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**CRIME FILE**

**Prison Crowding**

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Your discussion will be assisted by understanding some of the factors contributing to the recent growth in prison populations and some of the approaches being considered for alleviating the crowding problems.
How Crowded Are Prisons?

Overcrowded prisons may be the most pressing problem facing corrections officials today. The number of prisoners in the United States has increased continuously since the early 1970's, and the rate of incarceration (the number of prisoners per capita) has doubled since 1970. By 1984, there were more than 460,000 people in State or Federal prisons, about 6 percent more than they were designed to accommodate. This represents one prisoner for every 500 people in the United States. Another 220,000 people were in local jails. Most of these were being held awaiting trial; another larger group were serving short sentences, generally under 1 year, for less serious crimes.

What Is Wrong With Crowded Prisons?

It is a widely accepted principle of prison management that a prison cell should not be used for more than one prisoner. A majority of prisoners either are serving time for a current violent crime or have a history of violent offenses. If a prison with 1,000 cells must accommodate 1,200 prisoners, then 400 of its prisoners will be housed two to a cell.

Prison managers generally agree that when the prison population exceeds capacity their ability to manage the unruly population is seriously degraded. As the numbers of prisoners increase, the space normally used for recreation or education is diverted to dormitory use. Incidents of violence between prisoners increase, and control of the institution gradually slips to the most aggressive groups of prisoners. New policies and the limitation of recreational activities further lead to tension, boredom, and conflict among the prisoners and the guards. Eventually, there is a degradation of morale among the staff, the staff turnover, and a vicious circle of diminished control.

Overcrowding is also of obvious concern to the large majorities of voters who might be asked to decide whether or not to build additional prison capacity. A majority of prisoners either are serving time for a current violent crime or have a history of violent offenses. If a prison with 1,000 cells must accommodate 1,200 prisoners, then 400 of its prisoners will be housed two to a cell. Prison managers generally agree that when the prison population exceeds capacity their ability to manage the unruly population is seriously degraded. As the numbers of prisoners increase, the space normally used for recreation or education is diverted to dormitory use. Incidents of violence between prisoners increase, and control of the institution gradually slips to the most aggressive groups of prisoners. New policies and the limitation of recreational activities further lead to tension, boredom, and conflict among the prisoners and the guards. Eventually, there is a degradation of morale among the staff, the staff turnover, and a vicious circle of diminished control.

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The Purposes of Prison

While there is general agreement on the purposes of prisons as a punishment for crime, there are strong disagreements on how best to achieve them. At one extreme are those who view prisons as a last resort, to be used only for the most violent or incorrigible offenders, and at the other extreme are those who insist that any person convicted of a felony deserves harsh punishment, and that prison is appropriate in most cases.

Both groups thus recognize that prisons serve two purposes. One is punishment of the offender as an end in itself regardless of any effect that it might have in reducing future criminality. The other is the effect of criminal imprisonment on the public.

Prisons work in three distinct ways to control crime. First, they serve a symbolic purpose in that they communicate to the public that they do not commit crimes because they, too, could be punished. This is known as general deterrence, the influence on everybody else of imprisoning a single offender.

The other two ways relate to the effect on imprisoned offenders themselves. First of the these relates to the rehabilitation of offenders or the reduction in their crime-committing propensities. Second is the incapacitation approach from rehabilitation approaches such as counselling or enhancement of job skills. If it fails, the prison experience is sufficiently unpleasant that offenders will avoid repeating it. Critics point out that, at least for some people, the prison experience may lead to more or worse crimes; they view prison as a "graduate school for crime." Undoubtedly, both rehabilitation and deterrence occur; some people come out better and some people come out worse.

The third ways prisons affect crime is through incapacitation. Removal of offenders from the community prevents them from committing crimes there. Some convicts are actually transferred to prison. And some crimes—"drug sales"—may persist in the community but be committed by people other than those imprisoned.

The major disagreement relates to how far down the list imprisonment should be imposed, and for how long. This is clearly the approach favored by Mark Corrigan, who believes that the punishment imposed should be a reflection of the crime committed.

Deterrence, Rehabilitation, Incapacitation

During the rehabilitation era, parole authorities were empowered to impose sentences of a person convicted of a particular prisoner was "rehabilitated" and ready for release. This role was also well suited for parole boards to play in the influx of prisoners.

Any release of any prisoner involves some degree of risk, and so may at any time be perceived—especially in view of the considerable difficulty of estimating future criminality. Thus, when prisoners became too crowded, the parole board could become somewhat more liberal in deciding whether an inmate was a good candidate for release.

In this era, parole provided an important "safety valve" to adjust prison populations to available capacities.

The mid-1970's saw a major reaction to this "indeterminate" sentencing system. Since rehabilitation services were not strong, parole authorities gave up the position that judgments about a prisoner's state of rehabilitation should no longer influence the length of his sentence. Instead, parole adopted a general shift toward more "determinate" sentences, established by the judge at the time of sentencing, with parole and parole board action only established by a legislative or a sentencing commission. The parole board, which previously actually served sentences, became more explicit and more public, and parole grew to increase sentences in response to the public's concern raised over rising crime rates in the 1970's.

The changing age composition of the U.S. population has exacerbated the crowding problem. The number of people in their mid-20's, the ages at which people are most likely to be sent to prison, has grown steadily over the last 20 years. This increase reflects the population growth associated with the postwar baby boom, which started in 1947 and peaked in 1961. Thus, even if there had been no change in the fraction of each age group represented in prison, the larger number of people in the most prison prone ages would still have crowded the prisons. This situation, together with the increasing severity of sentences, created the current dramatic increase in prison population.

Alternative Approaches to Relieving Prison Crowding

A major theme of the Crime File program concern the variety of programs that have been developed with over-crowding. Basically, there are only three: providing more capacity, determining the sentences of prisoners by parole authorities ("front-door" approach), or shortening the time sentences are served by those who do go there (the "back-door approach").

Additional prison capacity would permit keeping the same number of prisoners (or more), but under more acceptable conditions. Providing the additional capacity costs money, however, and the cost of simply adding 15,000 beds—$50,000 and $75,000 per bed. Additional money is needed each year—about $10,000 to $15,000 per prisoner—to maintain, guard, and manage them. These high costs were undoubtedly influential in the rejection several years ago by the voters of a bond issue to provide additional prison space.

Moreover, additional capacity does not become available instantly. Traditional prison construction projects are involved in the construction of new facility by a State government: deciding to provide the additional capacity, acquiring a site (especially gaining acceptance by neighboring residents), designing and appropriating funds—by the legislature, architectural design, and finally construction. Additionally, the commitment to provide additional capacity to solve today's crowding problem will not provide the capacity until several years into the future, when the crowding problem may have diminished. By 1990, for example, the earliest date by which new prisons might become available, the number of people in the prison-prone ages will have decreased significantly, and so at least the demographic factor in the overcrowding problem will have begun to diminish.

Many who argue against providing additional capacity are concerned that the imprisoned population will simply expand to fill the available capacity—a variant of "Parkinson's Law." One study was shown to draw by statistical evidence that this would happen; further studies, however, pointed out errors in those initial calculations. Essentially, of course, that there could be such an effect even though the initial study failed to demonstrate it. This is a worry that is known to inhibit their sentencing when they know prison space may not be available. If prison populations were below the available capacity, there was no pressure on judges to send more people to prison in order to fill that available capacity. Thus, the issue is far from simple.

The "front-door" approach involves finding alternatives to prison for those whom a judge might want to send there. This is clearly the approach favored by Mark Corrigan, who believes that the punishment imposed should be a reflection of the crime committed.

"Front-door" solutions are not intended for the most serious offenders, for those who commit heinous crimes, or for those who represent a serious continuing risk in the community. They are, however, possibilities for "marginal" offenders who might otherwise be candidates for probation but who are already beyond probation; these offenders warrant something more severe than probation. The primary appeal of alternatives to the judge, the victim, and the community can be satisfied that the level of punishment is appropriate and that the alternative might help the offender in some way. The "front-door" alternatives most often considered are some combination of intensive probation, work release, work or residence in a group home under tight surveillance but with the right to go to work. The "back-door" approach involving shortening the time served by imprisoned offenders. Indeed, this is the form traditionally used by parole authorities ("emergency parole"). Parole boards hold the key to the "back-door" by their authority to modify sentences of prisoners who have served an appropriate minimum sentence but less than their maximum term. Some States have adopted "release laws" under which some prisoners' eligibility for release is advanced, and some offenders released, once the prison population reaches a designated level.

The problem of prison crowding is one of the most vexing ones facing the criminal justice system today. There is widespread agreement among those who are concerned that serious crimes must receive punishment and that people who do so as recidivists must be punished more severely. There is also agreement that the objectives of prison for punishment and crime control (through general deterrence, rehabilitation, and incapacitation) are appropriate, but there is some disagreement on how effectively these goals are achieved. There may also be general agreement in ranking convicted offenders
in terms of those most and least deserving of prison. There is still significant division, however, over how deeply into that list imprisonment ought to be applied, and for how long. As a richer array of intermediate sanctions is developed to fill the gap between the slap-on-the-wrist referral to an overworked probation officer, at the low end, and a sentence to a State prison at the high end, and as the cost of imprisonment becomes an important part of the choice, there may emerge greater agreement on how deeply and how broadly the imprisonment sanction should be applied.

References

Case References

Discussion Questions
1. Which of the three approaches to relieving prison crowding—building more prisons, diverting offenders from prison, and shortening sentences—do you prefer? Why?
2. How do you think your neighbors feel?
3. Do you think prisons are very effective in reducing crime? How many people do you think they are effective for?
4. What can be done to require those who want stricter punishment to also take account of the costs involved?
5. Should judges’ sentencing decisions be different when prisons are crowded? That is, should a judge who would impose a prison sentence in a given case if the prisons were not crowded, impose a shorter or different sentence if the prisons are crowded?

This study guide and the videotape, Prison Crowding, is one of 22 in the CRIME FILE series. For information on how to obtain programs on other criminal justice issues in the series, contact CRIME FILE, National Institute of Justice/NCRJS, Box 6000, Rockville, MD 20850 or call 800-851-3420 (301-251-5500 from Metropolitan Washington, D.C., and Maryland).