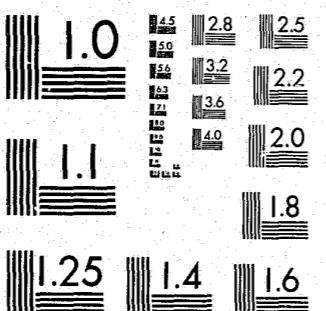


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Federal Probation

- Mandatory Sentencing: The Politics of the New Criminal Justice Henry R. Glick
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This Issue in Brief

ACQUISITIONS

Mandatory Sentencing: The Politics of the New Criminal Justice.—New mandatory sentencing policies are winning political support in the 50 states and Congress; however, despite stated goals to equalize sentencing and deter crime, the new laws probably can be expected to aggravate prisoners' grievances and serve as simply another bargaining tool in the criminal justice system, asserts Professor Henry R. Glick of Florida State University. Little empirical research exists on the impact of the new sentencing laws, but available evidence strongly suggests that they will have few beneficial results, he adds. The only major change may be an explicit abandonment of the reform ideal and existing, albeit limited, rehabilitation programs.

The Failure of Correctional Management—Revisited.—In "revisiting" the case of correctional management failure (his first article appeared in 1973), Dr. Alvin W. Cohn appears to be painting a drab, bleak picture. Yet, he maintains, from the time the original paper was written until now, he does believe that there has been some meaningful change. While no one could or should argue that corrections has successfully reformed itself or is being reformed appropriately, there have been some significant changes that suggest a brighter future, especially with regard to the status of management, he concludes.

Rethinking the President's Power of Executive Pardon.—Although only superficially understood by most citizens, the President's power of executive clemency has undergone a protracted evolution in terms of legal scope and constitutional interpretation, according to Professor Christopher C. Joyner of Muhlenberg College. Pronounced an "act of grace" by the Supreme Court in 1833, the pardon power in 1927 was deemed an act intended

primarily to enhance public welfare. As such, the President's pardoning authority has become broad and multifaceted, immune from review by court action or congressional restriction. A pardon neither obliterates the record of conviction nor establishes the innocence of a person; it merely forgives the offense.

Team Approach to Presentence.—An interdisciplinary team approach is the trademark of the Seattle Presentence Investigation Unit, reports Chuck Wright, Adult Probation and Parole supervisor for the State of Washington. This collective approach is used when most feasible, and has led to effective improvements in investigation, information gathering, report writing and recomen-

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The Failure of Correctional Management—Revisited*

BY ALVIN W. COHN, D.Crim.

President, Administration of Justice Services, Inc., Rockville, Maryland

A NUMBER of years ago, Clarence Schrag (1971) suggested that American justice was in a state of turmoil. Today, that description is as apt as ever. The law enforcement apparatus is confronted by a quest for status marked by increasing unionization, strikes, and reduction in force, while it continues to have low clearance rates, inbred infrastructures, paramilitary organizational designs, and a distinct inability among departments to accept lateral entries by experienced personnel.

Courts in this country continue to have clogged dockets, are managed by judges trained in law but not administration, maintain inequitable jury selection procedures, and are confounded by disparity in sentencing procedures. Prosecutors generally are no more able to manage their organizations than judges, frequently have excessive workloads, must deal with constant turnover of not always talented staffs, and occasionally are more concerned with convictions than with justice. Defense counsel, public and private, also have organizational problems, difficulty in recruiting talented staffs, and participate as much as others in what Tannenbaum (1937) calls the "dramatization of evil"—the routinization of justice to the extent that injustice is more the rule than the exception.

Corrections is just as much in a state of turmoil as the rest of the network of criminal justice services and begs for an equal amount of reform. Yet, reform has been piecemeal rather than systemic. Ohlin (1974:995) summarizes it well:

(T)he most neglected area of knowledge about criminal justice agencies is the process of organizational reform. We know least about how to change the systems we now have to ones we believe would work better. We lack sophistication about the depth and strength of vested interests, the role of the political process in effecting change, the function of crises . . . the significance of organizationally entrenched ideological conflict, and the means for resolving problems of administrative succession.

* Dr. Cohn's original article, "The Failure of Correctional Management," appeared in *Crime and Delinquency*, July 1973.

Notwithstanding the above, corrections, as well as other segments in criminal justice administration, has engaged in some effort to bring about change. However, while many organizations have attempted innovative programs, the mandate for change generally has come more from external sources, such as legislatures, mass media, client groups, professional associations, unions, and standard-setting and planning groups, than from internal sources. Certainly, too little change has been inaugurated by top management. Nonetheless, this pursuit for reform comes from a recognition by many that corrections has failed: failed to correct clients, failed to protect society, failed in general effectiveness, and failed at being efficient in its operations.

Various aspects of corrections are also under attack: attacks based on ideology, such as the appropriateness of the indeterminate sentence; attacks based on rehabilitative efficacy, such as the value of counseling or treatment programs; and attacks based on organizational arrangements, such as the continuation of parole programs.

Additionally, the courts have initiated a preemptive approach to corrections, for in the last decade, more and more judges have begun to intervene not only in the administrative affairs of correctional organizations, they are either de facto managing them or actually closing them down. Issues associated with due process, grievance machinery for inmates, the rights of probationers and parolees, and even working conditions for employees, to cite a few examples, have become paramount issues and appear to be taking more of the time of already busy managers.

The above are issues which became problems primarily because correctional managers have failed to lead their organizations; instead, they have been mere caretakers, if not sinecures, allowing others to make decisions for them. As a consequence, as Weissman (1973:1) states: "Problems in bureaucracy are endless. They range from ritualism and over conformity to self-perpetuation

and self-interest. Following the rules often becomes more important than achieving the goals, and organizations are run for the benefit of staff and administration rather than for the clients."

Implicit in the above is that any formal organization has a set of goals which it strives to achieve. Once goals are set, behavioral objectives can be specified, which then lead to the development of explicit programs. In a well-managed organization, the management process is completed only when both the organization and its incumbents are evaluated to determine levels of success. This, in effect, means that there must be a level of accountability which will answer the question: "How well have we done?"

Unfortunately, many correctional managers either are unwilling or unable to distinguish between organizational achievement (survival) and institutional success. As Selznick (1957:27) uses the terms, organizational achievement is concerned with the processing of numbers, the counting of events, and the mere deployment of resources. Institutional success, on the other hand, measures the exact degree to which the organization accomplished its mission or achieved its goals and objectives. The former permits a manager to point with pride to developments and occurrences; the latter deals directly with: "How well have we done?"

The issue of goals and objectives comes back again and again to haunt us, for this appears to be the crux of the problem: Just what are the appropriate goals and objectives of a correctional organization? Yet, to answer this question, we must first determine just what a correctional organization is or ought to be. What is its primary mission? How does a correctional organization differ from other agencies in the network of criminal justice services? How does a correctional organization compare or differ from other kinds of formal organizations?

Writing from different perspectives, several authors, including Parsons (1960:17), Blau and Scott (1962:1), Caplow (1964:1), and Etzioni (1964:3), have defined the term organization as a social unit or collectivity that has been established for the explicit purpose of achieving certain goals. Additionally, some attempt to classify organizations systematically, that is, to develop a taxonomy. Parsons (1965:63-85), for example, classifies organizations according to the *social need* to which the organization is oriented, includ-

ing economic production, political goals, social integration, or pattern maintenance.

Blau and Scott (1962:42-45), on the other hand, classify organizations based on the *cui bono* or "prime beneficiary" principle. They note that four populations can be distinguished in relation to any large-scale organizations, which leads to the development of four types of organizations according to the prime beneficiary: (1) mutual benefit associations, such as unions, in which the prime beneficiary is the membership; (2) business concerns, such as retail stores, in which the owners are the beneficiaries; (3) service organizations, such as schools, in which the clients benefit; and (4) commonweal organizations, such as law enforcement agencies, for which the public-at-large is the prime beneficiary.

For the most part, these illustrative taxonomies tend to be abstract in orientation and descriptive from a functional point of view. In every instance, exceptions can be noted. No more dramatic exception exists than in the case of corrections. Further, it is an exception which leads to considerable difficulty, especially when we demand sound management on the part of the top-level executive.

Using the *cui bono* taxonomy, just where does corrections fit? Obviously, a correctional organization (prison, probation, parole, etc.) is neither a mutual benefit organization (although some in the public think government employees approach their jobs from that perspective) nor a business concern (although some correctional organizations are more concerned about collections from clients than in providing direct services). But is it a service organization with the client being the prime beneficiary? Or is it a commonweal organization, with the public-at-large the prime beneficiary?

It is reasonable to make a case for either type of organization and, in fact, many organizations have made such a commitment. Where clients truly rule supreme, as occurs in some treatment-focused agencies, it would be natural to assume that the management has declared the organization to be service in nature. Where surveillance and restraint reflect management's philosophy and workers adhere to such a mission, there is no doubt that the organization is commonweal in nature and practice.

But most managers have not declared the goals of their organizations. In fact, many allow their staffs to drift—to choose their own personal philosophies. This, in part, may be understandable,

for it is not a simple matter to declare the intent of the organization, especially if one is forced to choose among the Blau and Scott alternatives. Corrections may not be either service or commonweal; it may be somewhere between the two. This does not suggest a cop-out; instead, it may reflect a level of reality that cannot be disputed. Of major significance, however, is the absolute need of the organization to declare itself; to identify its philosophy, goals, and objectives; to ensure that all personnel know and understand what is expected of them; that all personnel are held accountable for the implementation of stated objectives; and that the organization itself measures its level of success.

Whether these tasks are accomplished in an authoritarian manner or whether they are fulfilled by participative management, it is undeniably the role, responsibility, and function of top management to assure that they are done. To fail to manage the organization in ways that produce efficient and effective results, outcomes, and impacts is an unconscionable failure and one which should not be tolerated. Thus, whatever the strife, whatever the crisis, whatever the activity, it is the correctional manager's responsibility to ensure a productive organization and one that accomplishes its mission. One can excuse failure for accomplishing objectives, if one has genuinely tried; there can be no excuse for failure to set reasonable and responsive objectives.

An important question, then, is: Why do correctional managers fail?

Vollmer (1939:5) once described what is expected of the policeman. What he said probably applies to the correctional manager:

(T)he citizen expects police officers (correctional managers) to have the wisdom of Solomon, the courage of David, the strength of Samson, the patience of Job, the leadership of Moses, the kindness of the Good Samaritan, the strategical training of Alexander, the faith of Daniel, the diplomacy of Lincoln, the tolerance of the Carpenter of Nazareth, and finally, an intimate knowledge of every branch of the natural, biological, and social sciences. If he had all these, he might be a good policeman (correctional manager)! (Parentheses added)

If the above is true, then we are asking for a great deal—perhaps too much. Yet, it is inescapable that most of the above is required, in addition to being able to deal with people, set goals, and objectives, understand the value and methodology of personnel and program evaluation, handle excitable politicians, respond to client demands, accomplish tasks without physical breakdown, and,

as Kassebaum, Ward and Wilner (1971) indicate, "keep the lid on the organization" and survive it all!

The contemporary correctional manager, regardless of setting, has a task worthy of Sisyphus, the legendary King of Corinth in Greek myth who was condemned to roll a heavy rock up a hill, only to have it roll down again. Confronted by dilemmas, problems, crises, emergencies, sabotage, political interference, and unruly clients and staffs, it is no wonder that many managers complain about not having sufficient time to plan for the future. Many claim that too much energy is needed just to maintain the present. Obviously, this stance leads to the perpetuation of the status quo—if not survival—rather than the development of an organization which knows where it has been, where it is, and where it should be heading. Looking to the future and planning for it, however, is what distinguishes competency from incompetency, from being a sound manager to being only a caretaker of an organization.

This is not to say that a competent manager is one who is unconcerned about survival, either for himself or his agency. However, rather than this concern ruling him, he is in control. The competent manager is creative and innovative; he is not the bureaucrat whose credo Boren (1978:15) describes as, "When in charge, ponder. When in trouble, delegate. When in doubt, mumble." Bureaucracy need not be a bad word; yet, it is viewed cynically when it creates more problems than it resolves; when managers lose sight of what is reasonable and appropriate. As Boren (1978:28) suggests, the correctional manager should not adhere to the bureaucratic principle: "If you study a problem long enough, it may go away."

On the wall of an electronics firm there used to hang a framed motto expressing the sentiments of the president of the company. "Intelligence," it said, "is no substitute for information; enthusiasm is no substitute for ability; willingness is no substitute for experience." The motto disappeared after a series of organizational meetings prompted someone to add, "And a meeting is no substitute for progress."

It is easy for a correctional manager to believe the above motto and still easier to conduct meeting after meeting, allegedly to plan for the future. Further, it is not uncommon for these meetings to be a waste of time when they are poorly planned. A meeting does not take the place of sound

trained than ever before and, in fact, are demanding more of their superiors in the way of performance. They are eager to take pride in their organizations' accomplishments, tend to look for the setting of goals and objectives, and are disinclined to permit their superiors to continue in a management process in old ways "... because this is the way we've always done it" or "... because this is the way the judge wants it." It is a healthy sign that subordinates are pressuring for programmatic accomplishments and still healthier that they demand a role in helping the agency to achieve substantive results.

We are still a long way from truly accountable agencies or personnel, but there have been genuine efforts at measuring outcomes and impacts of programs. Evaluation and research are no longer dirty words which when uttered thrust managers into states of panic. Many agencies have indeed developed research programs, with appropriate personnel and budgets. Many more are willing to allow outsiders to enter the inner sanctums of their organizations to assess programs. Additionally, many agencies have initiated improved personnel evaluation strategies.

Because of the increasing scarcity of resources, personnel and materiel, many political superiors are no longer as content to be manipulated as they once were insofar as being knowledgeable about programs and policies is concerned. Even if their motivation is for the "wrong" reasons, namely their own political survival, they are encouraging, if not forcing, correctional managers to defend their programs and budgets, at least on an annual basis. They are no longer as willing to permit the expansion of personnel. Certainly, many "hear" what the courts are saying that tend to force administrative changes.

There still is no distinct body of knowledge that belongs exclusively to corrections, but there is an increasing amount of information about clients, treatment strategies, and organizational arrangements. Consequently, the correctional manager today tends to know more about more things than in the past and there appears to be some evidence that he is using such information to make his agency more effective and efficient.

Further, the "rehabilitative ideal," as Allen (1964) uses the term, is no longer the only approach to dealing with offenders. Treatment, however noble its intent, no longer suffices as the ideal strategy. As a result of progress in case classification models, some probation and parole agencies

not only are increasing their use of early discharge, they are following Schur's (1973) dictum of "nonintervention." That is, they are leaving some clients alone, not because they will behave necessarily and cause no trouble, but because no real interventions are indicated or needed. This is also to be found in some prison systems, where treatment is no longer foisted on inmates, but where they are permitted to choose among programs, if they wish such.

Due process and concern for the rights of correctional clients has received considerable impetus as a result of judicial interventions. But many correctional managers, whether they are fearful of the courts, concerned about suits, or genuinely are concerned about clients, take into consideration these issues as they develop new programs or assess existing ones. Many managers, of course, resist changes in these areas, but there is an increasing number who care and, as a consequence, programs are improved.

And, finally, whether we approve or not, both the American Correctional Association and the Academy of Criminal Justice Sciences (along with the American Society of Criminology) have initiated projects to develop standards of practice and education, respectively, in corrections as well as in other areas of criminal justice administration. The extent to which such standards will be appropriate is not an important issue here. What is of concern is that some individuals and groups are trying to bring about change that is meaningful, responsible, responsive, and constructive. More important, they are changes being initiated from within the field. They are approaches to reform developed by correctional managers. They are events which reflect a growing concern and admission that corrections can and should be more effective.

One cannot be certain that this thrust for better managed correctional organizations is more myth than reality; that it is a genuine trend; that agencies could accomplish more, even with reduced resources; or if we are being deluded into believing that we have a cadre of better trained and educated managers merely because such persons are attending more university and training programs.

There is reason to be cautiously optimistic, even if that optimism must be tempered by existing realities. By any manner of measurement, it is an inescapable conclusion that where we have been in corrections has been a disaster. The optimism

participative management nor does it mean that a manager necessarily is willing to share decision-making with selected representatives of the organization. It may very well serve a latent objective of creating a busy schedule—with meetings—so that nothing else really gets accomplished in the agency.

Being busy but accomplishing little is not the only reason for correctional management failure. In fact, in a paper written several years ago, "The Failure of Correctional Management" (1973), I suggested that there were at least 10 such reasons. They included: (1) Many managers are more concerned with survival than with substantive programming; thus, they become bureaucratically impotent and unable to bring about organizational change. (2) There is no body of knowledge which states that rehabilitation can work; thus, programming objectives to bring about change or correction among clients is like walking uphill in a mudslide.

(3) Correctional managers are still committed to the belief that clients are "sick" and in need of cure; thus, they program around rehabilitation and fail to examine organizational structure, policy, and procedures in terms of how the agency itself might be perpetuating deviance among clients rather than in assisting them in change. (4)

Correctional managers not only fail to set goals and objectives and help subordinates understand what they are supposed to do, they frequently allow workers an unbridled amount of discretion, which, in a Catch 22 cycle, leads to even less accountability. (5) The correctional manager can be viewed as an apolitical bureaucrat; he is never sure who his constituents are. Thus, he frequently acts functionally—and for survival—rather than as a leader.

(6) Correctional managers usually are more concerned with producing accomplishments that have high visibility than with substantive results; thus, there is a constant thrust to do those things "which will make us look good." This also leads to what Cressey (1958:761-762) describes as a "vocabulary of adjustment," or defensive behavior. He lists a number of rationalizations that treatment managers, for example, have used to defend their apparent failures, including the familiar remark: "If only one man was saved from a life of crime, the money spent on the program is justified."

(7) Most correctional managers have not been educated or trained in management or public ad-

ministration; thus, they can only learn through trial and error—and their own at that—how to manage an organization effectively. Further, because many are trained in social work, their focus is casework oriented, which usually is not appropriate for correctional management. (8) Because the correctional manager has no professional body of knowledge upon which to base policies and procedures, as does a physician, he tends to fall back on rules and manuals—frequently those he developed. As a consequence, he may spend more time insisting subordinates follow the manual than in exploring what the agency's goals should be. Thus, he becomes more concerned with means than with ends.

(9) There is no outside reference group to which the correctional manager can turn consistently for standards, ethics, or rules of performance. Even though such groups as the National Council on Crime and Delinquency and the American Correctional Association promulgate such materials, elected officials do not feel bound in any way to subscribe to them. Thus, there is no real outside support for the correctional manager other than of a persuasive sort.

Finally, (10) Since the correctional manager has learned, in part, how to manipulate his own superiors, especially by using catchy slogans such as "rehabilitation of offenders," "protection of society," or "help people change," he, in effect, successfully keeps such superiors from really knowing what is going on inside the organization. Thus, performance and organizational evaluation wind up being kept to a minimum and no one really knows "how well are we doing?"

In "revisiting" the case of correctional management failure, the picture painted would appear to be drab, bleak, and without much merit. Yet, from the time the original paper was written until this time, I do believe that there has been some meaningful change. While no one could or should argue that corrections has successfully reformed itself or is being reformed appropriately, there have been some significant changes that suggest a brighter future, especially with regard to the status of management.

In the first instance, there is an increasing number of middle and top managers who have completed courses in management or administration, either at universities or training programs. Many of these better trained managers are replacing old-line executives who tended to be resistant to change. Line workers, too, are better

springs from the belief that we now have a better fix on the state of the art today. The caution that is being expressed centers on the fact that no one has a claim to crystal ball reading with any better success than anyone else. We may have a better grasp on the issues, problems, and concerns than we have ever had before, but no one can be sure that the path we are cojointly taking is the right one.

If the basic tenets of reintegration theory are adequate, and if they are implemented in a genuine fashion, then it is reasonable to believe that correctional managers are more likely than ever before to exercise correctional leadership. If they lead instead of merely administer their agencies, we can expect more responsible participation in the correctional process not only by subordinates, but by legislators, elected officials, laymen, volunteers, clients, witnesses, and victims as well. For the first time in the history of corrections, it may be possible to envision a real team effort in controlling and reducing crime. That it is likely to occur is problematic; that there are some signs of wanting it to occur is encouraging.

Earlier I suggested that what Vollmer had to say about the role of the policeman was applicable to the correctional manager. So, too, is the advice the State Department profers to its foreign affairs officials:

(A)ll Foreign Service officers should embody a balanced blend of integrity, good judgment and decisiveness, initiative, loyalty, intellect, creativity, capacity for growth, courage, sense of priority, appropriate attention to significant detail, ability to work with others, persistence in pursuit of sound objectives, willingness

to accept responsibility, industry and productivity, honesty, dependability, fairness including fair treatment of colleagues and subordinates, honor, dignity, core skill and functional competence, independence of thought, humane and considerate conduct, acceptance of Service discipline, and an ability to meet reasonable and clear goals. The foregoing list of positive qualities and attributes is not meant to be all inclusive.

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THE INCREASING criticism of the entire system of American criminal justice has moved far beyond concern about safety in the streets of a decade ago to encompass not only the police, but courts and corrections as well. Concern about correctional effectiveness leads inevitably to concern about management and administration.—ROBERT M. LATTA and JACK COCKS

END