

Federal Probation

Probation Officers' Role Perceptions and Attitudes
Toward Firearms *Richard D. Sluder*
Robert A. Shearer
Dennis W. Potts

Family Violence: Challenging Cases for
Probation Officers *Meredith Hofford*

Role Negotiation: Sorting Out the Nuts
and Bolts of Day-to-Day Staff
Supervision *Jud Watkins*
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Polysubstance Abuse: The Interaction of
Alcohol and Other Drugs *Daniel J. Capodanno*
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Now: The Fruits of Late 20th Century
Form *Alexis M. Durham III*

Retribution vs. Rehabilitation: A Proposal
for Changing Sentencing Practices *H.R. De Luca*
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The Design and Implementation of
Court-Assisted Sentencing *Eric Simon*
Gerry Gaes
William Rhodes

Prisoners and Their Families *George C. Kiser*

Single-Cell Occupancy in America's
Prisons *Steven T. Adwell*

SEPTEMBER 1991

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This Issue in Brief

Probation Officers' Role Perceptions and Attitudes Toward Firearms.—The issue of whether probation officers should carry firearms has tremendous implications for the future of probation. Despite the importance of the issue, however, there has been little empirical investigation to determine whether probation officers' opinions about firearms are related to their role perceptions, individual characteristics, or other work-related factors. Using data collected from a population of probation officers attending a state-wide probation training academy, authors Richard D. Sluder, Robert A. Shearer, and Dennis W. Potts explore relationships between those variables and officers' opinions as to whether they should be permitted or required to carry firearms in the performance of their duties. The authors discuss findings from the study, as well as implications for the delivery of probation services.

Family Violence: Challenging Cases for Probation Officers.—Author Meredith Hofford presents data on the frequency and seriousness of domestic violence and offers suggestions and guidance as to how the courts and probation officials can improve their supervision of the perpetrators of domestic violence. The article presents the proposition that domestic violence is much more widespread—and its consequences much more serious—than has been generally accepted. The author points out that with adequate and effective probationary supervision, the recurrence of domestic violence, the frequency of violent crime stemming from domestic violence, and the intergenerational effects of spousal abuse on children can all be significantly decreased.

Role Negotiation: Sorting Out the Nuts and Bolts of Day-to-Day Staff Supervision.—As organizations become larger and more complex, the need for cooperation and coordination between managers and staff increases significantly. Authors Jud Watkins and Robert A. Luke, Jr., describe a structured way for people who work together to sort out their day-to-day needs and arrive at an interpersonal contract, or agreement, that promotes the mutual efficiency and job satisfaction of both negotiators. The authors detail

the procedure of role negotiation, cite examples of its application in the probation and pretrial services setting, and suggest alternative uses such as group nego-

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Punishment vs. Rehabilitation: A Proposal for Revising Sentencing Practices

BY H.R. DE LUCA, PH.D., THOMAS J. MILLER, PH.D.,
AND CARL F. WIEDEMANN, PH.D.*

CHILDREN WALKING to school in bullet-proof clothing. Random gunshots killing babies in their homes. Even without the statistics that we use to track crime rates and the numbers of criminals, it is evident that our criminal justice system has failed the society it was designed to protect. Our response to increasing levels of crime has been to pour more resources into the fight. But does the system's continuing failure justify the allocation of even more resources? Is the problem to be stemmed by more police, more cells and 24-hour courtrooms? Will longer prison terms help to deter a criminal from committing more crimes when released? If so, how then do we cope with increased numbers of convicted criminals? How many more tax dollars will be diverted from other programs in order to incarcerate these offenders? If the present system is ineffective, does the resolution lie in more arrests, more convictions, and longer prison terms, or should the system itself be redesigned? And then, of course, the question is "how?"

It is not going to be possible to continue as we are. Soon costs will force the redesign of criminal justice systems that are overburdening most state treasuries. But will the result be based on sound principles of criminology or will political and fiscal expediency be primary design factors?

The American public expects the penal system to deliver a punished and rehabilitated ex-offender to the streets. However, it is virtually impossible to create an environment in which punishment is inflicted on the inmates while, at the same time, the social values and goals advanced by that institution are accepted and internalized by them. These two missions work against each other and, in effect, result in more dollars being spent on a correctional system which has a decreasing success rate. The search for answers begins with an analysis of our present system and the objectives we, as a society, have established for that system. This analysis will review reasons why incarceration can neither be the best response to all of these ques-

tions nor fulfill all of the goals of the criminal justice system. It will include a look at why longer prison terms will not deter offenders from committing future crimes and why our prison systems have proven ineffective in rehabilitating criminals. Based, then, on the limitations of the prison system to rehabilitate the criminal, the discussion to follow will focus on the design of a proposed correctional system which will separate the two primary responsibilities of our criminal justice system—punishment and rehabilitation.

Some existing correctional systems, that in Texas for example, use punishment as the primary operand while others, such as those in Massachusetts and Connecticut, stress rehabilitation. The Federal Bureau of Prisons uses both punishment and rehabilitation simultaneously within the penal facility to deal with criminals while, in Michigan, both punishment and rehabilitation are used simultaneously outside of the prison facility. However, there are no systems currently structured where the focus of incarceration is a short period of punishment followed by a lengthy period of community-based rehabilitation and strict supervision. This proposed treatment of criminals combines the theories of two established schools of criminological thought—the Classical School (which uses punishment to create deterrence) and the Positivist School (which uses rehabilitation to reduce recidivism). Utilizing the principles of these divergent theories in a logical progression, this proposed correctional system will provide a means of fulfilling the objectives of the criminal justice system.

Objectives of the Criminal Justice System

The four generally acknowledged objectives to be met by a criminal justice system are:

Deterrence, such that both the convicted individual and those who observed the convict's treatment are deterred from engaging in criminal acts (Duffee, 1989; Keve, 1981).

Punishment, inflicting either pain or loss on the criminal as retribution for the crime committed (Champion, 1990).

Incapacitation, removing or limiting the ability of the convict to engage in crimes (Blumstein, 1983).

Rehabilitation, creating a change in the criminal's attitude or resources so that crime is neither a

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desired nor necessary activity. A requirement of this last objective is that both an alternative means of making a living and of satisfying internal needs must be provided (Duffee, 1989; Champion, 1990).

These four goals have been developed into a variety of theoretical frameworks for studying a society's response to crime and its handling of criminals. The current American debate on issues of crime and crime control focuses on two of these theories which are known as the Classical and Positivist Schools (Reid, 1988). The criminal justice system that has evolved is a mixture of the concepts from these two schools, and, because of their disparate characteristics, several areas of contradiction have developed within the system. For example, sentencing laws exist which specify minimum prison sentences for certain criminal acts (a Classical School concept), and, at the same time, these laws specify an indeterminate range of years as the upper limit of the sentence (a Positivist School concept) (Reid, 1988).

The coexistence of these two concepts in our criminal justice system has led to an expectation that prisons, through incarceration, will punish criminals and thus deter them from further criminal acts, while, at the same time, they will educate and offer therapeutic programs in order to socialize the offenders. Most individuals will concede that many convicted criminals require some form of education and therapy if they are to overcome the factors which contributed to their decision to engage in criminal behavior. It is a general belief that a lack of basic academic skills or trade can so limit a person's ability to function in today's society that crime becomes an attractive alternative to hopeless poverty. Compounding the problem, people addicted to illegal drugs are so shackled by their addiction that they are unable to pull their own weight in society until relieved of their addiction (Martin, Mutchnick, & Austin, 1990). Our society is also faced with a growing segment who, traumatized by child abuse and neglect, have developed a warped sense of social relationships and responsibilities and often exhibit antisocial behavior (Johnson, 1990). These individuals require some form of therapy to adjust to and to understand the generally accepted goals and values of our society.

Both punishment and rehabilitation are needed if the problem of crime is to be effectively addressed. However, it is not necessary that the prison provide both of these functions simultaneously. A more logical approach involves a two-stage sentence. The prison would provide incapacitation and punishment of criminals. After the punitive portion of the sentence, the offender would serve a postprison sentence of intense supervision which would provide the offender with therapeutic and remedial programs. This separa-

tion of the punitive and rehabilitative obligations would allow each segment of a sentence to be more effective, would make shorter punitive sentences more palatable to the public, and, simultaneously, would maximize the use of available cell space and resources.

Separating Punishment From Rehabilitation

Revising the present system of sentencing to reflect two stages of correctional supervision—one punitive and one rehabilitative—involves redefining the prison and parole systems. Prisons should be places where confinement is not “easy time.” Parole should be a period of intense supervision as well as rehabilitative programming, i.e., educational and vocational training, counseling, and therapeutic treatment. The more defined approach for each phase of the sentence increases the effectiveness of each and also increases the likelihood of successful postprison rehabilitative efforts. By separating punishment from rehabilitation, the effectiveness of rehabilitation is enhanced since punishment is contradictory to rehabilitative activities. In addition, a two-stage sentence system would include a more uniform sentencing structure and would reduce the issue of chance which is inherent in the present parole-granting process.

With the expected functions of a prison limited to punishment and incapacitation, sentences for incarcerating felons can then be addressed within terms of deterrence values. The amount of prison time required to punish a criminal and to deter that individual from repeating the act that resulted in confinement will be less than that currently being used to attempt to punish and simultaneously rehabilitate criminals (Allen & Simonsen, 1989). This theory has been applied with the advent of shock incarceration programs which utilize shorter sentences. However, shock incarceration is not followed by a period of intense supervision.

These programs, which stress physical training and which are commonly known as “boot camp” prisons, have been recently utilized in New York, Mississippi, Oklahoma, and Georgia. The cost of shock incarceration in New York State has been estimated to be \$10,000 less per year per prisoner than the cost of traditional incarceration (Champion, 1990). According to Pagel (1986), recidivism rates for individuals in shock incarceration programs tend to be lower than the rates for those released from other types of incarceration. However, one should not be overly optimistic about the effectiveness of “boot camp” prisons since “. . . a study of Oklahoma's program in which return rates of shock incarceration (SI) graduates were compared with similar nonviolent offenders sentenced to their DCO [revealed] after 29 months almost one-half of the SI graduates, but only 28% of the other group, had

returned to prison" (Sechrest, 1989, p.16). The success of these SI programs, therefore, has been mixed, which may be due, in part, to the lack of post-incarceration rehabilitation programs under intense supervision.

The second portion of the sentence would involve mandatory parole time which would be calculated as a multiple of time incarcerated. Such parole supervision would require close monitoring of parolees during which period participation in rehabilitative, therapeutic, and remedial programs would be a condition of continued liberty.

Elements of the Proposed Criminal Justice System

Under this proposed dual sentence process, the objectives of a criminal justice system—to deter criminal behavior, to punish offenders, to incapacitate criminals for the protection of society, and to attempt to rehabilitate the criminal—would be fulfilled more efficiently.

Incapacitation and punishment would be provided both through time incarcerated in an austere institution and length of time spent under intense parole supervision. Deterrence would be provided by heightened effectiveness of the punishment and supervision aspects of the system. Rehabilitation programs, which would occur in the parole phase of the sentence, would be conducted in the parolee's community. This approach would provide an opportunity for the parolee to be self-supporting rather than be maintained as a ward of the state and would help to maintain rather than disrupt family relationships (Champion, 1990; McCarthy & McCarthy, 1984). Due to an emphasis on close supervision during the initial parole period, there is less chance that the parolee will return to criminal behavior than there is when, under the present system, an offender is released upon completion of sentence and returns to the street with minimal supervision or rehabilitative effort (Champion, 1990a).

The proposed system involves changing our approach to incarceration and intensifying parole supervision. State penal codes may require revision in order that time specified as incarceration can be specified as "time at labor," or it may be necessary to revise only the administrative guidelines governing inmate labor. Under existing laws in New York State, for example, convicted felons may be required to work while incarcerated (McKinney's Consolidated Laws of New York Annotated, 1987); however, under current practices, all inmate labor is performed based on a reward system. The proposed system would require that, as part of the sentence, inmates must do those tasks necessary to maintain or support the operation of the prison in which they are housed. This would not constitute hard

labor and would be no more labor than taxpayers supporting these institutions perform for themselves.

In addition, a structure of mandatory sentences and fines would be established for all crimes currently classified as misdemeanors or felonies. As an example, a minimum of days of incarceration "at labor" could be mandated for all persons convicted of a specific level of single-incident misdemeanor. Under the present system, these crimes might only result in the individual serving a probationary sentence. However, with mandatory prison sentencing, all convicted misdemeanants serve some period of time in confinement. This, in effect, is a form of shock probation which gives the violator a brief taste of incarceration and then places that individual on probation for the remainder of the sentence (Parisi, 1980). This type of treatment would release the offender before that individual has adapted to the prison environment and at a point where the prison experience retains its deterrent value.

There would be some crimes excluded from participating under this two-phase sentencing system, such as (but not limited to) multiple murder or rape and crime committed by mob-linked criminals. Aside from this type of crime classification, however, a first-time capital crime conviction would result in a sentence of no more than 5 years of incarceration with a potential addition of 1¼ year (15 months) of "bad time" in the event of misbehavior while incarcerated.

The sentence would stipulate the length and supervisory level of the parole and would include designation of the rehabilitative programs to be attended. For example, in addition to 5 years of confinement at labor, a sentence would also include 15 years of intense parole supervision and rehabilitation followed by another 15-year period of routine monitoring by parole authorities. The program of intense supervision would ideally entail an average 25-client caseload per parole officer requiring daily contact with each parolee. This contact could take the form of electronic monitoring or telephone conversations and include a minimum of weekly face-to-face interviews.

An extensive network of supportive and rehabilitative programs would be an essential part of the parole phase of the sentence in addition to the supervisory functions. The proposed system would include expansion of existing prerelease centers as well as the development of halfway houses and residential treatment programs to address the issues of addiction or work release housing requirements. Two studies by LeClair in 1978 and one study by Mershon (1978) indicated inmates who had participated in prerelease programs and furloughs had lower recidivism rates than those who were released directly from prison (Carter, Glaser, & Wilkins, 1985). In addition, ". . . the Orsagh-

Marsden study found support for matching types of offenders with specific kinds of educational/vocational programs and work release as a means of reducing recidivism." (Champion, 1990a, p.188.) The ex-offender would be required to participate in therapeutic counseling and/or remedial, vocational, or continuing education programs.

All sentences, therefore, would consist of four parts:

1. Time incarcerated (first-time sentences would consist of no more than 5 years), plus
2. Twenty-five percent of the incarceration time, or "bad time," as a control on prison misbehavior, plus
3. Intense parole supervision and program participation for a period of three times the incarceration period, plus
4. Regular parole monitoring for a period of time equal to the intense supervision parole period.

The provision for dealing with parolees who do not properly participate in the parole/programming process would be reincarceration for a period up to the remaining parole periods of the original sentence.

Time as a Punishment Tool

Before proceeding with this concept, it is important to understand the origin of the use of time to punish criminals and the limitations of time in its use for sentencing criminals.

Historically, the American criminal justice system has used punishment in response to criminal behavior (Keve, 1981; Clear & Cole, 1986). Pre-Revolutionary forms of punishment varied and included banishment, public ridicule, public torture, beating, branding, and fines (Keve, 1981; Clear & Cole, 1986). The writings of Bentham and Beccaria led to a change in the American criminal justice system which began to rely on loss of property or liberty as the main means of punishing a criminal. Over time, numbers of days were substituted for numbers of lashes as a calculation of punishment (Reid, 1988).

In our present system, time and money (fines) have become the primary means by which punishment is calculated. State legislatures create sentence ranges to be used by judges when imposing penalties. These penalties are usually stated in terms of either fines and/or length of time to be spent incarcerated or under supervision. Criminals are sentenced to time under supervision both as punishment for their crimes and as a means of control or incapacitation (Clear & Cole, 1986). The length of the period of incarceration or supervision is also used to exemplify the kind of treatment that will be given to criminals (providing a deterrent) and to provide a period of time during which agents of society can work to rehabilitate offenders.

Compared to European criminal justice systems, the American system has a greater incarceration rate and uses longer sentences in an effort to deter criminal behavior and to punish criminals (Carter, Glaser, & Wilkins, 1985). The more serious a crime is deemed to be, the longer the sentence will be at the time of conviction. When the public perceives that the crime rate is increasing, the political response is to get tough on crime and to increase the length of sentences imposed. Society equates the seriousness of the crime with the amount of time imposed. For example, crimes against persons are punished more severely than property crimes (Abadinsky, 1987; Keve, 1981).

Sentences are expected to provide punishment, to incapacitate the criminal, and to provide an opportunity to rehabilitate the offender. Our society demands that the thieves be locked away in order to prevent them from committing more crimes; we want the criminals punished through incarceration; we want them locked away until they have been rehabilitated; we want to send a message to other would-be felons that this will happen to them as well if they follow the same path. All of these demands are answered in lengths of time, be it 3 days, 3 years, or three lifetimes.

How long do we want the criminal incapacitated? How long will it take to rehabilitate the offender? How long must a sentence be in order to deter other individuals from committing crimes? How much time is needed to punish the criminal? At this point, we must examine three issues relating to the effectiveness of time as a punishment tool as it is currently used in our criminal justice system.

Diminishing Punishment Value of Time

First, the sentences given to almost all convicted criminals are not the sentences served. In states which have parole systems, sentences are essentially divided into thirds (Robin, 1987; Champion, 1990a) The first third of a sentence is usually served. The second third may or may not be served depending on whether or not the inmate is paroled. The third part of a sentence is rarely served and is commonly known as "good time" which is time deducted from the sentence for good behavior during the period of incarceration (not violating prison rules) (Robin, 1987; Clear & Cole, 1986; Keve, 1981). In states such as Maine, which do not have parole, the good-time portion of a sentence can be one-fifth rather than one-third of the original sentence (Champion, 1990a). In parole states, inmates sentenced to prison terms of 8-1/3 to 25 years actually serve the minimum sentence (8-1/3 years) and are then eligible for parole (Clear & Cole, 1986; Champion, 1990a). This creates a situation in which criminals, who are sentenced to state prison terms and who have not lost good time as a result of misbehavior, rarely

serve their full sentences, and a significant number do not serve even half of the time to which they were originally sentenced. Where indeterminate life sentences are given, the average murderer will usually serve only 6 years (Jamieson & Flanagan, 1988). Thus, to speak of shorter sentences is, in reality, to be more honest about how sentences are actually served.

The second aspect of the time element to be considered is that the passing of time is a function more of the environment and activity than an inexorable movement of the hands of a clock. How many times has it been noted that a "2-week vacation went by so fast it seemed more like 2 days," or "I spent what felt like a week in the dentist's chair this afternoon." One's perception of how long an activity goes on depends more on the pleasure or pain experienced than in the actual length of time.

The third perspective to be considered involves the adaptation an individual makes to imprisonment. The regimentation and loss of autonomy associated with incarceration has a depersonalizing effect on the inmate (Goffman, 1961; McKorkle & Korn, 1954; Sommer & Osmond, 1961). The inmate adjusts to this depersonalization by either becoming prisonized or institutionalized. Prisonization is a process by which an inmate immerses himself in the inmate subculture in order to establish an identity, maintain autonomy, and regain self-esteem (Goodstein, 1977). A prisonized inmate adheres to the inmate code and opposes the rules of the prison administration (Clemmer, 1958). An institutionalized inmate is one who accepts the regimentation imposed by the prison administration and attempts to make himself as comfortable as possible within the prison environment (Shiloh, 1968). In either instance, prisonization or institutionalization, prison society becomes the everyday reality, and post-incarceration life becomes more distant and unreal.

Inmates serving long-term sentences become unable to envision their future lives, and efforts to prepare for life outside are not made in earnest. Prison becomes home. When this process has occurred, the punishment that is to come from the loss of one's freedom is reduced; freedom is only a part of a future fantasy world. The main aspect of the punishment and pain to be inflicted on the offender through a longer sentence is reduced or totally lost. The deterrent effect of prison is similarly reduced or negated, and, in some instances, the inmate actually wants to be in jail more than he wants his freedom (Goodstein, 1977; Manocchio & Dunn, 1970).

The potential for experiencing pain or punishment as the result of being incarcerated comes from the following conditions:

1. Loss of freedom — being controlled, regimented, and limited in one's activities.

2. Loss of income and material goods.

3. Loss of social and sexual contacts. (Sykes, 1974; Reid, 1988)

However, as previously noted, the processes of institutionalization and prisonization tend to reduce or eliminate the punishing factors and pain of lengthy prison sentences. The impact of incarceration is further reduced when prisons provide such amenities as swimming pools, movies, color television, organized recreation, and family picnics and festivals. This is especially true in prisons that have been designed to both punish and rehabilitate an offender.

Punitive but Humane Prisons

Few Americans would deny a prison inmate humane treatment or accept a penal system that was cruel and required those incarcerated to live below the reasonable minimal standards of a civilized society. On the other hand, sentencing a criminal to 3 years in an institution as punishment for selling crack to school children will not be punitive and will not deter future criminal activity when that institution provides the types of programs and amenities found in institutions attempting to rehabilitate prisoners through programming and maintaining contacts with life outside of the institution. "The emphasis on treatment and rehabilitation may diminish the capacity of the criminal justice system to serve as a general deterrent to crime; to the extent that imprisonment is unpleasant, it will be less than an ideal environment in which to conduct treatment; to the extent that it becomes a therapeutic environment, its deterrent effect will diminish" (Clear & Cole, 1986, p. 104). Providing inmates with the amenities such as those found in today's prisons generally will not create an environment in which punishment takes place. If a prison sentence does not punish, then the time spent there will not have a deterrent effect on crime.

The American Correctional Association (ACA) has published minimum standards establishing acceptable conditions for the prison environment. These standards cover every aspect of living requirements from lighting, heating, square and cubic measures of space per person, air flow, minimum furnishings, sanitary facilities, and fire and safety code requirements. Nutritional requirements, medical care, and other requisites of a healthful and humane environment such as time spent out of cell, correspondence, and visiting rights are also mandated by these standards in addition to other regulatory statutes concerning due process rights during prison disciplinary procedures, access to the courts, and religious freedom issues (ACA, 1985).

The standards define how to run a penal system that reflects a civilized and humane society, and adherence to the standards provides a reasonable standard of living for inmate populations. Operation of a penal system below these standards would not increase the punishment aspect of the prison as much as it would reduce the moral and ethical stature of the society responsible for such a system. These standards must be met in order to ensure that penal institutions do not become torture chambers or hell holes.

There are, however, other standards used by the present systems which far exceed minimum living standards and which would not be required by a penal system designed to provide deterrence through punishment. These standards do not promote health and safety but rather establish an environment pleasant enough in which to conduct rehabilitation and educational programs (ACA, 1985). Adherence to these standards tends to remove the punitive aspects of prison life with the exception of the short-term incapacitation and loss of freedom to move about as one pleases. If the rehabilitative functions of the correctional system were moved to a post-incarceration phase of sentencing, then these standards would not be required of a prison system. Prisons could more effectively and efficiently place resources to the task of punishing, deterring, and incapacitating criminals for the sentenced time period.

A Comparison to Actual Sentences Served

The key element of this proposed program, and the issue to be understood and accepted by the public, is the use of short, punitive sentences in conjunction with rehabilitative post-incarceration supervisory programs. The combination of incarceration with two phases of parole supervision will result in the same or a longer period of time of supervision as is currently being served. The difference between this proposed system and current practice lies in separating the incarceration phase from the period of time in which rehabilitation will be attempted. For example, if a felon is sentenced to a 3- to 9-year term, under our present system and, all things being equal, that individual would be paroled and on the streets after 4 years. A parole term would be given which presently consists of a periodic check-in with a parole officer. Under the new system, using as an example a 1-year term of imprisonment "at labor," that individual would be required to spend an additional 3 years under close supervision and in rehabilitative programming. This period of supervision would be followed by another term of periodic check-in as is currently the practice. Thus, the actual amount of incarceration/supervision would be the same quantitatively but not qualitatively.

The data in tables 1 and 1A give a comparison of the proposed sentencing structure versus sentences and actual time served by an inmate in the Nation's prison systems. It can be noted that actual time served is much less than the average sentence for the crime committed, and much less time is spent under supervision than would be the case under this proposed system.

Refining the Program and Defining Participants

How will the system address those felons whose crimes are so heinous or numerous that they are patently excluded from participation? Will legislators be willing to revise the criminal laws in line with this plan? Will courts deny eighth amendment challenges to the new, harsher institutional regimen? How will the current system make the transition from a warehousing and/or rehabilitative orientation to a punitive/labor orientation? How will the system respond to recidivists? How will the system address misbehavior during incarceration?

These questions will be addressed as a new system is put into place; however, the more important questions of effectiveness of the criminal justice system and efficient allocation of resources are addressed by the

TABLE 1. COMPARISON OF ACTUAL AVERAGE PERIOD OF SUPERVISION VERSUS PROPOSED PERIODS OF SUPERVISION

Crime	Avg. Sentence in Months Incarcerated	Actual Sentence in Months Incarcerated	Parole Supervision in Months
Murder	115	72	38
Non-negligent Manslaughter	63	37	26
Rape	74	48	26
Robbery	60	35	25
Assault	46	28	18
Burglary	38	21	17
Larceny	33	18	15
Motor Vehicle Theft	42	25	17
Arson	47	28	19
Kidnapping	58	35	23
Drug Possession	34	18	16
Drug Sale/Trafficking	46	27	19

(Sourcebook of Criminal Justice Statistics, 1989)

TABLE 1A. PROPOSED* CORRECTIONAL SUPERVISION FOR A FIRST-TIME CONVICTION INCLUDING PAROLE SUPERVISION

Crime	Proposed Sentence in Months Incarcerated	Proposed Intense Parole Supervision in Months	Proposed Modified Parole Supervision in Months
Murder	60	180	180
Non-negligent Manslaughter	36	108	108
Rape	24	72	72
Robbery	20	60	60
Assault	16	48	48
Burglary	12	36	36
Larceny	12	36	36
Motor Vehicle Theft	12	36	36
Arson	16	48	48
Kidnapping	20	60	60
Drug Possession	4	12	12
Drug Sale/Trafficking	8	24	24

* Proposed sentences are approximately one-third of current average sentences for crimes other than murder.

results of analyzing the practices currently employed in response to criminality. It is accepted that a criminal incarcerated in jail or prison is incapacitated, but society cannot afford to keep every offender locked away for long-term periods. Incarceration can be used as punishment if the environment is punitive. Whether or not an offender returns to a life of crime upon release depends on how much deterrence the prison experience has provided and to what degree the offender has been rehabilitated. Incarceration is impractical from the standpoint of limited space and resources and is ineffective as a rehabilitative tool. Programs, not prisons, provide rehabilitation. Time spent incarcerated is unlikely to rehabilitate a criminal unless the facility is set up as a helping, nonpunitive environment (Bartollas, 1985; Keve, 1981).

Getting More for the Criminal Justice Dollar

The question of the cost of this proposal is of prime importance. In states that have adopted programs of intense parole supervision similar to the programs that are being proposed, the costs for staff and operating expenses, program or school fees, and support or living expenses of offenders have been offset to some extent by taxes generated by ex-offenders who have

returned to the work force. The net cost for the taxpayer of intensive parole programming has been estimated at \$10,000 to \$13,000 less per year than the cost of incarceration (Thomas, 1990).

The Nation's prison systems are straining financially and physically to provide housing for burgeoning populations. The cost has become prohibitive, with New York State's prison system, for example, running at more than \$1 billion a year (Jamieson & Flanagan, 1989, p.16). In addition, the New York State Department of Correctional Services is in the midst of a multimillion dollar construction program to increase the size of its system. With the completion of the 1990-91 planned expansion, it is estimated that the additional expenditure associated with the increased capacity will be approximately 13 percent more than current operating levels (N.Y.S. Operating Budget, 1990, p.92). These costs are running rampant not only in New York State but throughout most of this country's prison systems. As costs become more prohibitive, our approach to the criminal justice process must be re-evaluated and priorities established from which an effective response to criminal behavior can be devised.

Table 2 shows the prison population growth that has been experienced throughout the United States as a whole and, as a particular example, in New York State as well. The prison population for the United States shows a 9-year average annual increase of 7.38 percent. New York State's prison population reveals an annual average rate of growth of 8.43 percent for the same 9-year period. If the national annual growth rate continues, it is anticipated that the prison population will double every 10 years. New York State can anticipate that the prison population, all things being equal, will double every 8½ years.

Overall, it is anticipated that the cost of the proposed two-phase sentencing system will be within existing operating budgets. It is also expected that savings in construction and operating costs will be ultimately realized since increasing prison populations will be absorbed by existing facilities due to shorter periods of incarceration. Statistical projections based on the information found in table 2 indicate that New York State's estimated requirements of only 7,000 beds (N.Y.S. Operating Budget, 1990, p. 89) over the next year is overly optimistic. However, even if this estimate is accepted, given the current construction cost of one additional cell at \$100,000 and the annual cost of incarcerating one inmate in a prison at approximately \$16,000 (Allen & Simonson, 1989, p. 370), increasing the effectiveness of existing prisons and reducing the requirement for additional cells will help to hold down the costs of the correctional system.

TABLE 2. GROWTH OF PRISON POPULATIONS FROM 1979-1988

As of 12/31	Total U.S.	% Growth	NY	% Growth	IL	% Growth	FL	% Growth	TX	% Growth	CA	% Growth
1979	314,083	-	21,158	-	11,211	-	20,133	-	26,522	-	22,628	-
1980	329,207	4.8	21,829	3.2	11,899	6.1	20,735	3.0	29,892	12.7	24,569	8.6
1981	369,009	12.1	25,658	17.5	13,499	13.4	23,238	12.1	31,502	5.4	29,267	19.1
1982	403,520	9.4	28,507	11.1	13,895	2.9	27,565	18.6	36,149	14.8	34,640	18.4
1983	424,655	5.2	30,955	8.6	15,437	11.1	26,229	-4.8	35,259	-2.5	39,373	13.7
1984	448,557	5.6	33,782	9.1	16,912	9.6	26,906	2.6	36,682	4.0	43,328	10.1
1985	487,593	8.7	35,346	4.6	18,279	8.1	28,172	4.7	37,532	2.3	50,158	15.8
1986	527,161	8.1	38,647	9.3	19,456	6.4	31,641	12.3	38,534	2.7	59,484	18.6
1987	562,623	6.7	40,842	5.7	19,850	2.0	31,924	0.9	38,821	0.7	66,975	12.6
1988	606,810	7.9	44,560	9.1	21,081	6.2	34,327	7.5	40,437	4.2	76,171	13.7

(Sourcebook(s) of Criminal Justice Statistics, 1980-1989.)

The funds allocated for rehabilitation programs currently provided within the prison will transfer to the parole function in order to fund smaller caseloads and longer periods of supervision. Some rehabilitation costs might be reduced by utilizing and augmenting existing programs provided by various agencies such as the Board of Cooperative Educational Services, which offers vocational education for high school students and adults throughout New York State, and charities such as halfway houses and evening adult education programs. However, even if costs are the same, resources will be used more efficiently and equitably. Tax dollars flowing into these programs would benefit not only the offender but the community as a whole since participation in these therapeutic or educational services would be equally available to community residents.

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