are used: long-term detention (1-4 weeks), short-term detention (up to 6 days), and free-time detention (up to 4 weekends).

The guidelines emphasize the juvenile's "qualification" for detention. Only those youths who are "basically good" and who "could be educationally influenced by a short, strict deprivation of liberty" are to be admitted for this type of correctional program. It is recommended that juvenile detention not be imposed on neglected or mentally retarded juveniles.

One must understand the degree to which juvenile detention is imposed before one can assess its effectiveness. In the first years after detention was established, 80 percent of all juvenile court sentences involved detention. Even before the establishment of this sanction, approximately 75 percent of juveniles sentenced were given some short-term imprisonment. Estimates for the years 1957-1966 are that approximately 40-45 percent of all juveniles sentenced received detention. During 1968-1972, the figures stood at approximately 85 percent.

Now that the large extent to which detention is imposed by juvenile courts has become clear, the question of its effectiveness arises. The criterion for measuring the effectiveness of juvenile detention is the number of the detainee's repeat offenses. There are difficulties, however, with interpreting the data relating to recidivism. It has been shown that no causal relationship can be established between effectiveness of detention and recidivism because other personality and socioenvironmental factors influence the juvenile's later behavior. The recidivism criterion is thus not clearly associated with effectiveness of detention.

The question of the juvenile's suitability for detention has been studied extensively. Psychological testing has been found to be impractical, as examiners have no criteria for determining suitability. Simple external criteria, such as previous arrests, are equally ineffective. Juveniles judged unsuitable by these methods are often simply sentenced to correctional institutions (where recidivism rates are high). It must be emphasized that the question is not whether the youth is suited to the treatment, but rather whether the treatment is suited to the juvenile.

The "ideal" detention must approximate the juvenile's "reality"--a concept which involves the treatment needs of the juvenile and not the notions that others have about it. Long-term detention must be considered in light of the treatment needs

of juveniles. In general, it may be said that treatment with an educational orientation appears to be necessary.

Among treatment possibilities for juveniles with deviant behavior, the value of detention appears to have been viewed incorrectly up to now. Today it is thought that detention can solve a number of problems if it is developed and organized with a view to the juveniles' treatment needs.

Some of the common, yet undesirable, characteristics of the juvenile detention sanction are: (1) it is imposed to a great extent on unsuitable juveniles; (2) the time interval between commission of offense, sentencing, and detention is too great; (3) many correctional directors have so many demands placed on them by their other juvenile justice duties that they do not have the necessary time to give juvenile detention; (4) the correctional officers' psychological-educational training is deficient or nonexistent; (5) the existing communal living areas and work assignments do not conform to the detention ideal; (6) the 50-60 percent recidivism rate is too high; and (7) there is too little educational training in juvenile detention facilities.

Research into the effectiveness of detention is necessary, and studies must seek to answer a number of questions, including: (1) What are the typical personality structures and social environments of detainees? (2) Which offenses receive which types of detention? (3) What is the influence of time variables? and (4) What influence does the sentence have on the juveniles' socialization and personality structure?

The juvenile personality goes through a typical socialization process during childhood and adolescence; certain influences can disturb this process and lead to antisocial behavior. Disturbances in the normal socialization process such as psychopathy and neuroses must be given special attention. Psychopathy is a concept that implies a certain stigmatization. It is often broadly interpreted to include several different conditions. It is certain, however, that hereditary, neurophysiological, and endocrine disturbances have some influence in the formation of deviant behavior, even though this influence is frequently overestimated. The social status of the parents, their behavior, and their norms and values affect the primary socialization and interaction in the family. Psychopathic structures are built on the foundation of specific child-rearing practices; e.g., neglect, hostility, aggressiveness, and harsh physical punishment.

In contrast to the more socially related causes of psychopathy, neuroses are the expression of unresolved conflicts in the social subsystem of the family. Neuroses arise primarily in members of the middle class under the influence of strict norms and value concepts. Although a number of empirical studies

of the development of antisocial behavior have been conducted, their results have been somewhat contradictory.

The problems related to treatment within institutions are considered in terms of the process of socialization within the family and among peers, as well as the factors and influences which may have disturbed this process. Socialization processes are at work within organizations as well as families. Organizations may be thought of as social systems, directed toward the achievement of specific goals. The principle of interdependence governs all these systems. Organizations develop a "collective identity" and corresponding conduct requirements help in achieving goals. "Juvenile detention" is such an organization.

In order for juvenile detention to treat antisocial behavior, it must first recognize that behavior. No effective treatment can be carried out without accurate diagnosis of the type and cause of the disturbance. An examination of treatment within existing institutions shows that little or no individual treatment exists. As the fault lies largely within the organizational structure itself, further development in treatment can hardly be made without effecting serious changes in that structure.

Preliminary Studies

The purpose of the present study is to measure the effects of detention on juveniles throughout the country. To accomplish this, the psychological and social characteristics of the subjects in question must first be understood, as the effectiveness of corrections can be ascertained only by observing their behavior.

Preliminary inquiries were conducted first. Part One comprised the experiment conducted in the juvenile detention facility at Frankfurt (Main)-Hoechst. Preliminary research produced data on the subjects, test procedures, and treatment results. The study sample consisted of 104 male subjects, divided into two experimental groups: the "long" experimental group had 2-4 weeks of detention, the "short" experimental group had 8-12 days, and a control group corresponded to each. The experimental group underwent group treatment, and the controls served a term of simple confinement without work assignments. Each group answered attitude questionnaires on completion of the detention. The "long" experimental group gave the most positive responses; the other three groups showed similar but more negative tendencies.

Part Two of the preliminary inquiries sought to discover whether differences exist in the personality and achievement characteristics between juveniles under detention and those held in jail pending investigation. The object was to discover whether juvenile detainees could be distinguished at all from other groups

with antisocial behavior who have prior convictions. At the same time, this preliminary inquiry served to test the appropriateness of procedures for the primary study.

Part Two consisted of two groups: 50 male juvenile detainees and 50 male juvenile prisoners under investigation. They were comparable in age, educational level, and the socioeconomic status of their parents. Each group was given several tests, including the Intelligence Structure Test and the California Psychological Inventory. In general, the detainees showed greater promise for successful treatment than did the prisoners.

The Primary Study

The researchers sought to show the effects of and interdependencies involved in the concept of detention, including their function in the correctional organization and their influence on the changing personality structures of juveniles. Correctional data on juvenile detention facilities throughout the country and on the varying characteristics of subjects were compiled for the study.

Twenty-seven juvenile detention facilities were examined. A questionnaire was designed to provide researchers with general facility statistics and with the criteria used for assigning long-term, short-term, and free-time detention. This study sample consisted of 20 percent of the total population of the facilities. Subjects were given tests, including the Freiburg Personality Inventory, the California Psychological Inventory, and the Problem Questionnaire for Juveniles, to identify such specific traits as nervousness, aggression, extroversion, sociability, and masculinity. Besides the personality inventories, intelligence and attitude tests were also included. A polarity profile and various qualitative methods were used, including journals and statements by the subjects.

Information regarding the implementation of correctional procedures in each of the juvenile detention facilities studied was obtained from the questionnaires and facilities inspection. Brief descriptions deal primarily with the physical appearance of the facility, atmosphere, and general correctional philosophy.

The types of effects which the correctional system has had on the subjects were clarified; i.e., their habituation to the facility, their attitudes toward its activities and discipline, and their feelings about the building itself. Changes in attitudes of the subjects between the time they entered and left the facility were examined for all subjects in general, for subjects in specific facilities, and for various groups of subjects (grouped according to sex, family atmosphere, education, etc.).

The major findings were as follows: (1) The first reaction of most juveniles is shock, which is generally replaced by a habituation phase after about 10 days; (2) attitudes toward "reference persons" or role models become more positive near the end of the detention period, although attitudes toward the facility become more negative; (3) aggression increases, as do antisemitism and machiavellianism; (4) while openness decreases during the course of the detention, subjects' scores on the patience, sociability, and masculinity scales increase; and (5) differences in socio-psychological characteristics influence the effectiveness of the detention more than do differences in correctional methods. Findings demonstrate the current variation in subjects sentenced to detention and the differing effects of this sanction on the juveniles.

The Final Study

A final study was conducted to evaluate the effectiveness of detention even further. The criminal and educational records of all subjects in the primary study were evaluated according to various criteria. The data were then combined mathematically with those of the primary study. Time variables (time between offense and sentence, time between sentence and beginning of detention, and the sum of the two) were integrated into the calculation to determine whether these times had an influence on the effectiveness of detention. In addition, repeat offenses within this group were studied, based on the data obtained from previous records. The study concluded that the time variables had no influence on the subjects' recidivism. A more exact analysis might, however, discover a relationship between the time variables.

Additional References

The original document contains a bibliography which includes some English-language entries. Appendixes contain a list of the scales used in the attitude tests; data concerning numbers and case dispositions of the juveniles studied; data regarding size, population, ranking, and other features of the facilities studied; tables with data on the offenses, attitude test scores, and family backgrounds of the subjects; and a copy of the study questionnaire. Extensive tabular and graphic data are also included.

Fachbuchhandlung für Psychologie, Diplom-Psychologe Dietmar Klotz, Kießstr. 38, 6 Frankfurt am Main 90, West Germany. 1977. 691 p.

Establishment of a Therapeutic Home for Prisoners

Gründung eines therapeutischen Wohnheimes für Probanden*

(NCJ 49484)

By Johannes Pirwitz

In the early 1970's, the probation officers in the Department of Juvenile Affairs in Hamburg realized that, although the demands of their work had increased through the more liberal administration of justice, the practical possibilities for providing assistance became fewer. The number of cases increased, suitable housing for probationers was lacking, and industry that formerly hired their youths now preferred specialists, therefore largely eliminating employment for young probationers. This was the case, for example, in seafaring, farming, and also in small artisan workshops that had occasionally even offered family contacts in addition to a simple occupation.

The situation became especially critical when, after lowering the legal age, the juvenile group homes of the Department of Juvenile Affairs were no longer available for young adults, causing 17- and 18-year-old juveniles to come into contact with people in adult homes and asylums who had only minimal ties to normal society. The frequently used and abused claim that probation merely serves as society's alibi for its own failings gained in meaning.

In order to counteract these undesirable developments and resolve the questions at hand, a number of diverse projects and experiments were organized through the probation officers' initiative. Suburban houses for 5 to 10 probationers were rented from a large Hamburg real estate agency by the Juvenile Aid Association. The Association assumed the financial risk of this venture. The initial experiences with the probationers were somewhat devastating. There were bad fights and extended drinking

* Translated from the German by Sybille Jobin of Aspen Systems Corporation.

bouts; those probationers released after longer periods of confinement were so disoriented and out of touch with reality that they could not be left without supervision. Hierarchies resembling those in prisons, in which physical force and brutality dominate, were formed very quickly. These houses had to be discontinued for the sake of the probationers and the neighbors. Today only one house for five well-adjusted probationers remains in operation in a good residential area in the west section of Hamburg. For the same reasons as those described above, the rental of old and cheap apartments also failed to provide a solution.

The urgent desire for a home which would provide intensive therapy increased among the probation officers. In several semi-annual meetings, the need for accommodations for about 30 was established. A committee of eight was formed to perform the preliminary investigations. It was the unanimous opinion that an establishment was needed in which admissions could be made on short notice without bureaucratic redtape. Sufficient beds would also have to be available for emergency admissions. In addition, 24 furnished single rooms would be needed for long-term accommodations. If possible, the rooms should be arranged to encourage grouping. Small groups would be very important because they allow for greater differentiation and more precise training efforts.

Representatives from the penal sector cautioned us about setting up mass accommodations with the characteristics of an institution. In such mass accommodations, the problems prevalent in penal institutions might persist under less controlled conditions. It was recognized that these dangers would have to be avoided. The venture moved a considerable step closer to its realization after judges, lawyers, doctors, and social workers declared themselves in favor of the project in a petition addressed to the mayor. The officials, though, did not see themselves in a position to establish a new home because of an already strained budget. Financing was ensured through the per diem arrangements established in paragraph 72 of the Federal Social Aid Law (BSHG).

In view of these developments, the Juvenile Aid Association agreed to accept the responsibility for a therapeutic home for probationers in 1975. After a further year of planning and preparation performed for the most part by probation officers, a home that met expectations in its generous spatial dimensions and also in its staffing was opened on Greifenberger Street in Hamburg-Rahlstedt on October 1, 1976. A house with 24 single rooms was rented from the SOS Children's Village. The single rooms form living units comprising three to four rooms so that small and separate groups can develop. These living units are grouped around an extensive communication area. Gymnasiums, workshops, and a party room are located in the basement. Modern

cooking and dining facilities are on hand. Single rooms are available for the residents. Each member is provided with a house and room key and is not bound by any time regulations.

Our objective is based on the assumption that criminal behavior is, above all else, a social problem which has to be dealt with through sociotherapeutic and sociopedagogic means. Here the young person will be offered an alternative to his earlier life in a criminal environment. The residence will serve as a training ground for the acquisition of greater independence and responsibility. Basically, the home is obliged to admit every probationer who is in need, rejecting only addicts and applicants entirely lacking in motivation who are not prepared at the outset to accept the requirements of the home.

An experienced colleague assumed the direction of the project in its developmental stage for the first 6 months. Since then, a young sociologist has taken over. In addition to her, seven social workers, a trained housekeeper, and technical personnel are employed. Two psychologists are available as supervisors.

During the developmental phase of the project, there were problems in spite of these generous provisions. To begin with, quasi-family relationships developed among the small number of residents so that greater privileges could be granted. Thus, the probationers were allowed to prepare their own food in the kitchen. Then, as the number of residents increased, more severe restrictions became necessary. These in turn gave rise to firm opposition. During periods of unemployment in the winter months, boredom and dissatisfaction cropped up. The problem of alcohol consumption became serious. The tensions abated only after the young team of social workers had succeeded in developing initiatives and securing job offers.

Today this enervating and burdensome phase has been largely overcome. About half of the 24 residents have jobs. With the cooperation of the employment commission, the essentials of wood- and metalworking have been taught. Instructors have founded the first clubs in the home. Trips lasting several days have been planned for summer vacations using the home's minibus. In addition to technical help in obtaining employment and in dealing with government agencies, a single member of the team of social workers is assigned to each person so that, for each group of about three juveniles, a closer relationship of trust can be established to a particular member of the team.

Of course, the young staff still has difficulties finding its own, clear concept in this new field, but they have begun with a great deal of involvement and zeal. This model experiment is still in its formative stages.

Bewährungshilfe, v. 25, n. 1:76-78, 1978. Deutsche Bewährungshilfe e. V., Friedrich-Ebert-Str. 11b, Postfach 20 08 82, 5300 Bonn 2, West Germany.

Probation—An Attempt To Determine Its Status

Bewährungshilfe--Versuch einer Standortbestimmung* (NCJ 49481)

By Dietrich Friedemann

Preliminary Survey

What is the meaning of probation? What is its role? How does it work?

Probation involves the court, the probationer, and the probation officer. The court gives the probationer the chance to prove himself so that he can be exempt from a sentence or part of a sentence. The probationer is given the opportunity to remain free under certain conditions. It is the job of the probation officer to help the probationer overcome potential obstacles in the probation process.

Courts, as representatives of criminal jurisdiction, and probation officers, as social workers, work together. Their goal is to help the convict to lead a crime-free life, but their spheres of action differ. The criminal courts initiate and conclude the case, impose restrictions, and make all formal decisions. Social work acts within this legal framework. The probation officer uses his training and treatment methods to change behavior. He sees the client as a person, not as an institution. The probation officer and the probationer develop a relationship which becomes the foundation for the educational process. This survey will take a closer look at this basic relationship, its opportunities, and its dangers.

The court chooses the probation officer who will be responsible for each probationer, making him an official arm of the penal process and its consequences. From then on, the relationship of the officer to the probationer becomes a personal one.

* Translated from the German by Sybille Jobin of Aspen Systems Corporation.

Of primary importance is the probation officer's readiness for personal commitment. He should be open to personal relationships and initiate them when they fail to develop on their own. He should treat each relationship respectfully and cherish it because it is the foundation for the probationer's opportunity to change. In practice this could mean taking a firm position, finding a way to open the door, to understand, and to be understood. It will certainly involve dealing with environmental and social factors, and entail the constant obligation to question and examine one's own behavior in order to remain open for new and unexpected situations.

Areas of Doubt

In the course of his duties, the probation officer faces many potentially destructive factors, which may be divided into external and internal categories. The external factors are conditions which, so to speak, approach the probation officer from the outside and which he can scarcely control; the internal factors are intrinsic to the profession and are greatly influenced by the officer himself.

External factors. The public has grown tired of hearing of overworked probation officers, yet overwork heads the list of problems. It is impossible for an officer to work effectively with more than 35 probationers at a time. In West Germany, however, there is an average of 62 probationers for each officer. This situation eliminates the possibility for establishing personal relationships, meaning that the probation officer loses a considerable part of his base. This has been a problem for years; young officers have come to consider it a normal situation. They have had to give cursory responses to emergencies rather than deliberate and planned replies. Assistance, which ought to be available as a matter of principle, has to remain partial and limited. It is interesting that the judges accept this modification of the court provisions more or less without protest. In terms of staffing considerations, it is certainly extremely detrimental that everybody has become accustomed to this permanent personnel shortage.

Although social considerations were of comparatively minor importance to probation officers 20 years ago, times have changed. Sociologists point out conditions that had always been relevant to social work, but which have only recently come to the attention of probation officers. While it had always been possible to attribute the blame for the crime almost exclusively to the criminal's misconduct, judges and probation officers can no longer rely on this comfortable assurance. They feel obligated to include those social conditions which may have caused the probationer's

offenses in their considerations. It is not clear just what are the cause and effect, and, if they exist, according to what criteria and concepts they are defined.

In addition, there are many new forms of therapy. Frequently, it seems as though psychologists have been striving for professional distinction by developing a "new" method of treatment. After gaining insight into some of these methods, many probation officers have been disappointed because too little could be applied in their work. A scientifically valid method of treatment which is accepted and practiced by the majority of probation officers does not exist.

Internal factors. To date, probation officers have not succeeded in finding a common ground for their fundamental role on which all could agree. In spite of the danger of stereotyping, an outline of the most characteristic concepts of this role will be attempted.

The "counselor type" sees his task as answering the probationer's questions and giving advice. It would be up to the probationer to approach this officer, to take the initiative, to be ready with his questions, and to voice them clearly. This "type" would make almost no home visits, nor would he attempt to form a solid mutual relationship. This "counselor" can easily supervise 70 probationers.

The "protective type" takes care of the probationer, assumes many of his problems, makes calls for him, and includes relatives in his therapy. The "protective type," by doing too much, evinces too little faith in the probationer's initiative. Hence, the probationer does not go through his own learning process. For the "protective type," 40 probationers are too many.

The "sociologist type" tends to emphasize the question of how far the probationer's behavior is damaging to society. Sociopolitical theories are important to him. The probationer's individual abilities and weaknesses are less important than social concerns. Thus, there would be little inclination to enter into a personal relationship with the probationer.

The "intellectual type" is a very common one. His method of treatment is guided by knowledge and reason; he makes statements and verdicts. Facts are more important than emotional development. He is always superior since he is able to look at each situation objectively; his relationship to the probationer is not one of emotional closeness but of clear-headed distance. The probationer's personal development remains relatively unimportant. The "intellectual" is able to care for a large number of probationers.

The "custodian type" is interested mainly in the probationer's good conduct and conformity to social norms. Neither therapy nor a personal relationship during probation is of prime importance. Observing restrictions is an end in itself; the probationer is quizzed regularly on facts. To the "custodian," self-determination and responsibility are irrelevant. He is punctual in making reports and can "handle" many probationers.

Finally, there is the "therapist"; he has frequently had additional training and sees the advantage to the probationer of being exposed to one or more methods of therapy. Legal concerns have little relevance to him, and he refuses to enforce restrictions. He faces the dilemma of being very useful to a few clients, but almost useless to the majority.

Obviously, none of these six types exists as an individual but in various combinations. We are not concerned with value judgments since each type does have valuable contributions to make; however, the logical result of such strikingly different concepts of the role presents a pluralism in behavior, treatment methods, and personal commitment.

Probation service is social work which is part of the official penal process. One group of probation officers acknowledges this dependence; they see themselves as participants in the proceedings of criminal justice and as agents of the judge. In response to criticism, they maintain rightly that this professional concept can easily accommodate individual dedication, therapeutic skill, and personal involvement. They feel qualified to take on the role of "tutor" for younger probationers and in this capacity to enforce court restrictions. They think that firmness and clearness in the pedagogical effort do not necessarily conflict with social work principles, even though it is difficult to carry over the social worker's principle of voluntariness into probation work. Probation aid is not, therefore, an ordinary kind of social work, but a special profession with its own specific characteristics. It seems, however, that a growing number of probation officers have problems in recognizing and accepting this position.

Probation officers meet in various committees and try to work together. At the same time they create problems which have their roots partly in an excess of individualism. Although there are frequent meetings, conferences, and conventions, too often these activities are devoted to questions of form and to the officers' defenses against their employers. Too rarely do ideas and suggestions refer to the contents of social work. As a result, the profession of probation officer and its sociotherapeutic goals cannot really be defined. Social work seems to be a question of faith which each probation officer has to answer for himself in accordance with his individual principles.

Recommendations

Reducing the onerous caseload should be predominant, not only because probation officers want to work less but because they rightly feel that important duties are neglected. They speak primarily in the interest of the probationers.

On the other hand, it would be a mistake to assume that the removal of excess work would solve all problems and guarantee effective aid. Without intensive debates on professional questions and without purposeful advanced training, shortcomings will continue to grow. It should be the common goal of employers and officers to remedy this troublesome situation.

Suggestions for dealing with fundamental questions. Probation officers demand sufficient freedom in their work. Establishing and maintaining relationships is considered a creative process. Such a process cannot be predetermined, controlled from the outside, and repeated at will and by everybody. A maximum of pedagogic freedom in the true sense of the word is necessary and justified. However, this freedom has to be accounted for and earned. To ask for liberty without accepting responsibility would be a spurious act.

Undoubtedly, each probation officer's individuality has to be respected since his own personality is essential to the therapeutic process. However, this fact should not preclude a certain consensus on the concept of the role and the treatment methods. In this legal context, the attempt to place the probation services in the legal framework and the search for a systematic foundation which would be valid for all officers are both important.

Other questions must also be answered concerning the goal of probation. Should the probation officer strive for a probationer's "happiness"? Should he content himself with a minimum of social adjustment? Or should he pursue the more ambitious goal of self-determination? Equally pressing is the question of the persistent conflict between custodial function and assistance. It is impossible for a probation officer not to have an opinion on this question.

Suggestions for professional questions. The concepts of "social work" and "criminology" need to be defined as they tend to confuse rather than to clarify. The study of sociological and criminological theories will prove helpful. The evaluation of methods and forms of therapy will also require a closer look at relevant theories.

Suggestions concerning advanced training. Advanced training for agents is of primary importance in making the probation services more effective. This training should certainly not be devoted to confirming accepted information and positions; rather, it should give new ideas, supplement, review, and refresh. This kind of training does not make the study of professional and legal questions superfluous; instead their proper interpretation and application is vital. Advanced training, as we understand it, means dealing with and practicing personal modes of behavior.

Every probation officer should be obligated to take part in long-term (1-2 years) continuing education programs in addition to his work. The idea that it should be left up to the individual to decide whether or not to take part is disproved by practical experience. However, the choice of program should be his. The employer should offer the following choices: (1) assistance in practical questions; (2) a course on the methods of social work; (3) a course on individual case work; and (4) counseling. In addition, individual lectures in various fields should be offered.

Possibilities for Probation

The preceding considerations show that the probation services are no longer working effectively. It may seem bold, therefore, to talk of the future prospects of probation. However, the possibility for improvement already exists, and under certain conditions new prospects could arise.

Many officers are committed to approaching their clients and attempting to help in spite of all the difficulties. Occasionally, officers even attempt advanced training as described above. There are many examples of human qualities at work in the relationships between officers and clients. These basic opportunities must be cultivated for if they cease to exist, probation would be meaningless.

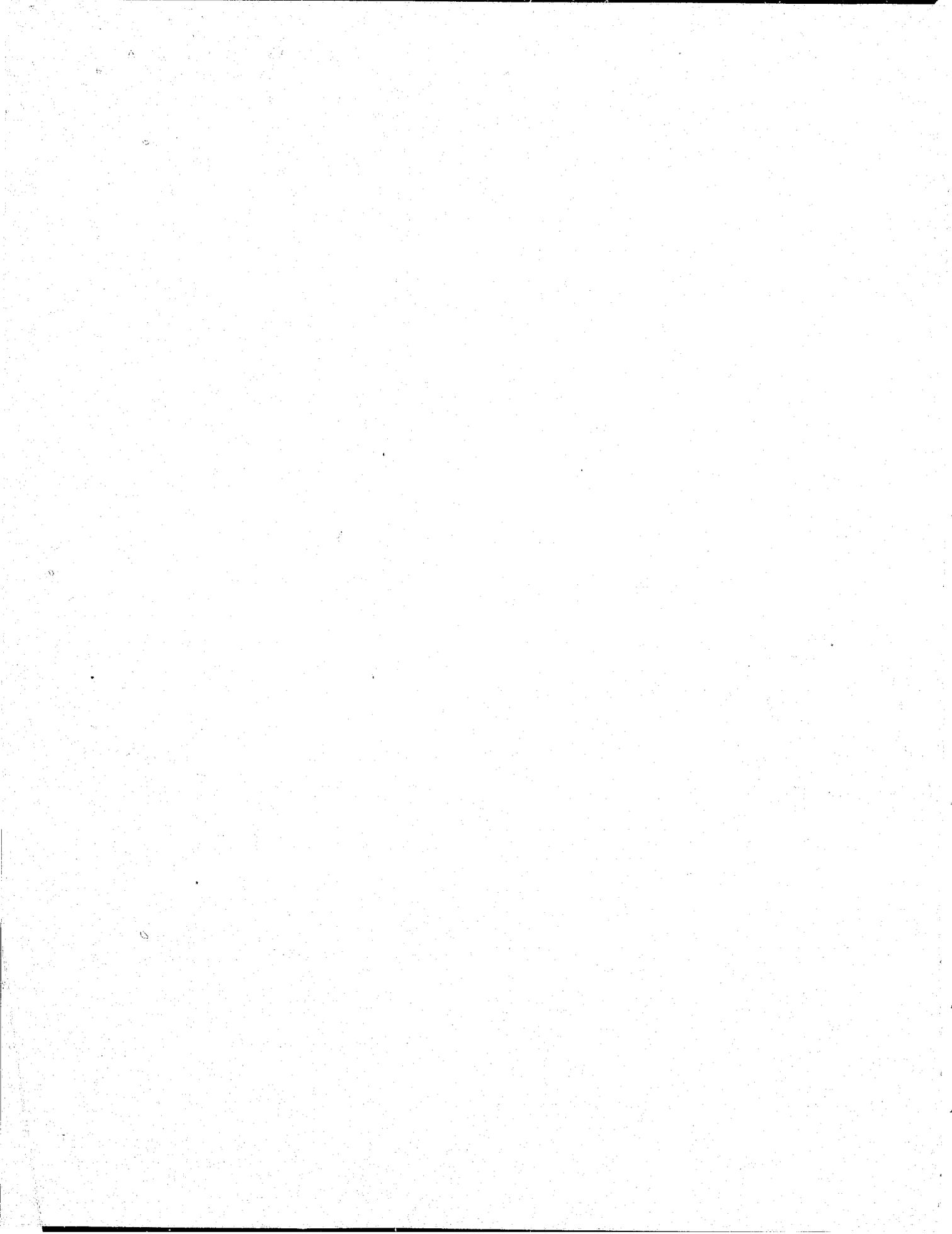
More possibilities will have to be developed in the near future if probation is to be effective. The considerable shortcomings can no longer be ignored. The first step has been to admit their existence; from this admission will come the necessary impulse for creating these new possibilities.

Recently, there has been less talk about establishing a social service within the legal structure. The remedy for the problems of the probation services seemed to lay at one point in the establishment of a hierarchical Government agency. Organizational problems are probably already apparent in offices with more than six to eight probation officers, as problems increase in larger groups. Nevertheless, it would be wrong to expect that a hierarchical structure would be a solution.

Substantial results would be possible if employers, judges, probation officers, and legal assistants would get together for intensive discussions of their problems. The commission which met in Baden-Wuerttemberg in 1973 under the direction of the present Federal Chief Justice and its report, "Suggestions on the State of Probation Officers and Legal Assistants," might provide models for an interdisciplinary committee.

As a rule, since the administration has difficulties in sponsoring the development of new models and the testing of new concepts, private organizations usually fill this gap. The Federal Association for the Assistance of Probationers is one of the organizations which devotes itself to this purpose. Government departments, judges, and probation officers are encouraged to take advantage of these opportunities. Probation has a chance for regeneration as its services are still worthwhile ones, but 25 more years would be too long to wait for change.

Bewährungshilfe, v. 25, n. 1:14-23, 1978. Deutsche Bewährungshilfe e. V., Friedrich-Ebert-Str. 11b, Postfach 20 08 82, 5300 Bonn 2, West Germany.



The Influence of Probation on Further Criminal Behavior of Probationers: Report on a Study of Records in Offenbach/Main

Der Einfluss der Bewährungshilfe auf das weitere strafrechtlich relevante Sozialverhalten der Probanden: Bericht über eine Aktenuntersuchung in Offenbach/Main* (NCJ 49470)

By Dieter Rohnfelder

Introduction

Politicians and the public often question the success of probation as practiced today. Often the prejudice is voiced that institutionalization is surely more effective in every case. Many citizens view with suspicion the fact that "criminals are permitted to run about freely." It is becoming imperative to pursue the question of whether or not probation is successful.

A great many methodological difficulties stand in the way of studying the influence of probation on probationers; it is impossible to measure it exactly. Furthermore, it is difficult to isolate the factor of "probation" from the many other factors which influence the social behavior of the probationer.

Most German empirical studies about probation practice are therefore limited to the measured "outward success" of probation by estimating sentence remission and revocation rates. This methodological procedure has the decided disadvantage of only revealing outwardly recognizable results of probation, and then only inaccurately, without furnishing any information about the conditions for these results.

Only a process analysis of probation can illuminate the effects of probation. It is important to work out the influence of probation officers and others on the probationer during the period of probation. Such a process analysis of a particular group of probationers has not yet been undertaken. One should therefore not expect any exact, representative results on proba-

* Translated from the German by Dorothy Orme of Aspen Systems Corporation.

tion from this sort of pilot study. The aim of this study is solely to discover clues for the influence of probation on the criminally relevant social behavior of the probationers.

Study Methodology and Material

This study was methodologically limited to the inspection and evaluation of probation records, thus eliminating great expense in time and energy, as well as the need for specialized knowledge of empirical research. Records of 97 probationers who had been under probation in Offenbach/Main between January 1 and December 31, 1966, were evaluated. In order to attain the best possible representative cross section of those problems and demands with which a probation officer must deal, all of the probationers who were responsible to the Offenbach probation officers during 1966 were selected for study.

Most probationers involved were male (88 percent). The majority (69 percent) were adolescents and young adults; over half (56 percent) had been placed under juvenile criminal law. The probationers had been sentenced primarily for property offenses (63 percent).

The probation records were examined using four criteria: (1) Probationers' "difficulties" were identified, including their psychological and social defects, as well as similarly acute problems evident during probation; (2) Helping and supervisory measures which had been taken by the probation officers were recorded; measures directly related to the problems were noted; (3) "Outside influences," that is, influences which did not originate from the probation officer and were not controllable by him, were determined; and (4) Finally, it was determined with which legal result (remission or revocation) the period of probation was terminated.

Evaluation of the Study Material

Instead of judging the facts of individual cases in chronological order, the evaluation was structured from the study results. The point of departure was based, therefore, on the estimated sentence remission or revocation rate of the studied group of probationers. Since these rates alone did not provide sufficient information, a closer analysis of the remissions and revocations was necessary.

In order to study the influence of probation on the social behavior of the probationer, the degree of possibility of probation's influencing the probationers was chosen as the criterion for the classification of the remission and revocation cases. It was assumed that different groups of probationers are subject in

varying degrees to influence by probation officers. Within these degrees of receptivity to influence, influences by the probation officers and "outside influences" were worked out individually. This differentiation of the remission and revocation cases--and thus of the probationers--made it possible to determine the crucial points and marginal zones of probation's influence on the probationers.

RESULTS OF THE STUDY

In 52 of the 97 cases studied, probation ended with a sentence remission; in 45 cases, the penalty suspension was revoked. The revocation rate thus amounts to 46.4 percent. Compared to the higher recidivism rate of institutionalization (80 percent), this relatively high revocation rate may be viewed as "successful." A different picture emerges when the remission and revocation cases are classified under the criterion of the possibilities for influence by the probation officers.

Based on this criterion, the studied cases can be divided into the following categories:

- sentence remissions
 - unnecessary probation cases (7 probationers)
 - easy cases (18 probationers)
 - difficult cases with positive results (19 probationers)
- revocations
 - difficult cases with negative results (11 probationers)
 - unsuitable probationers (13 probationers)
 - uncooperative probationers (15 probationers)
- "borderline cases"
 - "doubtful" remissions (8 probationers)
 - "doubtful" revocations (6 probationers)

Sentence Remissions

Unnecessary probation cases. In these cases, probation merely served as a "stopgap." Offenses in this category were those of juveniles or those of adult negligence. The probationers were fully integrated socially. Probation in these cases was only a formality. No noteworthy influence of the probation officer was determinable; the "success" of these probationers was certain from the beginning.

Easy cases. Approximately one-fifth of the studied probationers had a smooth probation period; the probation officers had an "easy" task. Most of these probationers had committed their offenses during a "puberty crisis" as members of delinquent gangs. In addition, most of the adult probationers were "conflict perpetrators"; that is, persons who committed offenses due to a one-time conflict situation. Most of these probationers had already overcome development difficulties or acute conflicts during the time they were placed on probation; their social situation was in order and they were self-sufficient. The probation officers only extended help in small matters; the probationers could presumably have attained a pardon without the assistance of a probation officer.

Difficult cases with positive results. The critical point of the study centered around the "difficult cases." This category includes those probationers who, at the time they were placed on probation, were having disturbances in growth and development and were experiencing unfavorable social conditions. A few had begun "criminal careers"; all others were in acute danger of commencing criminal activity. These probationers were therefore unable to deal independently with complex problems that might arise. They required much more guidance and help from their probation officers in order not to evade their seemingly insurmountable difficulties through makeshift illegal solutions.

In total, 19 cases classified as "difficult" were concluded with a remission of the sentence. When one compares the original situation of the probationers to their situation at the end of probation, it becomes evident that the probation officers had a positive influence on the conduct of the probationers. It should be taken into account, however, that other positive factors, independent of probation, influenced all cases. These influences lent considerable support to the efforts of the probation officers.

Influential factors. A study of different spheres of influence to which the probation officers' work was extended seemed

more promising and significant in the practical sense. Within these spheres of influence, individual measures of the probation officers were analyzed; an attempt was made to determine their value with regard to the positive development of the probationers. This was accomplished by contrasting the measures of the probation officers with the positive "outside influences." The following spheres of influence were studied: the probationers' housing situation, work situation, economic circumstances, leisure-time situation, family relationships, and psychological condition.

- housing situation--About half of those probationers classified as difficult experienced acute housing problems. They either had not found any accommodations at all or lived under very unfavorable circumstances on the fringe of society. Three of the probationers looked for housing completely on their own. In three other cases, the probationers were able to find housing after consulting the newspaper classified section on the suggestion of the probation officers. In two other cases, considerable intervention by the probation officers at housing and social welfare offices led to improved living conditions for the probationers. The influence of the probation officers thus remained relatively minor. The probationers' own initiative and outside influences (family and relatives) played a greater role than the probation officers' measures in rendering aid.

- work situation--The probation officers very seldom secured jobs for their probationers. Supporting and "providing security" for the jobs that the probationers acquired through their own initiative were more important. Thus, probation officers strove to clear up complications related to the client's previous criminal record through conversations and letter exchanges with the supervisor of the probationer. In the overwhelming majority of cases, the probationers' work situation turned out favorably without the help of the probation officers: they found satisfying work, were treated well by supervisors and colleagues, and attained occupational success.

- economic circumstances--Consolidating the probationers' assets constituted the central task of the probation officers in terms of their clients' economic circumstances. All "difficult probationers" had debts including legal costs, fines, and claims for damages. No probationers were able to settle the debts independently; they had no knowledge or experience in the area of economics or civil law and were at the mercy of creditors. The probation officers thus functioned as counselors and advisors in the economic area. In half of the cases, the probation officers intervened with limited measures to help probationers who otherwise were able to settle their debts independ-

ently. The important function of the probation officers consisted of reinforcing the probationers' efforts by asserting their authority as "officials" over the creditors.

With the other half of the probationers, the probation officers had to take charge of the total debt settlement. All probationers, some of whom were deeply in debt, were freed of the burden of debt through the efforts of the probation officers, often for many years. The fatal cycle of crime leading to high debts leading to new crime was interrupted. The influence of the probation officers in the area of economic stabilization is therefore significant.

- leisure-time situation--The influence of probation officers on the leisure-time behavior of the "difficult probationers" was small; the probationers viewed their time off as their own. The probation officers only assisted the probationers with leisure-time plans which were initiated by probationers on their own (e.g., discussions with club directors who raised objections over the previous convictions, allowances for sports clothes, etc.).

- family relationships--The probation officers attempted in all cases to include parents of probationers living at home in their probation work. They made numerous house calls for this purpose. The probation officers had to restrict themselves to controlling acute family conflicts and alleviating them where possible. This was obviously difficult; probation officers' attempts to make the probationer understand his parents' behavior were somewhat successful.

- psychological condition--Regarding probationers' psychological condition, distinct developmental disturbances were noted among all difficult juvenile and growing probationers. Particularly evident were lack of independence and defective perception of reality. Numerous problem-oriented conversations occurred between probation officers and probationers. A "post maturation" of the probationers did occur, as witnessed, among other things, in the renunciation of delinquency-prone groups.

In summary, probation officers were primarily limited to giving practical help. In all these cases, outside stabilizing factors were inevitable in the successful completion of probation.

Revocations

It was impossible for probation officers to influence a few uncooperative probationers. With all other probationers, the in-

fluence of probation was felt but was not strong enough to combat the negative outside influence. The revocation cases were also grouped into various categories.

Difficult cases with negative results. The initial situation of these probationers was similar to that of the previously described difficult cases with positive results (disturbances in development and unfavorable social circumstances). It is also safe to assume that the probation officers exerted the same efforts on these probationers as they did on those who were pardoned. Nevertheless, the suspension of the sentence was revoked in these cases. The conjecture that the given positive influence of probation was disturbed and superseded by negative outside influences was confirmed by an analysis of the various spheres of influence.

Influential factors.

- housing situation--Very unfavorable living conditions in accommodations for the homeless were left unchanged despite the most intensive efforts by probation officers at housing and social welfare offices.

- work situation--A satisfying solution to the serious employment problems was not possible during probation; the probationers either had no work or changed their job often. The reasons for this unstable behavior in employment were beyond the influence of probation officers: unfavorable job market (recession in 1966/67); discrimination against the probationers on their first job; job change or termination of apprenticeship for financial reasons; discontent of probationers with menial part-time work; and socially conditioned inability to continue work.

- economic circumstances--Despite the probation officers' help, probationers unable to reduce their inordinately high debts reverted to crime as a result of the relentless collection of legal costs and damages and the impossibility of paying damages through paid work.

- leisure-time situation--The criminogenic recreational activities of the probationers could not be influenced by the probation officers; probationers spent their free time in delinquency breeding environments.

- family situation--Unresolved conflicts with parents or spouse, such as emotional rejection, jealousy, and divorce, had

a crime-triggering effect and destroyed all previous efforts by probation officers.

- psychological condition--Self-maturation did not occur; probationers remained on the same developmental level during probation. Cooperation between probation officers and counselors and psychologists was deficient or lacking. Therapy costs were high, and probationers were unwilling to cooperate in therapy.

Summary. Probation officers were unable to neutralize negative outside influences. An "isolated" probationer cannot overcome these huge obstacles to resocialization; this can only be accomplished through cooperation of probation officers with counselors, therapists, and social workers.

Unsuitable probationers. Thirteen probationers could not be helped because of their particular psychological or social situation: two probationers suffered from psychoses, seven probationers were chronic alcoholics, and four probationers had criminogenic dispositions which were too firmly rooted.

Uncooperative probationers. Fifteen probationers never established significant contact with probation officers for reasons which could not always be determined since the probation officers did not receive any information. Possible motives are as follows: probationers rejected and mistrusted probation officers, probationers surreptitiously obtained suspension and immediately went away, or probationers committed an offense immediately after suspension of sentence and had to "disappear."

"Borderline Cases"

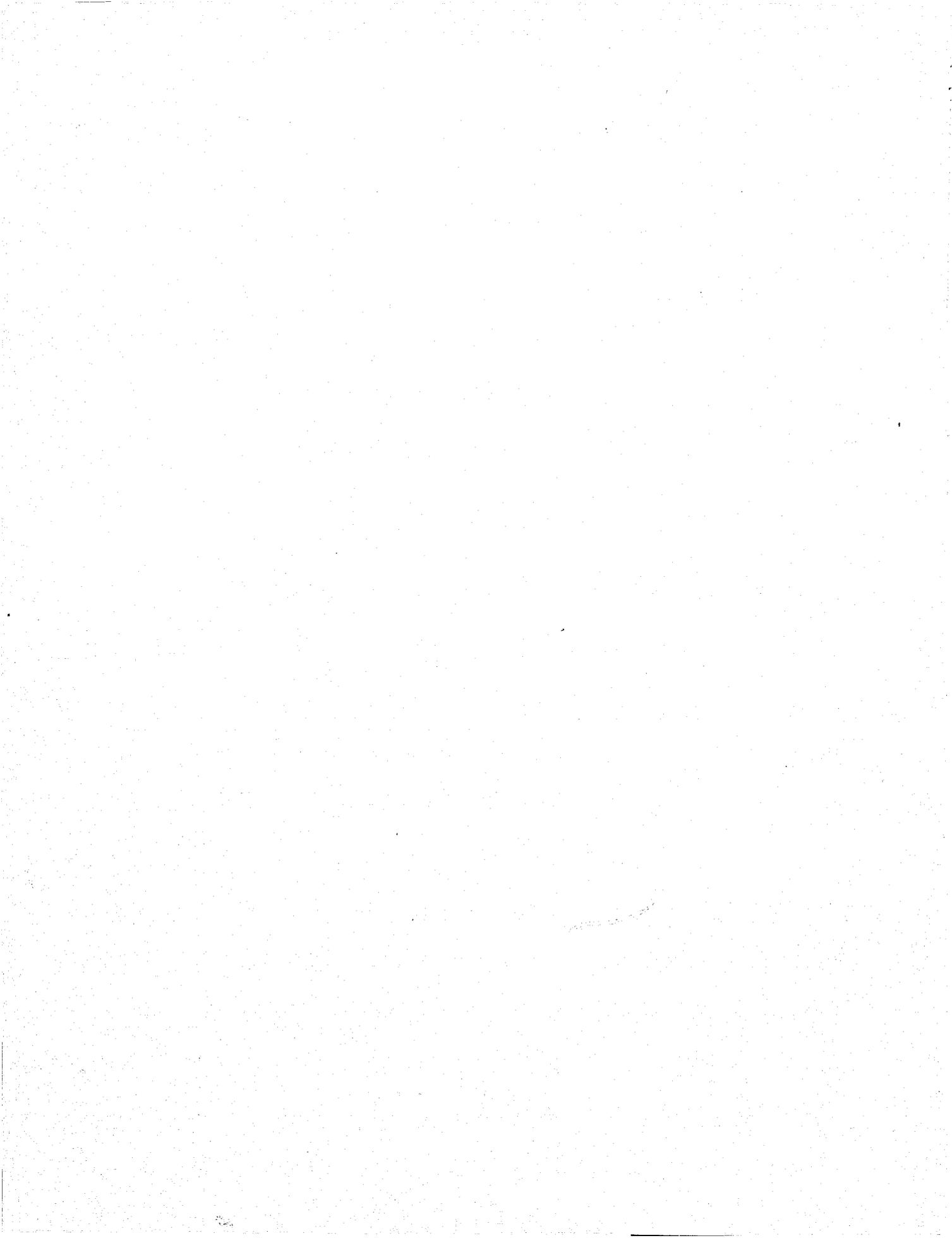
In this third category, the formal results of sentence suspension did not correspond to the prognosis for the probationers. These cases had more to do with revocation practice than with the influence of probation.

In eight remissions cases, an extended probation would have been a better solution than a hasty remission, since the prognosis on the probationers' social behavior was unfavorable.

In six revocation cases, a favorable development of the probationers was interrupted by revocation after minor offenses. The courts overrode objections by probation officers for formal legal reasons without giving probationers a serious chance.

It is hoped that a few critical points and boundaries of the influence of probation on the criminal behavior of probationers have been demonstrated and that the effects of probation have been clarified. These results should be tested and supplemented by a broader and more refined study.

Bewährungshilfe, v. 25, n. 2:140-154, 1978. Deutsche Bewährungshilfe e. V., Friedrich-Ebert-Str. 11b, Postfach 20 08 82, 5300 Bonn 2, West Germany.



Assistance to Probationers, Parolees, and Releasees in Switzerland (Canton of Bern)

L'assistance aux condamnés probationnaires, libérés, conditionnels
et définitifs en Suisse (Canton de Berne)* (NCJ 49490)

By André Boulat

Assistance to convicted individuals in Switzerland is under the jurisdiction of each of the confederacy's States. This organization is similar to that of other sectors of administrative action. As this institution directly affects the individual and his relation to society, the canton legislation and regulations, which translate the provisions of the Swiss Penal Code (SPC), are necessarily expressive of the canton's personality.

All of the cantonal legislations, however, have the institution of "patronage"--an institution which aims to rehabilitate delinquents on the moral and professional levels--in common, and their content only serves to develop this cardinal notion; in addition, this diversity, which in itself provides motivation for progress, converges progressively through the effect of annual meetings among the legislatures.

Examination of the Bern canton's organization, therefore, has a certain illustrative value, and even more so because the canton, with a population of nearly 1 million inhabitants out of Switzerland's 6 million, has longstanding experience in this area. In addition to assistance to probationers and parolees, there is structured and locally traditional assistance to "asocial" individuals.

Before reporting on its organization, resources, and results, it is obviously necessary to set forth the main lines of the Federal apparatus in which the canton operates.

* Translated from the French by Deborah Sauvé of Aspen Systems Corporation.

Social reinsertion of convicts is founded principally on "patronage," which benefits convicts as well as those subjected to precautionary security measures. For incarcerated convicts, reinsertion is also based on the notion of furloughs. The two combine with educative and formative measures in the penitentiary or security-detention domain.

The Swiss Penal Code is characterized notably by a systematic attempt to utilize sentences with an eye to rehabilitation. Under these conditions, the SPC (1) offers a wide range of possibilities to judges and the authorities; (2) makes a particular effort to distinguish among the categories of delinquents (minors, adolescents, young adults, recidivists, diverse asocial persons); and (3) makes provisions for security measures independent of or parallel to sentences of confinement. Patronage is the common denominator.

Patronage can be defined as the collection of organized and integrated assistance measures for convicts or for those in danger of delinquency, with the intent of reinsertion into society. The conditions which will facilitate this reinsertion are fixed by the governing correctional authority at the inmate's specific level in the correctional process.

Article 47 of the SPC states: "Patronage is directed toward the reclassification of those individuals who are subjected to it, through moral and material assistance, notably by procuring lodging and work for them. The mission of patronage is to supervise its subjects with discretion in such a way as to not compromise their situation. It attends to placement in a favorable atmosphere and, if necessary, to medical control of those who are predisposed to recidivism through alcoholism, drug dependence, mental state, or physical condition."

As a general rule, patronage is optional. In the case of suspended sentences (SPC, article 41, adults), it is under judiciary jurisdiction and is optional. Suspension can be pronounced in the instance of a sentence of confinement not exceeding 18 months if it is determined that suspension will deter other offenses and if the convicted person has made good "as much as one can expect of him on the compensation fixed judicially or by agreement with the injured party."

Suspension cannot be granted when the sentenced individual has served more than 3 months of imprisonment for an intentional crime during the preceding 5 years. The probationary period extends from 2 to 5 years. The judge matches it to rules of conduct, susceptible to subsequent modification. Revocation of suspension and extension of the probationary period are left to the judge's discretion "in cases of little gravity"; if a felony, misdemeanor,

or persistent offense is committed in spite of a formal warning about the rules of conduct imposed, "the judge will order execution of the sentence."

Under the provisions of the SPC, article 96, an adolescent is generally subjected to patronage with a probationary period of 6 months to 3 years. The general provisions are also applied to young adults (more than 18 years old but less than 25 years old), but "if the infraction is linked to gravely disturbed or endangered character development, neglect, immoral conduct, or laziness," the judge can pronounce placement in an educational establishment with work requirements (capable of being changed to incarceration, which could subsequently be converted back to educational placement).

Patronage may also apply in the case of parole, but it is optional. An inmate may be freed in this manner after having served two-thirds of the sentence of imprisonment if the inmate's behavior is deserving of it. In the instance of life imprisonment, parole may intervene after 15 years of the prison term have been served. The probationary period may last from 1 to 5 years; the period is set at a mandatory 5 years for a paroled lifer.

The "reintegration" of the convict into prison will be ordered if the releasee is sentenced to a prison term of more than 3 months for a new infraction and if a suspension is not granted. Reintegration can also be ordered if the subject breaks the imposed rules of conduct after having received a formal warning. Reintegration is not the same as revocation of parole: its length is fixed separately. The execution of the balance of the suspended sentence cannot be directed when 5 years have passed since the end of the probationary period. This term will be from 1 to 3 years, and patronage is mandatory.

Subsequent reintegrations may intervene until the subject reaches 30 years of age; release will then be ordered, unless a judicial decision is handed down that the suspended sentences be carried out in conjunction with parole, should the occasion arise.

In the case of habitual criminals, confinement will occur in an establishment designated for them and which should be distinct from those designated for first-offenders, arrestees (up to 3 months), work education, and treatment of alcoholics. Freed recidivists are subjected to patronage.

In the canton of Bern, assistance to convicted individuals is directly exercised by the Office of Patronage, an administrative body (neither nonjudiciary nor parajudiciary) which engages in an autonomous activity within the framework of the police department.

The responsibility for assistance on the part of the administration is not to be seen as the beginning of a widening trend

which would transfer responsibility to the associations; rather it represents the result of a movement in the opposite direction. There is more than a historical interest in tracing the stages involved, particularly in light of the fact that suspension with probation was only introduced in France in 1958, while it had been put into effect by the SPC, along with parole, in 1937.

The competent authority should, as a matter of course and at least once a year, look into whether the inmate can be paroled and make a report to that effect. The inmate should always be heard beforehand even if he has not requested his release.

The Bern Patronage Association for Released Inmates, founded in 1841 and later dissolved, took a new start under the impulse of the Swiss Society of Public Utility in 1864. Since 1889, however, the canton prison commission deliberated on the question of whether patronage should be directed by the State, all the more so because the patronage society had once more dissolved, while the idea of granting suspended sentences to convicted persons' was spreading more and more.

In 1907, conditional postponement of sentence was introduced into law. A commission was established for the organization of patronage. A 1911 decree was to confirm the commission's decision for patronage as a State service, destined for convicted persons with suspended sentences and parolees and capable of providing assistance to definitive releasees. The recreated Bern Patronage Association contributed strong financial aid to the service.

In 1942, the SPC made it obligatory that the cantons establish patronage organizations and defined operating procedures for them. On that basis, the canton of Bern reorganized its long-standing institution in 1944, creating a Bureau of Patronage.

Patronage thus applies for suspended sentences, for parole, and for released inmates; the SPC assures patronage for adults and juveniles within the framework of the 1965 Bern law on nonpenal administrative measures involving education and placement, which applies whenever a case does not give rise to judicial repressive action. Patronage measures follow educative measures not involving placement which are enacted on authority of the local police and which put into concrete form an attentive support entrusted locally to an appropriate person, bureau, or service, or to drug addiction and alcoholism specialists.

Administrative placement may intervene in educative and work institutions by decision of the canton executive council (1 year for first-offenders, up to 2 years for recidivists, and more serious penalties for habitual recidivists). In the instance of parole following analogous rules, the interested party is subjected to patronage.

"Asocial" individuals, "difficult" minors over the age of 18, and "persons capable of working who seriously and continually compromise their mental or physical health, their economic livelihood or that of those close to them through idleness, immoderate living, or alcohol or drug abuse, thus making themselves the object of public scandal"--in short, mentally abnormal persons capable of working, excluding those dependent on a psychiatric establishment--may all be placed in private hospitals and subjected to patronage.

The Bureau of Patronage in this fashion directly exercises diverse duties, but it cannot deal with its mission if the specific duties of the "patron" were not exercised by individuals. According to the Bern ordinance of December 12, 1941, the following can be designated as patrons: honorable adults of either sex qualified for this function and preferably "legal guardians" assigned to every person given a sentence exceeding 12 months.

The Bureau formally nominates patrons and solicits the suggestions of the convicted individual. The patron will usually be a nonspecialist who will assume responsibility for one convict; frequently it will be the employer, the head of personnel, or a shop supervisor, or any trustworthy person at the place of employment. If necessary, a social worker from the Bern Bureau can be appointed. The appointment is made immediately in the case of suspended sentences (the decision is declared at the Bureau 10 days before) or prior to parole in the penitentiary. At the same time, the Bureau makes contact with the family to settle its difficulties.

The services are free of charge. The appointment of a patron as well as the situation of the convicted person remain secret from the police and the community in which the subject settles. The patron is required to make a favorable or unfavorable report every 3 months, or more often if necessary, and to see to it that the conditions imposed on the convicted individual are respected.

The search for employment is carried out by the Patronage Bureau with the assistance of the canton employment agency. During favorable economic periods, employers were notified at the outset of the convicted individual's condition. The economic crisis led to convicts looking for work on their own; the employer is notified after the convict has been hired. The Bureau takes a risk in so doing.

In the canton of Bern, businesses do not intervene, except for financial assistance (amounting to some 50,000 francs); however, in the cantons of Vaud, Neuchâtel, Argovie, and Uri, the Bureau's duties are fulfilled by subsidized businesses.

Patronage is always a one-to-one responsibility and, as a rule, the convict does not pass through a "decompression chamber" of residence and familiarization: reinsertion is directly prepared by the Bureau and, if the subject is imprisoned, it is facilitated in the penitentiary through weekly visits from the Bureau's representatives.

It is generally true that most subjects work in the penitentiary, even part-time during periods of economic crisis. Their earnings average 12 francs per day, entered into an account and not subject to seizure or taxation. The earnings are paid to the subject or turned over to a titular authority; use of the money is predetermined by agreement with the convict.

Possibilities of training, however, are limited, except through penitentiary occupations and cantonal workshop activities. The situation is different in new and large penitentiaries (Zurich has only one, Bern several small ones).

It must be noted that refamiliarization is facilitated by the furlough regime: as soon as the sentence has lasted 3 months and provided that half of the sentence has been served, the convict may benefit from occasional furloughs for family events. Moreover, he may enjoy 1-day furloughs every 3 months with his "penpals." According to statistics from the canton of Vaud, less than 6 percent of failures are experienced with this regime.

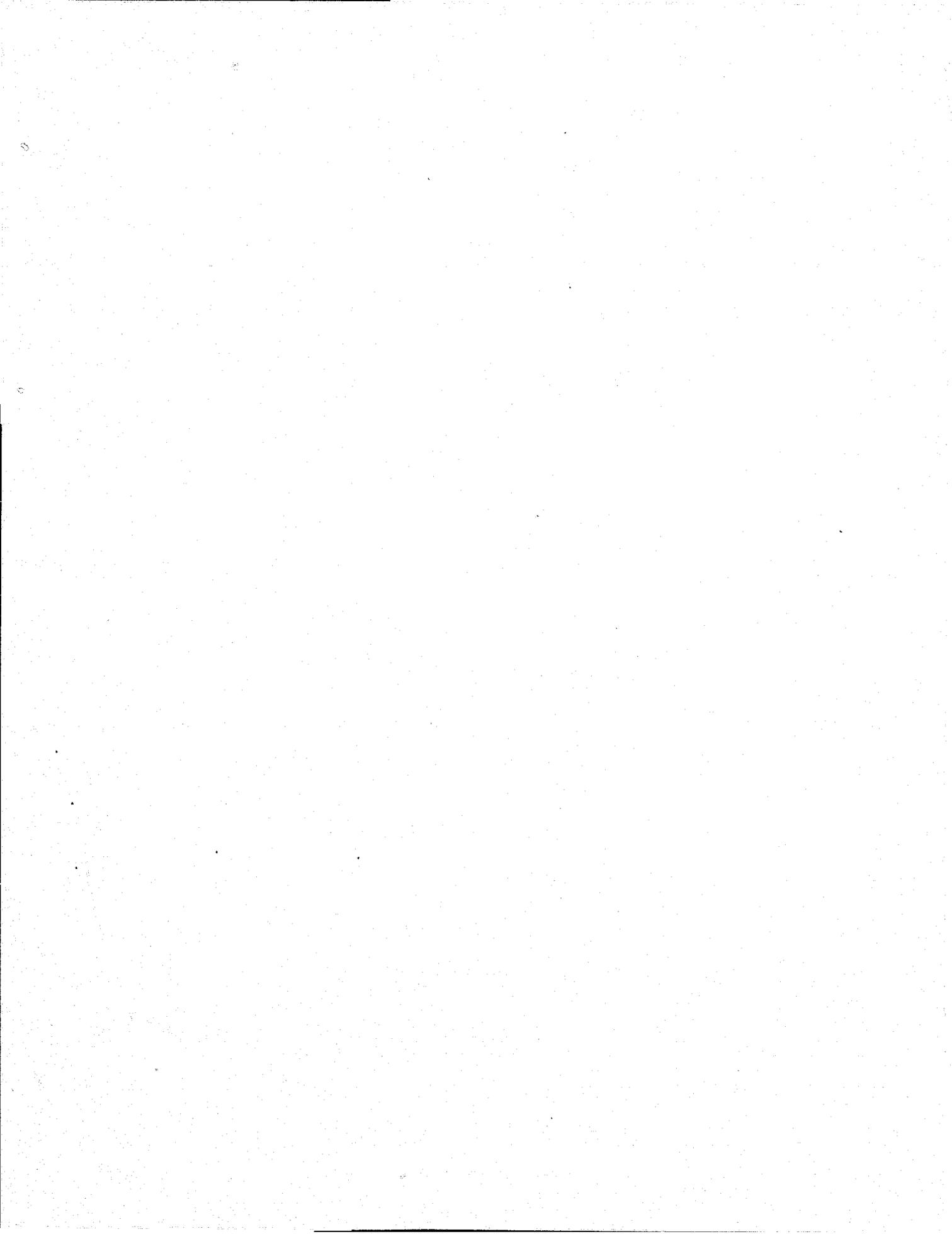
It is appropriate at this time to speak of the means and results associated with all of these measures. The Bureau of Patronage of the canton of Bern includes nine persons: a bureau chief, an assistant, four social workers, and three administrative assistants. It has at its command practically as many patrons as subjects.

As an example, the Bern Bureau in 1972 was responsible for 739 persons--637 men and 102 women, of which 135 were probationers and 370 were parolees--or approximately .05 percent of the total number of probationers and parolees in France (39,828 in December 1974 and 32,012 in December 1972). In proportion to its population, therefore, Bern has as many clients as the corresponding French administration. Considering the many differences which distinguish the recently applied French system from the Swiss system as it is organized in Bern, one notes that, when all categories of patronage are combined, recidivism has ranged from 1969 to 1975 from a minimum of 8.8 percent to a maximum of 11.6 percent.

The result of a longstanding experience which has allowed planning the multiple facets and solutions of social reinsertion of convicts, the Bern organization for assistance to probationers,

parolees, and releasees thus demonstrates a harmonious and effective assumption of responsibility through administrative action on the part of the administration and those under its control.

Revue pénitentiaire et de droit pénal, v. 102, n. 1:79-86, January-March 1978. Société générale des prisons et de législation criminelle, 27, rue de Fleurus, Paris (6^e), France.



The Effects of Imprisonment on the Self-Image of "Lifers"

Haftfolgen in der Selbstwahrnehmung entlassener
"Lebenslänglicher"*

(NCJ 49469)

By Peter Alexis Albrecht

Introduction

The views in recent literature on the effects of imprisonment during or after the execution of life sentences vary widely; in this point the Federal Constitutional Court was absolutely correct in its recent decision of June 1977 on life imprisonment.

There is neither agreement on the definition of what factors constitute "imprisonment effects" nor are there adequately verified empirical data to provide support for the broad range of opinions in this problem area. Researchers can hardly be blamed for the dearth of information on released lifers, for studies on released prisoners generally face almost insurmountable difficulties, if only because few such persons will subject themselves to the inconveniences associated with scientific evaluation. The definition problem makes the poor state of knowledge even more questionable.

If the problem of imprisonment effects is approached from the psychiatric-psychological standpoint, psychodiagnostic tests are used almost exclusively in determining possible psychological changes; for example, in intellectual capability. It already became clear in 1976 from the findings of the English researchers

* Translated from the German by Kathleen Dell'Orto of Aspen Systems Corporation.

working with Banister¹ that the investigative instruments used to date cannot adequately measure the personality dimensions which might be negatively affected by long incarceration. In connection with their analysis of long-term prisoner behavior based on sympathetic observation, Cohen and Taylor² also questioned the applicability of traditional tests for determining the effects of long imprisonment: the scope of traditional tests is too limited for investigation of these problem areas.

From a social-science perspective, effects of imprisonment will probably become evident only in postinstitutional interaction within the civilian environment. In the present state of research, no methodically verified objective procedures exist for establishing possible effects of imprisonment on the psyche and behavior of released prisoners. One possibility for gaining insight into this unknown area and of testing hypotheses is surveying prisoners on their self-image and their self-evaluation of imprisonment effects. This method is very subjective, but the reactions of the affected parties may be the significant factor for effect assessment because these reactions reflect in part the reality of their postinstitutional social situation.

Survey Methodology and Results

The survey of imprisonment effects which provided the results in the following pages is part of an extensive study of the social reintegration of 81 lifers who were pardoned and subsequently released in Niedersachsen between May 8, 1945, and January 10, 1973.

Two basic approaches were employed to enable survey subjects to express negative opinions about their own positions and to maintain a minimum level of comparison for the 66 directly interviewed individuals. First, possible effects discussed to date in literature and known to the author from pretests were presented to the study subjects on individual cards as points of departure. The survey subjects were encouraged to choose and to rank imprisonment effects which applied in their particular situations. The second means of facilitating negative self-evaluation was the possibility of assigning effects to at least two different time periods. The survey subjects were first asked to name effects which they were experiencing at the time of the interview. Then they were encouraged to look through the effects again and to identify those which they had felt immediately after release.

¹Banister et al., "Psychological Correlates of Long-term Imprisonment," British Journal of Criminology, 1973, p. 312 ff.

²Cohen and Taylor, Psychological Survival, 1972, p. 204.

From the numerous effects cited, three central areas emerge which have specific thematic contexts and differing courses in the period after release. First, a group of "adjustment difficulties" (Group I) can be viewed as the result of what Goffman³ calls deculturation; that is, a process of skill loss which makes the affected party temporarily incapable of dealing with particular events in the outside world.

Secondly, effects are named which can be included under the rubric "personality effects" (Group II). Sexual problems are most pronounced, resulting in feelings of inferiority and withdrawal tendencies.

Both areas share the characteristic that the effects in many released prisoners were regarded as particularly troublesome immediately after imprisonment, but these difficulties have eased considerably by the time of the interview, at least in the view of the study subjects.

In the third group of effects, which fall into the "stigma syndrome" category, another course is apparent: generally these effects of imprisonment remain unchanged and even increase with time after release. (See Table 1 on the following page.)

Thus, both at the time of release and at the time of the interview, one-third of the survey subjects suffer considerable anxiety that by some unfortunate accident they will be drawn into criminal activities. After having been locked up for so long, many subjects feel that their newly regained freedom is constantly and fatefully threatened, illustrating the prisoners' feelings that they lack control of their lives. The fear of many that their paroles will be revoked is chiefly a result of the most commonly experienced deprivation during imprisonment: two-thirds of all the subjects surveyed noted that they had suffered most during imprisonment from being left entirely uninformed about their fates. As a pardon can be granted any time after 10 to 30 years of imprisonment, depending on the circumstances, and as the date is indefinite and out of the hands of the prisoner himself, belief in or annoyance with fate sets in during imprisonment. As this attitude determines the consciousness of the lifer for decades, it is not surprising when former prisoners feel that the freedom granted by pardon is threatened by fate even after their release. This experience produces a negative effect primarily when the individual has become familiar through social interaction with the consequences of having been discredited, thus making it difficult to develop a philosophy of self-determination.

³Goffman, Asyle, 1972, p. 24.

Table 1: Effects of imprisonment included in the first five ranked items shortly after release (perceived retrospectively) and at the time of the interview (present perception) (N=66)

	Perceived effects of imprisonment	
	shortly after release	at the interview
<u>Group I</u>	<u>Percent Distribution</u>	
The subject feels uncertain and help- less in many situations	44	9
Life on the outside is more difficult than the subject had imagined	33	9
The subject has difficulty meeting the demands of his occupation	14	3
The subject has difficulty managing money on his own	14	3
The subject has difficulty getting to know other people	6	1
The subject is disappointed that the expectations fostered during im- prisonment are not being fulfilled	4	1
The subject is scarcely able to care for himself	3	1
<u>Group II</u>		
The subject has considerable sexual difficulties	27	6
The subject feels inferior to others	14	4
The subject has become more reserved and tends to daydream	12	6
The subject has become very irritable	11	6
The subject is coming to hate the law	9	9
The subject is coming to hate society	1	-
The subject has become indifferent to many things	8	9
The subject has become very self-centered	4	-
The subject has scarcely any self-respect	1	1
<u>Group III</u>		
The subject is always afraid that he will be drawn into criminal activities through some unfortunate accident	33	32
The past comes to mind over and over again	27	48
The subject fears contact with the authorities	27	21
The subject has become cautious and makes scarcely any new friends	24	24
The subject represses a great deal and often cannot really voice his opinion	21	29
The subject feels that he is being watched constantly and that he is still dominated	21	41
The subject always feels like an outsider in his family	9	11
The subject is dependent on many people	6	11

Even when initial external adjustment difficulties have been overcome and social interaction has made the former prisoners aware of the inferior status and social consequences resulting from social stigma, many feel that the trauma of their pasts increasingly threatens their emerging social identity. While only 27 percent stated that they thought very frequently of the past in the period immediately after release, almost twice as many ranked trauma about the past as the most disturbing effect of imprisonment. If ranking is ignored, 53 percent of the survey subjects cited this problem. As the interval after release alone has no effect on the progressive course of this problem, it seems likely that a causal connection exists between concretely experienced or at least feared social rejection and trauma about the past. The other effects of imprisonment mentioned are related to aspects of social rejection. These difficulties increase rather than decrease in most of the survey subjects during the postrelease period.

Variables Determining Imprisonment Effects

In an extensive statistical correlation analysis of possible interacting conditions, two variables could be identified which vitally determine the extent of effects from imprisonment (the number of times factors are named is considered the indicator for the extent of effect). These are the attitude of the released prisoner's family toward him and his postinstitutional position in the social structure: the less discrimination by the family and the higher his postrelease status, the less pronounced the aforementioned effects of imprisonment.

These relationships have been established up to now for the sum of all imprisonment effects cited, regardless of the course of individual effect groups. But it may prove to be particularly significant which variable determines the progressive stigma syndrome, for a progressive course of effects disrupts the process of reintegration most persistently. When the individual factors of the stigma syndrome were named, it was stated that stigma was first perceived in postinstitutional social interaction. Stigma is not self-defining; instead, the definition process which establishes how one is different, with its degrading effects, impairs the released prisoner's social identity development. In this way, the extent of social rejection experienced, which is chiefly evident in socioeconomic status, has a considerable effect on the course of the stigma syndrome. Released prisoners who have been socioeconomically successful, that is, who experience the gratification associated with higher social status, can counter social prejudices more effectively, can develop higher self-esteem, can assert themselves against persons who have less power, and can more easily avoid discriminative situations; in short, they completely escape the depriving effects of marginal social status.

To test these basic assumptions, all the survey subjects who indicated having experienced at least one of the first five effects of Group III (stigma syndrome) were grouped together; they were compared to the subjects who at the time of the interview did not mention any of the stigma effects most frequently cited by the others.

Table 2: Stigma perceived at the time of the interview according to the socioeconomic status attained at the time of the interview (N=66)

<u>Stigma syndrome</u> (at least one of the first five stigma effects cited--Group III)	<u>Class status</u>									
	Middle		Upper- lower		Lower- lower		Socially despised		Σ	
	No.	%	No.	%	No.	%	No.	%	No.	%
Yes	5	38.5	18	78.3	17	89.5	11	100.0	51	77.3
No	8	61.5	5	21.7	2	10.5	-	-	15	22.7
Σ	13	100.0	23	100.0	19	100.0	11	100.0	66	100.0
chi ² (df 3) = 16.01; p < 1%; KK = 0.625										

The original hypothesis holds true: the lower the social status, the more frequently stigma effects are mentioned. Only those who were able to achieve middle-class status (master workmen, qualified craftsmen, business owners, etc.) cite no stigma effects.

This finding is confirmed when the variable "upward-mobility after release" is substituted for class variables in the correlation: half of the subjects who were able to improve their class status after release did not mention stigma effects, while only 12 percent of socially immobile or slightly downwardly mobile subjects did not.

While the attitude of the pardoned prisoner's family is significant for the imprisonment effects which he experiences immediately after his release, this is rarely the case at the time of the interview. Social status is the variable which in the course of the postrelease period overshadows all other variables.

The influence of social status can also be seen clearly in individual stigma effects.

Table 4: Trauma about the past at the time of the interview according to postinstitutional social mobility (N=66)

The past is recalled over and over again	Class mobility after release				Σ	
	upward		downward		No.	%
	No.	%	No.	%		
Yes	5	27.8	30	62.5	35	53.0
No	13	72.2	18	37.5	31	47.0

chi²(df 1) = 6.34; p < 5 %; rPhi = 0.310

While no subject who has attained the middle class mentions fear of fateful involvement in new crimes, more than half of the subjects with marginal status do (part-time laborers, social welfare recipients, etc.).

The situation is similar for trauma about the past. The subjects with middle-class status feel scarcely threatened at all, while the intensity of trauma about the past increases significantly with diminishing status: 82 percent of the most marginal subjects feel constantly haunted by the past.

Social mobility after release also effects trauma about the past.

Table 3: Fear of reversion at the time of the interview according to social status attained (N=66)

The subject is al- ways afraid of being drawn into criminal activity by some unfortunate accident	Class status									
	Upper		Upper- lower		Lower- lower		Socially despised		Σ	
	No.	%	No.	%	No.	%	No.	%	No.	%
Yes	-	-	8	34.8	8	42.1	6	54.5	22	33.3
No	13	100.0	15	65.2	11	57.9	5	45.5	44	66.7
Σ	13	100.0	23	100.0	19	100.0	11	100.0	66	100.0

chi² (df 3) = 9.41; p < 5%; KK = 0.499

While three-quarters of the upwardly mobile subjects feel that they are scarcely affected by the past, two-thirds of the immobile and downwardly mobile subjects find themselves constantly confronted with it.

On the other hand, the extent to which stigma is experienced is not influenced by the length of time the subjects spent out of prison; nor does the age of the subject exert any effect on stigma problems. In a multicausal context, however, the length of the prison term is significant. The longer the prison term, the worse the relationships with parents, siblings, wife, and children become and the less successful are attempts to rise to social positions which make possible the realization of built-up economic and social expectations rather than marginal social existence.

Implications of the Findings

The class status of the released prisoner is the most important effect variable in his postinstitutional situation. Class status influences both the total effect of imprisonment and the occurrence of progressive stigma syndrome, a deprivation syndrome which probably disrupts social integration most persistently.

For practical social work both inside and outside the prison, this means that pragmatically oriented assistance, such as immediate solution of professional, financial, and familial problems, is most likely to enable the released prisoner to lead a life free of crime in the future. The more stable the socioeconomic circumstances of the released prisoner, the less pronounced are the effects of imprisonment. At the same time, there is less risk of reversion to criminal activity when socioeconomic circumstances are stable.

The improvement in social position occurring in most subjects of this population could be demonstrated both objectively and subjectively; it is probably the decisive factor for the unexpectedly high rate of law-abiding behavior, which, after a sufficiently long period of observation, is over 90 percent. For most released prisoners of this population, the structural changes which took place in the labor market in the 1950's and 1960's, as well as the unique economic prosperity which had not affected the lifers during their long imprisonment, entailed virtually automatic social upward-mobility, although social downward-mobility generally follows imprisonment. Thus, many of the released prisoners could be placed in occupations which had not yet existed at the time of their arrest immediately after the war, and even unskilled and minimally trained workers could be placed more easily in the labor market at the end of the 1960's and the beginning of the 1970's.

The fundamental improvement in social position can be seen by comparing the income levels estimated by the gainfully employed subjects for the periods before and after their imprisonment.

Table 5: Comparison of income levels before incarceration and at the time of the interview (ranking by the employed individuals surveyed) (N=58)

Income level after imprisonment	Income level before imprisonment					Σ	%
	very good	good	satisfactory	adequate	poor		
very good	(-)	-	-	2	1	3	5.2
good	1	(3)	-	4	15	23	39.7
satisfactory	2	1	(2)	3	15	23	39.7
adequate	1	-	1	(-)	5	7	12.1
poor	-	1	-	-	(1)	2	3.4
Σ	4	5	3	9	37	58	
%	6.9	8.6	5.2	15.5	63.8		100.1

For three-quarters of the subjects still employed after their release, their income levels were better than before imprisonment. Most of them ranked their incomes between satisfactory and very good at the time of the interview, while almost two-thirds described their incomes as poor before imprisonment. The improvement in social position is also reflected in general professional satisfaction.

It should be emphasized that the improvement in social position of most released prisoners was not achieved by a penal system compensating for existing social deficiencies but rather as a consequence of the economic prosperity at the time and of structural changes in the labor market. This fact also proves that postinstitutional placement in the social structure is a major sociological problem both for law-abiding behavior as measured according to the standard of judicial success and for subjectively perceived effects of imprisonment.

Even though the relevance of sociostructural and familial variables could be demonstrated only in the process of social reintegration of a lifer-population, it should be apparent that problems of educational, occupational, and familial assistance should also be the central focus of treatment and postrelease care for prisoners with shorter sentences. New empirical research shows that meaningful social policy measures can lead the way to reduced recidivism. However, because of its relevance to society as a whole, the political decision processes must also lead the way to reducing recidivism.

The Federal Constitutional Court decision mentioned initially represents a progressive beginning. The legislators are admonished in this decision to establish a time framework which is binding in normal cases for the parole of prisoners sentenced to life imprisonment. If social reintegration is to have any meaning, 15-years' imprisonment should be the maximum limit. After this point, the chances for familial and social reintegration are significantly reduced, thus increasing the likelihood of imprisonment aftereffects and the danger of social failure.

Bewährungshilfe, v. 25, n. 2:128-139, 1978. Deutsche Bewährungshilfe e. V., Friedrich-Ebert-Str. 11 b, Postfach 20 08 82, 5300 Bonn 2, West Germany.

Critical Problems in the Reintegration of Pardoned "Lifers"

Problemschwerpunkte bei der Wiedereingliederung von begnadigten
Lebenslänglichen* (NCJ 49468)

By Bärbel Peper and Horst Kramer

Survey Sample and Study Methodology

Pardoned "lifers" who had been under probation supervision during the last 5 years were studied. The aim was to identify their reintegration difficulties and to portray the special problems of their cooperation with probation officers. The survey sample included 28 Berlin probationers (20 men and 8 women). Records containing the verdict, expert opinions, remarks, and conduct reports of the probation officers about the period of supervision were evaluated. Data revealed information about the family situation before the crime, educational status, institutional situation, and for the time after release, problems in the work environment, family situation, spouse relationships, and personal and social difficulties. With the help of the probation officers, who in most cases had established contact with the former probationers, 11 people could be interviewed. Three of the probationers did not submit to an interview.

The standardized interview contained open questions which assessed the probationer's personal and social postrelease situation. The research also utilized results from a study conducted in 1977 at the Berlin-Tegel Justizvollzugsanstalt.

Social Situation Before Institutionalization

Social strata classification was not possible based on the available data. A rough classification using the father's occu-

* Translated from the German by Dorothy Orme of Aspen Systems Corporation.

pation as an indicator showed that all subjects came from the middle to lower classes. In order to describe the subjects' situation prior to the crime, details about family disturbances, home stays, graduation from school, educational status, and employment situation were used. Seventeen subjects came from difficult family circumstances, including parental separation or divorce, eccentricities, illnesses, or problems of abuse by a parent. There was a stable family situation in 10 cases; only a few lived at home. Most of the subjects had completed elementary school; more than half had also completed an apprenticeship. At the time of the crime, eight probationers had permanent employment, while the overwhelming majority were engaged in casual labor.

Of the 28 probationers, exactly half had prior records involving property crimes. The interview revealed that seven people already had had first contact with the police, juvenile office, and court because of an offense between the ages of 12 and 16. Of all those studied, four were between 19 and 21 at the time of the crime, so that juvenile law would have applied at sentencing.

The sample survey statistics as detailed below show that the largest number of probationers committed their crime between the ages of 22 and 30, and that murder and robbery were the most frequent offenses.

<u>Age at Crime</u>	<u>Number of Probationers</u>
19-21	4
22-30	13
31-40	6
41-50	5

<u>Type of Crime</u>	<u>Number of Probationers</u>
murder and robbery	16
fight under the influence of alcohol	2
child abuse resulting in death	1
chronic family conflict	2
murder of lover by deserted partner	1
rent dispute	1
murder of wife	1
murder of accessory	1
murder of spouse disturbing marriage	1
other	2

This sample was special because many of the crimes were associated directly with the social situation existing during the post-war years. Murder-robberies were committed mainly in connection with the black market business.

Period of Confinement

Some of the data which characterize the period of confinement were based on the observations and judgments of the institution's administration. Further clarification of the confinement situation was possible during the probationer interviews. Almost all probationers had regular contacts with their families and none of the probationers was without outside contact. The interview revealed, however, that 4 of 11 had extremely few contacts with the outside world during the whole period of confinement. Two of the people studied did not contact a "Schutzhelfer"* until after 10 years of imprisonment. The Schutzhelfer was important for those who had no contacts or only casual contacts with their families. These relationships established during institutionalization proved to be particularly stable interpersonal ones which extended far beyond imprisonment.

Six of the people studied were hospitalized during confinement; extreme reactions such as tantrums in cells, suicide attempts, attempts at self-injury, eccentric behavior, and more severe imprisonment reactions were found in eight subjects. Special leisure-time activities were mentioned in the records of 4 of the 28 subjects. Three of the 11 people interviewed had participated in treatment programs. At the institution in Tegel half of the people studied had participated in treatment programs and approximately 70 percent had special recreational interests. For 7 of the 11 people interviewed, sentence termination procedures had begun; for 4 of the 11, this possibility still did not exist.

An examination of the effects of institutionalization clearly showed a tendency toward depression, dejection, and strong feelings of rejection in 8 of the 11 subjects. Only two indicated that nerve damage, bitterness and hatred toward society, inhibitions and low self-esteem, mistrust of everyone, and moral depravity were applicable responses. Four of the 11 subjects felt psychologically and physically broken from life imprisonment; 3 of the 11 indicated that they suffered from damaged health due to the long confinement. About half observed no psychological change in themselves as a result of the sentence.

* An aide who is responsible for protecting and assisting prisoners during confinement.

Two of the 11 people questioned thought that it would have been better for them personally if they had received the death sentence rather than life imprisonment. Asked whether they were for the reinstatement of the death penalty, all 11 were clearly opposed, however. The life imprisonment penalty was considered senseless by 10 of the 11; 1 person was undecided.

The subjects criticized the fact that the prisoner is left alone with the problem of coming to terms with his crime. Only two felt that they had matured through interaction, education, and learning opportunities in the penal institution. It is only in the last years of life imprisonment that the prisoner has the opportunity to receive help through the institution (treatment, education, etc.).

When questioned about wishes, fantasies, and ideas during imprisonment concerning life after release, all expressed realistic, pragmatic, and situationally adequate notions about employment, housing, and life. This result was similar to the study of "lifers" at Berlin-Tegel. Fifteen of the 28 subjects were released from prison before a change in sentencing practice took place in 1971. These new termination of the sentence measures involved preparation for release through leaves and furloughs.

Social Situation After Release

The release period occurred between 1968 and 1977; imprisonment had lasted from 15 to 25 years. Fifteen of the subjects had served a sentence of 20 years or more. Due to a change in the pardon practices of the Berlin Senate, pardons were also granted in single cases after 15 years of a served sentence. The probation period encompassed 5 years; two probationers received 3 years' probation with their pardon. Of the 28 subjects, 11 were still on probation. Seven of the subjects could be released from the probation supervision early as a result of the probation officer's recommendation.

Based on the probation officer's last conduct report, reintegration was expected to proceed smoothly with nine probationers; six probationers were problematic. For the period of supervision, 18 had adaptability difficulties, and 6 were later judged as not yet resocialized.

During the interview, all expressed positive thoughts about the help they had received from the probation officer regarding visits to the authorities, personal problems, credit settlements, and financial concerns, as well as support in housing searches. The subjects were supported during the period immediately following release by family members and friends and to almost the same extent by the Schutzhelfer. Supporting measures by the pro-

bation officer occurred later. The Schutzhelfer is important in the transitional phase following release; in most cases a continuous interpersonal relationship existed which had been developed during confinement, especially in the case of probationers who had few or no outside contacts. It is important to establish contact with the probation officer during imprisonment in order to guarantee support in the transitional phase with "settling-in" problems. The probationers therefore viewed interpersonal support as particularly essential.

After release, 21 of the 28 subjects found housing with family members and acquaintances. Only three acquired a place on their own; four accepted help from public authorities. Most of the subjects were satisfied with their living conditions. At the time of the interview, eight lived in their own place, two were subletting, and one probationer was living in a Berlin clinic because of further offenses.

The first job was secured in most cases through public agencies (Labor Office) or through the Justizvollzugsanstalt. In a few cases, family or acquaintances procured the first job. Only three of the probationers obtained their first job through their own initiative. Many retained these first jobs for a relatively long time. The majority of supervisors and coworkers were informed about the previous conviction of the probationer. After approximately 1 to 1-1/2 years, most of the subjects changed employment. Practical reasons, such as improvement of working conditions, more convenient commute, pay, etc., were cited. Only one probationer changed his job because of stigmatization. Of the 28 probationers, 13 changed their jobs at least twice and, at most, eight times. Of the interview group, more than half were satisfied with the current occupation and could not imagine any other which would have been preferable. Two were dissatisfied with their jobs; two were unemployed. In contrast, five out of six who were clearly dissatisfied with their current occupational situation had been satisfied before imprisonment. The improved income mentioned by all should be interpreted in light of the altered economic situation nationwide.

Regarding the family situation and partner relationship, of the 28 people studied, 5 experienced an altered family status through divorce and 2 married during imprisonment. There were four divorces during the probation period. In many cases there were problems in partner relationships. Practically all probationers reported disturbances in their relationships with women. Free time was spent mostly with the family. Only four probationers spent their free time with coworkers or acquaintances approximately once a month. Three-fourths had defined leisure-time interests as an active recreational activity. In the first months after release, contact with the parents and family was an important factor in reintegration. After release, firm, reliable contact with the family existed in four cases; looser contact existed in

two; half had no contact with the family. Regarding the influence of the family after release, approximately half said that it had grown stronger in contrast to the period before imprisonment. Directly after release, half lived with their own family or spouses; five were single and lived alone.

Special attention was devoted to the so-called stigma syndrome: how the stigma "sentenced for life" affects social identity and all interpersonal relationships on release. After release, 8 of the 28 probationers felt particularly burdened by their life sentences. Half indicated that they no longer felt negative effects. The employers of all 11 were informed about the sentence; none of the subjects was fired because of his prison record. The families of three-fourths of the probationers were informed completely about the crime and the sentence. The majority of the subjects were pleased that, following a change of employment, new coworkers knew nothing of the previous conviction; the probationers thus felt more free and independent. They denied inhibitions and feelings of low self-esteem resulting from life imprisonment. Half indicated that the fear of being drawn into another punishable act by misfortune existed only in the first year after release. This fear had subsided and was not felt by anyone at the time of the interview.

Five of the 28 probationers did, in fact, commit crimes again. Two probationers had to pay fines for traffic violations; one probationer had been sentenced to a fine for insult and threat. Another probationer was committed to a psychiatric hospital for sexual acts with his stepdaughter. Still another received a 1-year sentence for insulting and resisting police.

After release, half reported disturbed sexual functions associated with general contact difficulties. For most people, these were reduced in a year or two. Half reported that immediately following release, life in freedom was much more difficult than they had imagined during imprisonment. At the time of the interview, this assessment had not changed. A third of the survey sample agreed that during the first period following release, irritability and egotism were difficult problems, as well as insecurity and helplessness in certain situations. During the course of reintegration, those problems diminished and were no longer observed at the time of the interview. In contrast, in the course of time, one-third showed an increasing tendency to be more indifferent in all phases of life, while at the same time to come to terms with the past, which they recalled repeatedly.

During the period of imprisonment, painkillers, sedatives, and alcohol were consumed more frequently, strengthening this tendency after release. There were no differences in suicide attempts during the various time periods. Numerous suicide attempts before and during the period of confinement were confirmed by three

Physical and psychological effects before and during institutionalization, and after release:

Physical and psychological effects	institutionalization before	during	after release
<u>Suicide attempts</u>	8	8	10
no attempts	3	3	1
several	1	9	2
no thoughts of suicide	10	2	9
<u>Consumption of sleeping pills</u>			
none	11	8	10
occasional	-	2	-
regular	-	-	-
dependence	-	1	-
<u>Consumption of tranquilizers</u>			
none	11	9	10
occasional	-	1	1
regular	-	1	-
<u>Consumption of alcohol</u>			
none	2	1	-
occasionally a little	3	5	8
occasionally a lot	3	2	2
regular	1	3	-
alcoholics	2	-	1
<u>Consumption of pain killers</u>			
none	10	8	8
occasional	1	2	2
regular	-	-	1
dependence	-	1	-
<u>Heart-circulatory illnesses</u>			
none	10	10	6
minor heart illness	1	1	3
chronic heart illness	-	-	2
<u>Diseases of spine and skeleton</u>			
none	10	10	6
minor	1	1	2
major and chronic	-	-	3
<u>Stomach illnesses</u>			
none	-	9	6
minor--gastritis	-	2	5
major--ulcer with hospitalization	1	-	-

subjects. Thoughts of suicide were stronger during imprisonment; they decreased after release. Diseases of the heart and circulatory system, spine, and stomach increased for half of the subjects. Changes occurring with age should be taken into account.

Bewährungshilfe, v. 25, n. 2:115-127, 1978. Deutsche Bewährungshilfe e. V., Friedrich-Ebert-Str. 11b, Postfach 20 08 82, 5300 Bonn 2, West Germany.

Recidivism Among Convicts Who Acquired a Skill During Their Prison Term

Powrót do przestępstwa skazanych, którzy uzyskali zawód w czasie odbywania kary pozbawienia wolności* (NCJ 20499)

By Teodor Szymanowski

Research Goals and Methods

The subject of the research was to establish the extent, speed, and intensity of return to crime of convicts who had acquired a skill at a prison vocational school during their prison term. The goal of the research was to determine the impact of prison vocational schools on the prevention of recidivism and to shed light on the question of whether some vocational programs available to convicts are more significant in preventing recidivism than others.

According to the Polish Criminal Code, elementary school programs and vocational education should play an important part in the rehabilitation of convicts, especially those in their early 20's or younger. All the programs pertaining to rehabilitation recommend completion of the elementary school program and development of vocational training for convicts in socially needed skills. To what degree and under which conditions those means of rehabilitation can prevent the recurrence of crime should also be viewed in the wider context of changes in the educational system in Poland now and in the future.

Research into these problems was initiated in 1972 at the Center for Research on Crime at the Polish Ministry of Justice with the cooperation of the Penitentiary Unit of Central Administration of Penitentiaries. It was completed at the Institute for Research on Criminal Law.

* Translated from the Polish by Elzbieta Pelish of Aspen Systems Corporation.

The source information was collected in penitentiaries with vocational programs. The data gathered pertained to sex of the convicts, their age at the time of release from the prison in which they had acquired a skill, type of vocational program, length of prison term, legal basis for release, type of crime committed, and previous criminal record. The Central File on Convicts at the Central Administration of Penitentiaries was searched to determine if the convicts who completed a prison vocational program were again sentenced to a prison term. The findings became a basis for this analysis after statistical computations were made in the Computation Center of the State Academy of Sciences in Warsaw.

The research studied 2,312 graduates from prison vocational schools who were released during the years 1958-1965. Their future with respect to recidivism was then investigated for 5 years after release. For the purpose of the analysis, the convicts were assigned categories corresponding to the data gathered. The analysis concentrated on men only, because the group of women was very small (12.4 percent).

Male Convict Categories

All the categories were subdivided into the following two groups: those convicts who had previous convictions on entering a prison with a vocational program and first-time offenders.

Age. The percentage of the convicts who were less than 21 years old was very small (10.7 percent); because vocational programs in prisons last 2 years, most of those who started as minors finished after their 21st birthdays. A few months for the customary temporary arrest should be added to this total along with additional time needed to complete the elementary school program in some cases. The men with previous convictions were usually older because they had at least one prison term behind them. The largest age group was 21-29 years (first-time offenders, 72.2 percent and previously convicted, 63.8 percent).

Type of crime. The men convicted for crimes against property predominated, including 54 percent among the first-time offenders and as many as 73.6 percent among those previously convicted. This coincides with the findings of other studies which show that property crimes predominate among recidivists. Among the first-time offenders, there were almost 3 times as many crimes against life and health (18.2 percent) than among those previously convicted (6.9 percent). This confirms findings of other studies on recidivism which indicate that perpetrators of crimes against life and health have a good prognosis for the future.

Length of prison term. Those with previous convictions served longer terms than the first-time offenders due to the practice of release on parole. Among the first-time offenders, 70.2 percent were paroled, 27.9 percent released after completion of the full term, and 1.9 percent released on another legal basis (e.g., amnesty). Opposite proportions for those previously convicted (22.9 percent paroled, 75 percent released after the full term, and 2.1 percent released on another legal basis) were due to the fact that the previous criminal record influenced the court's parole decisions. The high percentage of paroled first-time offenders was a result of an improved outlook on their future after completion of the prison vocational program.

Prison vocational programs. Prison vocational schools offered training in a broad range of skills. No training was provided for skills which would not guarantee a job because of a lack of demand for them. However, more often than not, the type of skills acquired by the convicts depended on the availability of a particular program, and not on convicts' individual interests. For example, the high percentage of graduates from agricultural and construction schools among the first-time offenders (31.8 percent and 12.1 percent respectively) was due to the fact that those programs were available in the minimum security establishments. Almost 60 percent of the previously convicted inmates graduated from the metal-working schools, which were available in those maximum security establishments with their own shop facilities.

Recidivism After Completion of a Prison Vocational School

The criminal record of convicts prior to their attendance in the prison vocational program was examined to determine its impact on extent, speed, and intensity of recidivism. The convicts with previous convictions returned to crime twice as often (43.5 percent) as the first-time offenders (20.4 percent). Extent of recidivism after completion of the prison vocational program also depended on the number of previous convictions. It was 41.3 percent for those with two previous convictions, and 60 percent for those with three or more previous convictions.

Concerning the speed of recidivism, the data gathered gave the approximate time of the crime, since the time of sentencing was not the same as the time when the actual crime took place. More than 55 percent of the men were convicted again within the first 2 years after release. If the time between the crime itself and sentencing was considered, the indicator of the speed of return to crime would probably be more, with two-thirds of all the convicts repeating during the first 2 years after release

from the prison in which the vocational program was completed. The difference in speed of recidivism between the first-time offenders and those with previous convictions was minimal.

Intensity of recidivism was measured by the number of convictions during the 5 years after release from the prison in which a vocational program was completed. There was no statistically significant difference between those previously convicted and the first-time offenders. Most of them had only one subsequent conviction (63.1 percent of the first-time offenders and 57.7 percent of those previously convicted).

Age. "Age" was previously defined as the convict's age at the time of release from the prison in which a vocational program was completed. Recidivism of the youngest convicts (up to 20 years old) was more than twice as high as that of persons 26-29 years old, and three times as high as that of older persons. The difference in the extent of the recidivism according to age was smaller for men with previous convictions. Relationship between age, previous criminal record, and extent of crime after the completion of a prison vocational program could be presented more clearly if detailed data on the age at the time of the first crime, as well as the history of rehabilitation, were available.

Type of crime. The first-time offenders showed the highest recidivism rate for crimes against private property and the lowest for crimes against life and health. Perpetrators of crimes against private property showed three times as much recidivism as perpetrators of crimes against life and health.

Legal basis for release. The first-time offenders who were paroled showed a much lower number of subsequent convictions (17.1 percent) than the first-time offenders who served full sentences (28.2 percent). The difference was smaller for those previously convicted (34.9 percent for the paroled convicts and 45.6 percent for those who served the full sentence). Statistically, the outlook for the future was worse for those previously convicted, and recidivism was lower for paroled men.

Length of incarceration. The number of subsequent convictions was smaller after long sentences (greater than 4 or 5 years). However, statistical analysis of the data did not uncover a significant relationship between the length of incarceration and the extent of the subsequent recidivism. Long sentences were usually imposed for crimes against life and health, and the extent of recidivism was much smaller for these crimes.

Effectiveness of Prison Education in Preventing Recidivism

Effectiveness of prison education was analyzed from two points of view: relation of extent of recidivism to the type of skill acquired at a prison vocational school, and relation of extent of recidivism to acquiring a skill in general. The research did not prove a statistically significant interdependence between the extent of recidivism and the type of skill. However, the results might have been different if all the convicts had chosen the type of program according to their individual capabilities and interests.

The effectiveness of prison education in general in preventing recidivism was examined by comparing the data with results obtained in other studies of recidivism (T. Szymanowski, "Extent of Recidivism for Young Convicts," 1974; and A. Kobus and P. Wierzbicki, "Rehabilitation of Convicts and Recidivism," 1967). Since this research pertained only to the graduates of prison vocational schools, the extent of their recidivism was compared to that of convicts who did not acquire a skill during their prison term. The factors of age and previous criminal record were used in this comparison.

The convicts who acquired a skill during the prison term showed lower rates of recidivism than those who did not. However, the differences were not large (5.7 percent for the first-time offenders up to 21 years old, 3.3 percent for the first-time offenders between 25 and 34 years old, and 15.4 percent for those previously convicted, up to 24 years old). The extent of recidivism for convicts who acquired a skill at a prison vocational program was large, especially for young men (up to 24 years old) who had been previously convicted (55.1 percent).

The above findings do not prove that the usefulness of education in rehabilitation efforts is small. However, they emphasize the necessity of developing additional means of influencing convicts (e.g., therapy). The overwhelming majority of prisoners had an interrupted elementary school education with a resulting lack of skills. This fact indicates the existence of disorders in their socialization process resulting from pathological causes (individual and/or environmental). Educating convicts as well as finding them employment is a necessary condition of their rehabilitation.

Guidelines for educating convicts, especially young ones, ought to include principles on which the educational system in general is based. These principles provide for universal education in an open, flexible system; a possibility of changing professional orientation; continuing education; and available educational and professional counseling. The findings of this research suggest that not all of these principles are realized

at present to an adequate degree. The need for change in the prison educational system, as well as its further expansion, is urgent.

Future research should concentrate on the question of how much social and personal usefulness is attained as a result of educating convicts at a given level and under given circumstances. These studies, which will analyze chosen factors of penitentiary and postpenitentiary influences, will be carried out at the Institute for Research on Criminal Law, in cooperation with the Department of Juveniles of the Ministry of Justice.

Zeszyty Naukowe, n. 4:52-74, 1976. Ministerstwo Sprawiedliwości, Instytut Badania Prawa Sądowego, Al. Ujazdowskie 11, 00-950 Warsaw, Poland.

Alternatives to Institutionalization Under German Law

Alternativen zum Freiheitsentzug nach deutschem Recht*

(NCJ 49482)

By Karl-Heinz Kunert

Editor's Note: This is a summary of a speech delivered by the author at the International Symposium of the Evangelischen Akademie Bad Boll, January 17-20, 1977.

One is accustomed to hearing that developments in criminal justice in Germany lag a certain distance behind those in America. A recent study of American trends in institutionalization confirms German worries about lagging behind.

Personally, I believe that changes are in the air, and thus I welcome the opportunity to try to convince you that there are, there must be, and there will be genuine alternatives to institutionalization. A propos the recent attention focused on Gary Gilmore's execution, I hope that the survey showing a climb in American public support for capital punishment over the last 6 years from 45 percent to 65 percent of the population is an exception to the observation that developments in the Federal Republic follow closely behind American opinion in the field of criminal justice.

Institutionalization is an evil. The question is: to what extent is it a necessary evil? One cannot deny that institutionalization is necessary in certain measure. The basic instruments of law and order would have to be strengthened and the State would be neglecting its duty to protect society if it did not incarcerate highly dangerous criminals to prevent them from committing serious new crimes. It is more difficult, however, to derive the necessity of the evil in light of "quia peccatum est"; such a discussion leads from pragmatic considerations directly to incontestable generalities.

To a certain extent, I nevertheless accept the exercise and call attention to the words of the Federal constitutional law

* Translated from the German by Charles Orme of Aspen Systems Corporation.

volume 32, page 48: "Criminal punishment, in conjunction with deterrence and reform, also serves the purposes of atonement for crime."

In the formulation and practice of law over the last 10 years, the perception of personal restraint as an evil necessity has decidedly weakened: statistics from 1966 to 1976 show a decline of 17.6 percent in the number of prisoners, including those under preventive detention, in the Federal Republic. They totaled 45,350 on March 31, 1966, as opposed to 37,364 exactly 10 years later. Whereas nearly 12 percent of all sentences in 1966 involved incarceration of a month or less, the proportion dropped to 0.4 percent in 1974; sentences of less than 1 month were eliminated altogether in 1975. A similar drop occurred in sentences for prison terms of up to 9 months or a year.

By contrast, the number of people receiving fines rose from 337,523 in 1966 to 494,266 in 1974, an increase from 62.7 percent to 85.5 percent of all sentences handed down under German criminal law in the respective years.

Whereas between 1966 and 1976 the number of probationers in the Federal Republic nearly tripled, the number of convicts undergoing rehabilitation measures during institutionalization dropped markedly. The foregoing statistics illustrate how the use of alternatives to institutionalization for the lower and middle categories of criminal offenses has mushroomed since before the criminal law reforms of 1969-1970. They impress on one as well that the penal establishment has finally broken away from the century-old, one-track system of equating a certain amount of criminal activity with a corresponding length of time in prison. Only a few short-term convicts were reformed under the old system: most returned with remarkable regularity.

Of the total number of male convicts and detainees in the Federal Republic (including West Berlin) in March 1967, 87.7 percent had a previous criminal record. Nearly 30 percent of the men had been convicted from 5 to 10 times, nearly 10 percent had been convicted from 11 to 20 times, and over 40 percent had returned to prison during the first year after release. Obviously, for these short-term cases, institutionalization was not very effective.

As for persons held in detention pending investigation, the comparison between the 1960's and 1970's is not so favorable. From December 1964 to March 1966 the number of detainees dropped from 13,000 to 11,711, thanks in part to the law which changed procedure for sentencing. The ranks grew again quickly, however, to 15,916 at the end of March 1974; they have fallen off somewhat since that time (14,665 on December 31, 1976).

In the midst of all these changes, the maintenance of law and order has suffered negligibly. The Federal Republic has survived. Petty and intermediate crime--discounting theft, to which special laws pertain--has not climbed significantly. The number of sentences passed in Nordrhein-Westfalen actually decreased from 1966 to 1975 in proportion to the population of responsible age. In any case, in the realm of petty to intermediate crime, no one today recommends more time in prison. In fact, there is less call for institutionalization than anyone would have thought possible 10 years ago.

Reduction of prison terms means a considerable unburdening of State finances. As evidenced by Federal budget appropriations, revenue from fines approximately tripled between 1967 and 1977. Revenue from outside sources for various rehabilitation programs not directly administered by the Federal Government has also relieved the budget. Furthermore, release on probation costs considerably less than institutionalization. For example, supervision during probation, everything included, costs only 3 marks per day per probationer, whereas the daily cost of institutionalization per client amounts to about 51 marks. A reduction in welfare payments to dependents of convicts released on probation is also important. Finally, a working probationer adds to society's productivity and hence to tax revenues.

Execution of a sentence has also come to include various forms of semiliberty:

- Open and semiopen sentences encompassing variations which often make State officials nervous (free periods, marriage seminars, stays with foster families).
- Open sentences possible even for those sentenced to life, following passage of the law on execution of sentence.
- Regulated leave on parole.

The question of which alternatives to institutionalization exist on which legal grounds can only be answered by comparing the different purposes of personal restraint: detention pending investigation, execution of a prison sentence, and compliance with a reprimand. Both the State Police and the Juvenile Code recognize that the goals of detention pending investigation--to prevent escape, collusion, or repetition of the crime--can be attained through measures not involving incarceration. Alternative measures are also clearly set forth in the law.

- (1) Concerning danger of escape--reporting requirements; informing of whereabouts; safeguards.

- (2) Concerning danger of collusion--the order not to communicate with any other accused persons, witnesses, or experts on the subject.
- (3) Concerning danger of recidivism--"specific instructions," whatever that means.
- (4) In juvenile law--provisional arrangements for education; interim assignment to a reformatory.

Very little use is made of these alternatives to detention: in 1974 only about one-sixth of all detainees in Nordrhein-Westfalen were released pending trial, although these were three times as numerous as those released out of the same number of detainees in 1966. The most important way to reduce the detention period would be to accelerate the legal process; yet in spite of all attempts made to speed it up, the sequence of proceedings centering around the initial hearing has slowed down on the average. A bill to streamline the process is under study.

There are several reasons for infrequent use of alternatives to detention pending investigation:

- (1) Far too few institutions exist for reform of juveniles, and officials fear that detainees of courts of justice will corrupt other youths in the existing institutions.

- (2) Vague legal provisions for suspension of detention in the case of danger of collusion or repetition were formulated more to ease the conscience of lawmakers than to serve as workable alternatives.

- (3) Use of bail and investigation of personality are thus the only remaining true alternatives. We could learn much from English and American legal circles about researching the personal circumstances which would eliminate danger of escape. Nevertheless, not only accused persons paying 1 million marks obtain release on bail; there is the case of the judge in Cologne who released an unskilled worker for 5,000 marks on the grounds that the man had a job and a little house in the country; he would surely not run away.

- (4) The so-called "bail hostels" begun in London in 1971 could also be worthy of emulation. To my understanding, these institutions offer a sort of open detention period in which the accused is granted greater liberties pending a thorough "pre-sentence report."

In the past, short-term imprisonment was not imposed chiefly as a specific preventive measure that would have a beneficial effect on the delinquent person. One used to note rather causti-

cally in those days that aside from the admission procedure and the equally long drawn-out procedure for release, nothing at all happened to the perpetrator of a crime. And what could be expected to result from that sort of general attitude? In 1954, a member of the Criminal Law Commission stated that incarceration is always such a dire evil that it exerts a general preventive effect no matter whether the convict improves or worsens; that is, apparently, the general preventive effect of keeping him out of circulation for as long as necessary to protect society.

In the category of petty crime, payment of fines in lieu of personal restraint seems to be working quite well. Today, 82 percent of all criminal sentences consist of fines. Money is indeed freedom in another sense. In my opinion, technical problems involving regulation of the daily rate of payment, child and wife support, etc., can be alleviated and do not constitute genuine difficulties of the system of pecuniary penalties.

Although the range of application of pecuniary penalties is fairly well exhausted, I still see one possible development in the category of intermediate crime: in the case of orders of summary jurisdiction punishment, only fines would be given.

An important point for longer sentences: a probationer who successfully completes the probation period is always better equipped to live as a free citizen than one who has been forced to serve his entire sentence in an institution. It matters little what his motives to change are, as long as he knows he can succeed on his own. Release on probation was indeed introduced as a refutation of the theory that childhood experiences have so firmly molded the individual that he can no longer change.

One cannot overemphasize the importance of the probation period and of the probation officer who requires the probationer to live up to a legally determined standard of conduct. Granting of pardons, on the other hand, offers neither a guarantee nor a standard of conduct. Although use of probation officers is common in practice, it should also be made a legal requirement.

The probation system could stand improvement. For one thing, the increasing numbers of young social workers constitute a trend which does not perhaps place enough value on experience. Also, the distance between judges and social workers is often great; frequently, their only contact is in writing, and usually neither the jurist nor the social worker understands the other's language very well.

I would still like to mention that court welfare work must be greatly enlarged and improved as a "station for diagnosis" and that supervision of conduct must be made into a much more



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effective therapeutic instrument. I would also like to have said something about attempts to allow persons to perform free work for the Ministry of Justice in lieu of a monetary penalty, but since I have no more time, I must be satisfied with these remarks.

Bewährungshilfe, v. 25, n. 1:23-36, 1978. Deutsche Bewährungshilfe e. V., Friedrich-Ebert-Str. 11b, Postfach 20 08 82, 5300 Bonn 2, West Germany.

Alternative Sanctions

Alternatieve Sankties*

(NCJ 49479)

By L.J.M. d'Anjou

This report reviews the literature on the effectiveness of the alternative sanctions available to criminal court judges. An alternative sanction is defined as any settlement of a criminal case not resulting in acquittal, dismissal, or continuous imprisonment. Alternative sanctions are compared to short prison sentences of 1 day to 6 months.

The following alternative sanctions are arranged according to the time at which they are introduced in a criminal proceeding and their degree of severity.

Postponement of trial. The judge has the power to delay trial for a certain period of time. If, during this time, no other crime is committed or certain conditions are met by the suspect, the judge can dismiss the case, and conviction and sentencing do not occur.

Conviction without punishment (absolute discharge). The suspect is convicted but no sentence is imposed because the judge does not consider it necessary to add to the offender's already unpleasant experience.

Conviction with suspended sentence. The sentencing is suspended unless another crime is committed. The offender usually has to meet certain general or specific conditions such as probation and rehabilitation.

* Translated from the Dutch by Welmoet Bok-van Kammen^o of Aspen Systems Corporation.

Definitive measures not involving confinement. This category includes such sanctions as a stern reprimand; denial of certain rights such as driving a car; fines; and restitution.

Conditional nonconfining measures. The kind of sentence and its duration are determined by the judge, but the execution of the sentence does not take place unless another crime is committed. Other conditions, such as rehabilitation, may also have to be met by the offender.

Freedom-limiting measures that are not imposed continuously. The offender is required to do some useful work during his spare time for which he is usually not paid.

Confining measures not imposed continuously. The offender has to spend part of the day in an institution. During this time he will either receive treatment or training, or be treated as any ordinary inmate. Some forms of temporary confinement are periodic detention, daytime detention, and detention only in the evening, at night, or on the weekend.

Alternative Sanctions and Primary Prevention

Evidence indicates that the replacement of a short prison sentence with an alternative sanction has not led to an increase in criminality. The experience of being arrested and the fear of stigmatization caused by the arrest are far more important factors in the decision of the criminal to commit another crime.

The introduction of alternative sanctions might have a negative effect on the police because they could consider a sanction too light a punishment for a certain crime, resulting in their reluctance to investigate. Stiffening of a sanction could increase their reluctance to make an arrest. Proper information about the nature of alternative sanctions could prevent negative side-effects.

Alternative Sanctions and Secondary Prevention

In general, alternative sanctions are equal to and sometimes more effective than short prison sentences. Certain side-effects, such as recidivism, stigmatization, and difficulties with resocialization, do not occur or occur to a lesser degree. Little is known about the relative effectiveness of the different alternative sanctions discussed above. More research should be conducted in this area to determine which alternative sanction is the most effective for each individual offender. More offenders

should be eligible for alternative sanctions, and some alternative sanctions do not have to be limited to first offenders or petty offenders.

Alternative Sanctions and the Conflict Between Offender and Victim

Confinement does not solve the conflict between the offender and his victim. The possible compensation for damages inflicted on the victim and the possible improvement in their relationship are hampered when the offender is deprived of a normal income because he is imprisoned. The most suitable alternative sanctions for resolving this conflict are compensation and restitution. If, in addition to these, other sanctions are imposed, they should give the offender sufficient opportunity and motivation to meet his obligations to the victim.

Consequences of Alternative Sanctions

In order for alternative sanctions to succeed, the social climate should make it possible for the judge to impose these sanctions as an alternative to short prison sentences. The judge and the public should be well informed about alternative sanctions and their preferability to short prison sentences.

The judge should have a reasonable choice of alternative sanctions, and the necessary infrastructure should exist for executing them. The judge could also be prohibited from imposing continuous prison sentences for certain offenses. Perhaps the availability of facilities for serving continuous prison sentences could be reduced.

Conclusion

Most alternative sanctions limit freedom to a lesser degree and help prevent institutionalization and stigmatization. Alternative sanctions are often less expensive than short prison terms. Public assistance to the offender is usually lower because the offender is either able to keep his job while serving his alternative sentence or has a better chance of getting a new one. Negative aspects of some alternative sanctions are that they can intrude too much into the life of the offender (e.g., supervision and control orders) or do not sufficiently protect the rights of the offender (e.g., pretrial diversion).

Alternative sanctions are not the only way to reduce short prison terms. "Decriminalization" and "depenalization" are other possibilities. People who exhibit some forms of undesirable conduct could be brought before an ethics committee rather than a

criminal judge. The criminal justice system could also choose to pay as little attention as possible to people committing certain criminal acts and therefore take little action against them.

In The Netherlands, alternative sanctions could be introduced only in an extremely limited number of cases (less than 2,000). Because the majority of these cases involved crimes against property, only those alternative sanctions such as semi-detention, day training centers, and community service orders could be tested. Some of these sanctions might be too expensive to implement in such a small number of cases, and there still may be some of the same side-effects as with short prison terms. A more frequent use of the fine and the introduction of victim compensation are attractive solutions to limit the use of short prison sentences. Replication of those alternative sanctions imposed in other countries does not seem very desirable. The judge might be given limited power to experiment with various alternative sanctions.

Wetenschappelijk Onderzoek- en Documentatie Centrum, Ministerie van Justitie, Plein 2b - 's-Gravenhage, The Netherlands. November 1976. 55 p.

Alternatives to Incarceration

Alternativer Til Frihedsstraf*

(NCJ 49476)

By Jørgen Langkilde

On October 13-14, 1977, the Ministry of Justice held a seminar at Klarskovgard, Denmark, on the official proposals for alternatives to incarceration. The participants were representatives of the court, the Ministry, the local attorneys' offices, and the fields of criminal welfare, criminal policymaking, and research in criminology and penal justice.

Before the focus of the meeting settled on the proposals, background material on the development of criminal policy in Denmark in the 1960's and 1970's was presented with emphasis on areas of conditional parole (initiated in 1965) and reduction in the use of prison sentences, resulting from the reform of the penal laws in 1973.

The working group was charged with investigating methods for reducing placement of individuals in criminal treatment institutions. Since the establishment of the commission, the number of prison sentences has actually fallen; the number of inmates in institutions is currently around 2,800. Several parties voiced concern that reduction in prison sentences should be in line with developing criminology, not reduction only for the sake of reduction. Many participants who agreed with this line of thinking still insisted that use of prison sentences should be limited.

Parole

The topic of conditional parole came up for discussion, and the working group's suggestion--that parole be granted after an

* Translated from the Danish by Denise Galarraga of Aspen Systems Corporation.

inmate has served half of the sentence--was postponed for later decision. This modification would produce very significant reductions in the number of those incarcerated. However, there was an overriding feeling that the adoption of the measure would lead to a "vote of no-confidence" among the general public, since the actual sentence served would differ significantly from the sentence imposed by the court. Conditional parole would be acceptable, however, for young, first-time offenders after they had served half of their sentence. Even on this point there was no consensus. Some participants felt that withholding obligatory parole from recidivists would result in their being penalized twice; their recidivism would affect both the initial sentence and the actual amount of time spent in an institution.

A proposal for reducing the minimum parole time to 4 months was also discussed, but there was general belief that the 4-month figure should not be considered absolute. Some participants suggested that broader utilization of combination sentencing could produce the same results through more satisfactory means.

A few of the participants proposed consideration of "criminal welfare--social welfare"; namely, that all stipulations other than those calling for penalty-free courses of action should be tolerated only in conjunction with the use of conditional parole and stipulated penalties. Treatment should be available, but should be administered on a voluntary basis. There is little likelihood that this recommendation would be adopted, but it was emphasized that treatment methods ought to be coupled with conditional parole measures in cases requiring special treatment.

Reduced Penalties

Many participants asserted that a system ought to be outlined for gradually reducing the use of incarceration by means of lowering the severity of penalties meted out by the courts. The problem might be approached by evaluating the individual offender and the crime. It was not clear from the discussions how this could come about, but possibilities mentioned included continuation of decriminalization efforts, and manifestation of a desire on the part of legislators that the level of criminalization be reduced--a manifestation which would be strong enough to influence the practice of the courts.

It was suggested that from a policy angle the second possibility implied certain difficulties with the court, not in the nature of principle since the idea is not to interfere with the business of the court, but of a practical nature. In practice, the Danish Parliament does not associate with the court system except in matters of proposed legislation or reference to the abolishment of antiquated measures.

The reforms that are being designed, in conjunction with conditional release and a softening of penalties, must be of a nature that will find support among the citizenry and among the lay elements of the court of justice.

The attitude that conditional parole would be preferable to a decrease in the number of prison sentences in the general public's view was expressed. The public would demand that a penalty of a certain magnitude be imposed in certain crimes to satisfy anger or resentment in reaction to the criminal act. Meanwhile, it was not thought that the public would be concerned with the determinate time affixed to the parole term. One participant stated that persons in the criminal justice policy field should, of course, be allowed to experiment with ideas, but should not manipulate the populace.

Weekend and Night Prisons

The proposals for alternatives to incarceration were met with strong approval in principle, but the conferees had little confidence in the practicality of the measures. Weekend prison and leisure-time prison were considered by some to be very suitable sanctions when used for drunken drivers, and some thought that the measures could be used in conjunction with less serious crimes. These alternatives could also be effective when used with conditional sentences for youthful offenders and with nolle prosequi. The use of weekend and night prison was considered eventually as a way to augment prison sentences rather than as an alternative in its own right.

Many factions objected to the use of weekend prison because it would not utilize the capacity of the institutions to the fullest, or on a regular basis. There would also be obvious complications for personnel. In general, the proposal did not receive support.

Opinions on night prison were more diverse. Many participants, particularly those who favored shorter prison terms, were interested in this proposal, but there was disagreement about who should receive sentences of night prison. Some felt that the court should use its discretion and provide for night prison in the sentence; others thought that administrative forces were better equipped to make this kind of decision. An obstacle to night prison is that the existing legislation on conditional parole was not sufficiently broad to provide for such a measure. The problem of employment during the day was also raised, and there was debate about whether the employment should be related to the prison sentence. In general, the attitude toward night prison was positive.

Community Service

The advantages of community service--prescribed duty for which the offender works without pay during leisure time to benefit the community--were discussed. Bringing offenders into contact with citizens is not without problems. The worker should have a minimum sentence of 40 hours and a maximum of 240 hours, distributed within a 12-month period, in order to qualify for community-service sentences. A condition for a community-service sentence would be the voluntary agreement of the offender; otherwise, the measure would be in contradiction to the European human rights code which forbids forced labor.

Torben Gjedde, the station chief for the office of civil defense, reviewed the placement of civil defense workers. He pointed out that the placement process in existence has been well received by the workers themselves. Many civil defense workers had been criminal offenders during the time of their civil defense work. In several instances, offenders have told civil defense workers after completing their sentences that their civil defense service was the only useful work experience they have had. The placements are mainly made in public or publicly supported social or cultural organizations. Some examples are youth clubs, youth pensions, institutions for the mentally ill, nursing and old folks' homes, museums, libraries, and organizations such as the Red Cross.

Many of the seminar participants agreed that new sanctions like community service should not be linked with existing alternatives to incarceration; i.e., fines, nolle prosequi, and conditional sentences. Opponents argued that community service would be effective as an independent condition when the court imposes a conditional sentence that is in reality meant as a caution. A repeat crime would result in an unconditional sentence.

The conferees concurred about the use of community service in place of short-term sentences, with a limited assortment of offenders. In a discussion of community service as a sentence for violent and narcotics-related crimes, the majority of the participants argued that community service should be an independent alternative used as a penalty for criminal behavior connected with alcoholism and lesser crimes. The primary objective of this type of sentence should be its use as a conversion form for prison penalties when the penal code reaches its final revision stage. However, the court should be able to use its discretion when weighing the advantage of penal sentences and community service penalties for individual cases.

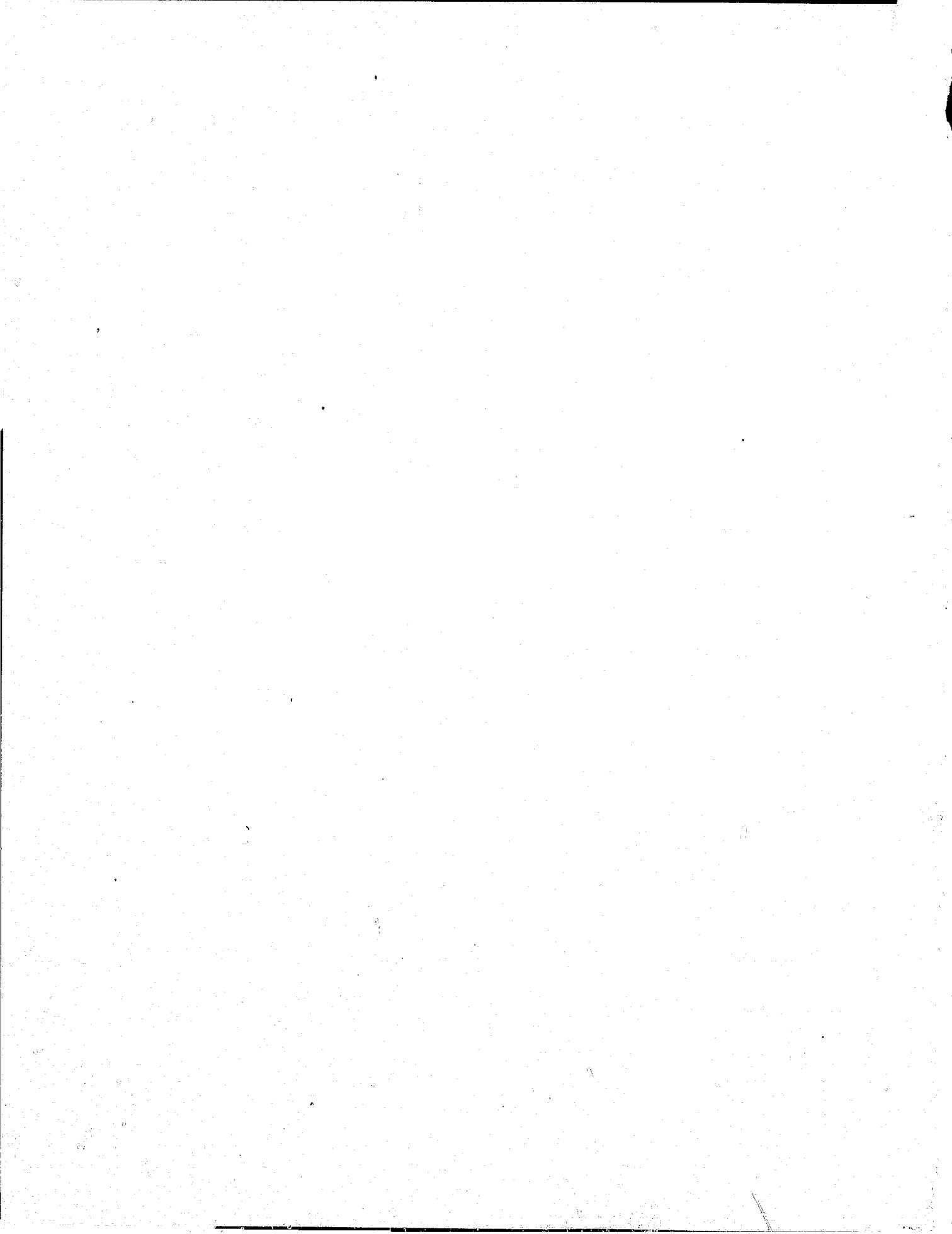
The court must base the number of hours of prescribed community service in accordance with set rules, and the sentence should be carried out as soon as placement is possible. A high

rate of accomplishment could be reached using an independent selection criterion with respect to community service.

Many factions expressed agreement with the community service proposal in theory, but were skeptical about practical implementation. The majority of the participants were insistent, however, that community service should remain as a provision. Community service might be implemented on a regional basis, combining a large urban area with a rural district.

The Fyn region--consisting of a large city and surrounding rural area--was suggested as an ideal region for implementation design. Silkeborg comprises a typical sample of the Danish population, and criminality there is presently being charted by a department within Aarhus University. Finally, it was pointed out that community circles, such as Hvidovre, could be combined with typical rural districts, like the Ringkøbing area, and used as units for establishing community service programs.

Danskpolti, n. 16:483-485, November 8, 1977. Danskpolti, N.J. Fjords Allé 8, 1957 Copenhagen V, Denmark.



Alternatives to Detention in the Legislation of the People's Republic of Poland

Misure alternative alla detenzione nella legislazione della
Repubblica popolare di Polonia* (NCJ 36284)

By Sergio de Sanctis and Francesco Sclafani

Introduction

On April 19, 1969, the Diet of the People's Republic of Poland adopted new penal legislation comprising a penal code (G.U. n. 13, 94/1969), a code of penal procedure (G.U. n. 13, 96/1969), and a correctional code (G.U. n. 13, 98/1969), all of which took effect on January 1, 1970.

The penal code expresses a new criminal policy founded on the principle of the "polarization or stratification of delinquency." In line with the present structure and dynamics of criminality, the code adopted more severe sanctions for specified categories of crimes and milder measures for less serious but more frequent offenses (for example, harsher penalties for recidivists and "hooligans"). The penal code also reinforces the principle of judicial discretion in individualizing and quantifying sentences and limits the applicability of detention. In addition, the mitigation of sentences in extraordinary circumstances is possible.

Although the penal measures provided in the code are similar in many respects to those of bourgeois penal legislations, they are part of an antithetical ideology. The sentence in Poland must serve the dual function of defending the achievements of the proletariat and socially rehabilitating those subjects whose behavior is in opposition to the rules of Socialist society.

It is important to note the conception of crime according

* Translated from the Italian by Deborah Sauvé of Aspen Systems Corporation.

to Socialist penal law: penal responsibility is measured by the social dangerousness of the act. In fact, if an act is considered irrelevant in terms of social danger, it is not punishable even though it may possess the characteristics of the abstract punishable act as described in the penal standard.

Under the Polish penal code, sentences are divided into principal and accessory categories. Principal sentences include: (1) imprisonment from a minimum of 3 months to a maximum of 15 years; (2) limitation of personal freedom, from a minimum of 3 months to a maximum of 2 years; and (3) fine for serious crimes, of not less than 500 zlotys and not more than 1 million zlotys payable to the State. Life imprisonment, considered incompatible with the correctional goal of rehabilitation, was abolished and replaced by imprisonment for 25 years. The death penalty is a type of principal sentence used only in exceptional cases and reserved exclusively for a few more serious crimes.

Offenses under the Polish penal code are divided into major crimes and minor crimes. Major crimes are punishable by imprisonment for not less than 3 years; minor crimes call for imprisonment or limitation of personal freedom for not less than 3 months, or a fine of not less than 5,000 zlotys. Major crimes are exclusively of a premeditated nature, while minor crimes may be premeditated or not.

Accessory sentences for both major and minor crimes may involve loss of public rights or paternal authority; prohibition from specified offices, professions, or activities; suspension of driver's license; confiscation of goods for committing crimes or resulting from the commission of crimes; and publication of the convicted individual's sentence. Accessory sentences are important in that they may be pronounced in lieu of principal sentences for less serious minor crimes.

Another form of disposition under Polish law is precautionary security measures; these not only presuppose the commission of a crime but also are essentially preventive, educative, and curative in nature. Subjects who are not in a responsible state at the time a crime is committed may be placed in a psychiatric hospital or other appropriate facility when the subject's continued freedom represents a "grave danger to the legal order." In terms of juvenile offenders, the age established in the penal code for prosecution as a minor is the end of the 17th year; the judge, however, has the discretion to set this limit at 18 years for less serious crimes or to advance it to 16 years for more serious ones. Minors may be subjected to various educative measures (such as warnings, parental supervision, third-party supervision, and assignment to an educational institution) or to rehabilitative measures (such as assignment to a rehabilitation institution with the possibility of semiliberty in an open regime).

The new Polish code of penal procedure is inspired by the principles of substantial truth, impartiality, and presumption of innocence; it is founded on independent judgment of the evidence. Innovations include more cross-examination at every stage of the trial, expansion of the rights of self-defense, and greater participation on the part of laypersons in the judicial process.

The correctional code consists of a general section and a special section. General aspects cover corrections and correctional bodies, rights of the inmate, control over penitentiary institutions, inmate aftercare, and rehabilitation. The special section deals with terms and conditions of carrying out prison sentences, parole, special supervision for released recidivists, semiliberty, pecuniary sentences, confiscation, special sentences for members of the Armed Forces, and therapeutic and security measures. Three types of judicial jurisdiction are provided in correctional matters: the court of first instance which pronounces the sentence, the "penitentiary" judge, and the penitentiary court. The court of first instance is responsible primarily for insuring that its sentences are carried out, including choosing the most appropriate type of establishment and correctional regime. Modifications may be made only by the penitentiary court, which has authority over all important questions relating to prison confinement. Working in conjunction with the attorney, the penitentiary judge, who corresponds roughly to the Western European supervisory or superintending judge, controls the legality of prison sentences, preventive detention, and the enforcement of security measures.

Thus, the new penal legislation fixes general lines of criminal and correctional policy and, in its form and practice, responds to new applications of modern scientific theory in the fight against crime.

Nondetentive Measures of Social Rehabilitation

Limitation of personal freedom. This sanction, introduced to limit the use of short-term prison sentences, is imposed for a minimum of 3 months and a maximum of 2 years. For its duration, the convicted individual is restricted in the following ways: (1) to obtain court approval before changing residence; (2) to account for personal behavior to the court; (3) to engage in a court-selected profession or trade; and (4) to refrain from holding office in social organizations. The court also has the power to make the convicted individual compensate totally or in part for damages caused by the criminal act and apologize publicly to the victim.

Regarding court-selected employment, the sentenced person can be made to work free for public purposes; to pay the treasury

or social fund 10 to 25 percent of the salary earned from a job held before conviction (the employee may not resign or take a raise in salary during this time); or to work for Government businesses, with the same restrictions on employment as for those holding the same job after conviction. The worker is under the strict control of the employers, who may recommend that the employee be released from completing sentence after at least half of the specified term has passed.

This measure is always applied as an alternative to prison sentences of up to 2 years or as an alternative to a fine; it is not subject to conditional suspension. The court may apply it any time a prison sentence of less than 6 months is foreseen. If the measure is revoked, a prison sentence or fine may be imposed.

Conditional suspension of the penal process. This measure is applicable to first-offenders guilty of crimes punishable by prison sentences of not more than 3 years. A probationary period of 1-2 years follows. Only delinquents whose personal characteristics inspire confidence about their future law-abiding behavior are eligible for conditional suspension. The sentencing judge does not deliver a finding of guilt or responsibility. The conditional suspension may be accompanied by an order to apologize publically, perform community service work, make reparation for damages, or compensate the victim of a property crime. The privilege may be revoked if the offender does not live up to the terms, and a period of 3 months must elapse after the probationary period for the penal process to be completely eliminated. This measure is comparable to the institution of judicial pardon as established in the Italian penal code.

Supervision of the convict with a suspended sentence or parole. Supervision is entrusted to a supervised liberty delegate nominated and controlled by the presiding judges. Social organizations, trade unions, youth socialist organizations, and directors of work collectives may also be responsible for supervision.

Supervision of recidivists. This measure, obligatory for multi-recidivists, is applied after the sentence has been served and lasts from 1 to 5 years. During this probationary period, the recidivist is subject to both mandatory and optional behavioral prescriptions.

Mandatory prescriptions include: (1) prohibition from changing residence without the authorization of the court; (2) obligation to be present at any convocation of the court; and (3) obligation to conform to the dictates of the court. The penitentiary court supervises, both directly and through a delegate, the convict's adherence to these obligations.

Optional prescriptions are designed to have a positive effect on the recidivist's return to society. They include the following obligations: (1) to provide for the support of specified persons; (2) to perform community service work; (3) to obtain paid employment or to acquire professional training; (4) to refrain from abusing alcohol; (5) to undergo therapeutic treatment; (6) to refrain from frequenting specified locales or milieus; and (7) to reside in the location specified by the court.

This measure can be assigned during the last month of a recidivist's sentence or may be revoked at this time if the offender has made satisfactory progress during imprisonment. If supervision fails to prevent recidivism, the penitentiary court may place the recidivist in a social rehabilitation center for not more than 5 years. Internment in such a center, which is a new institution in the Polish penal system, can be considered neither a sentence nor a traditional security measure; rather it is a means of protection and social reintegration. Those interned enjoy semiliberty: the only limitations are those imposed by the center and the only obligation is to work either in the center itself or in another local establishment. Wages earned are applied toward paying living expenses at the center. Serious infractions against center rules may be punished by more severe restrictions.

"La garanzia". This measure consists of a "guarantee" by trustworthy private individuals from the collective or from the organization to which the subject belongs. It is a moral pledge intended to help the subject survive in a nonparasitic, legal manner and to stimulate the process of readapting to life in a socialist society. Periodic checks by the court are included, and the court must be notified of any changes in the subject's personal situation during the probationary period.

Inmate aftercare. Such assistance represents the natural final phase of treatment designed to reintegrate the inmate into society; it consists of finding the inmate stable work, procuring lodging, and lending any other necessary material aid. Different Government bodies, social organizations, and private individuals are in charge of providing aftercare as well as victim assistance.

All of the aforementioned measures are characteristic of a probationary period during which the subject must meet all the conditions required by the court. The court may modify the resocialization program during its course, substituting obligations and restrictions in response to the needs of the various stages of rehabilitation and also to provide individualized treatment.

Conclusion

Although the measures adopted by the Polish penal system represent only one step in the development of sociojuridical progress, they are in keeping with criminal policy trends and the political ideology of a Socialist government. They constitute an articulated series of direct interventions to stimulate the effective social reintegration of the convict and to prevent all the negative psychological influences of the prison environment, especially in cases of less serious crimes. The measures are a real contribution to the resolution of the delinquency problem in Poland, where a process of sociopolitical transformation has recently been taking place, as part of the heritage of the past bourgeois regime.

References and abstracts in Italian, French, English, Spanish, and German are provided.

Quaderni di Criminologia Clinica, v. 18, n. 1:31-69, January-March 1976. Ministero di Grazia e Giustizia, Centro Studi Penitenziari, Via del Gonfalone, 29, Rome, Italy.

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