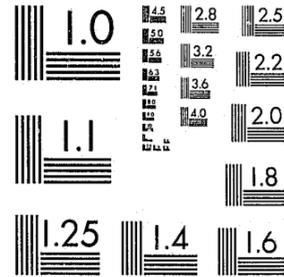


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Federal Probation

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- Probation: A Skills Course—Interviewing Techniques and Parole: The Initial Interview (Part 2) *Henry L. Hartman*

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DECEMBER 1979

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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This Issue in Brief

The War on Crime: A Thrice-Told Tale.—Parole as part of public policy is currently receiving mixed reviews—some bad and some terrible, asserts Nathaniel W. Perdue, vice chairman of the Virginia Parole Board. It has reached the slightly enviable position of being denounced by both liberals and conservatives; prosecutors and defenders; police officers and prisoners; professionals, nonprofessionals, and unprofessionals, he adds. Why all the fuss? This fable suggests the state of things past, things to come, and things to come again—as we continue our war on crime.

Assignment in Mexico: The Experience of United States Magistrates in the Mexican Prisoner Transfer Program.—In December 1977 a number of United States magistrates were named verifying officials to conduct hearings in Mexico at which qualified Americans serving Mexican jail sentences had the opportunity to consent to return to the United States to complete those sentences. This article by Richard W. Peterson, describes the treaty between the United States and Mexico by which this prisoner transfer was authorized and the implementation of the treaty. The roles of the Department of Justice attorneys, Federal Public Defenders, personnel from the Bureau of Prisons and Probation Division to the transfer program are explained. The article concludes with the history making elements of the prisoner transfer program and its importance as a precedent for future treaties with other nations.

The Development of the Federal Prison System.—This article by Gregory L. Hershberger presents a historical overview of the Federal Government response to those incarcerated for violating Federal law. Events discussed include the establishment of the first Federal prison

facilities in the late 19th century; the formation in 1930 of the Bureau of Prisons within the Department of Justice; the early attempts at programming and the subsequent development of those efforts; and facility acquisitions, institution closings, and mission changes of various institutions up to the present day.

Urinalysis: Issues and Applications.—Despite the wealth of material written about the various aspects of urinalysis, U.S. Probation Officer Philip

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J. Bigger asserts that there is a need to compile the pertinent highlights of that material into one general essay in order to provide the layman with a working knowledge of the subject. Hence, the purposes of urinalysis and the background issues are discussed, followed by a descriptive review of the types of analysis applied by toxicologists to specimens. Finally, the author provides a guide to the interpretation of test results for use in the field.

Community Interventions for Reluctant Clients.—The people with the greatest need for services are often reluctant to participate in community programs, write James D. Kloss and Joan Karan. Within corrections, a number of intensive probation programs have been developed to meet this need, but these have not demonstrated their effectiveness. The Complex Offender Project developed procedures to obtain and maintain the participation of persons with long histories of legal and psychological difficulty. The combined use of outreach, rapport building techniques, negotiated treatment contracts, and financial incentives proved effective in maintaining the involvement of this very difficult client group, and these procedures may be useful in other community programs working with reluctant clients.

The Development and Administration of a Correctional Internship Program: A Model.—Over the last decade and a half there has been a dramatic increase in the number of colleges and universities offering corrections-related programs, according to Dr. Jeffrey L. Schrink. Such curricula have focused student attention of corrections at an unprecedented level and consequently large numbers of students are now interested in serving internships in some type of correctional setting. Unfortunately, there is a dearth of publications in the professional literature aimed at providing detailed guidelines or blueprints to assist the correctional administrator in the establishment and administration of a correctional internship program. This article attempts to fill this void by proposing a model internship program which can be modified to reflect the unique circumstances of most correctional settings.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

Home Supervision: Probation Really Works.—San Diego County has the most acutely overcrowded Juvenile Hall in California, reports County Supervising Probation Officer William G. Swank. In 1977 a new concept of Home Supervision became law and San Diego discovered that minors can successfully be detained under "house arrest" without committing further crimes. The key is intensive surveillance. Minors are personally seen 7 days a week: mornings, afternoons, nights (unannounced). If they are not where they are suppose to be, they are arrested. The County probation officers are also involved in crisis counseling and the program has proven to be highly therapeutic, rehabilitative—and it has reduced overcrowding.

Management Classification for Young Adult Inmates.—Since May 1977, the Federal Correctional Institution at Tallahassee, Florida, has used a system which assigns young adult males to one of three general categories of potential violence and is based primarily on the Minnesota Multiphasic Personality Inventory (MMPI). Results comparing periods before and after introduction of the system showed a decrease in serious incidents and assaults, reports Dr. Martin J. Bohn, Jr., chief of the Psychology Department. This management classification system has the advantages of being economical of staff personnel and time, and it has categories related to extensive psychological research. The results from the Tallahassee study suggest that the system has contributed to making the institution safer and has facilitated management decisions.

Interviewing Techniques in Probation and Parole: The Initial Interview (Part 2).—In the final article of this reprinted series on interviewing techniques, Dr. Henry L. Hartman continues a discussion of the initial interview. Methods of converting a directive to a nondirective technique are discussed. In a recapitulation of the entire series of four articles, Dr. Hartman reviews those techniques which are of particular use to the probation and parole officer in his counseling relationships with the probationer and the parolee. He updates the article at the end with current comments.

Assignment in Mexico

The Experience of United States Magistrates in the Mexican Prisoner Transfer Program

BY RICHARD W. PETERSON
Attorney, Council Bluffs, Iowa

DECEMBER 8, 1977: Mexico City International Airport. Only a little over a year had passed since the signing of the treaty providing for the transfer of civil prisoners between the United States and Mexico, and the intervening months had been full of activity directed toward the exchange of Americans and Mexicans consenting to return to the homelands to fulfill their foreign prison sentences. Now the first group of 70 American prisoners were ready to board the chartered aircraft under Federal Bureau of Prisons supervision for the flight to San Diego, a flight that was to climax one of the most notable events in the history of the two nations and of international law. The humanitarian and diplomatic concerns that led to the treaty, the international achievement of the treaty itself; the carefully structured legislation implementing the accord and the fulfillment of the prisoner transfer had captured national interest; for those of us participating as verifying officials the experience was—and will be—unforgettable. May we share this with you.

The Treaty

The genesis of the treaty had been in the 1960's when increasing amounts of cocaine, heroin, and marijuana were being smuggled across the border between Mexico and the United States and finding their way onto the street markets in this country. The alarming rise in the use of these controlled substances and the deaths related to it led to the increasingly emphatic demands by the United States Administration to the Government of Mexico to enforce that nation's laws against persons found in the illegal possession of drugs and especially those taken into custody as couriers of controlled substances to this country. Mexican authorities responded vigorously and increasing numbers of persons, mostly Mexican but also many Americans, were arrested for the illegal possession of the controlled substances. As this more rigid enforcement of the Mexican laws against the possession and transportation of the

substances increased and Americans were taken into custody in Mexico, a sobering fact became clear: diversity existed in the terms and conditions of detention in Mexico and those in the United States. As for terms, Mexican laws relating to the possession and trafficking in drugs could be more strict than those of the United States and as to conditions, circumstances in Mexican prisons and jails differed substantially from those in this country.

While the Mexican Constitution speaks with great clarity of the rights of individuals and the protection of their liberties, including the rights to speedy trial, appointed counsel and to bail, their actual application is different than in the United States. For example, under the Mexican law an offense chargeable with a term in prison for more than 5 years is notailable, and a person arrested for such a crime must remain in detention until his case can be presented to the court, in some instances a period of a year or more. In addition, the penalties imposed for narcotics offenses might be substantially longer in term for possession of small amounts, although shorter for larger amounts, than those imposed in this country for a similar offense and, further, parole is not available. As to the conditions in the jails and prisons, different internal conditions obtained; it was the custom and practice for gratuities to be paid to the cadre and guards to secure additional privileges including better food and accommodations. While these customs may be repugnant to the Anglo-American concepts of the administration of justice, they were the style in Mexican penal institutions and accepted there as such. The increasingly strict enforcement by Mexican law, resulting in charges against many Americans, was approaching a cultural and legal clash between a governmental system of one heritage—and citizens and nationals held in custody by that system of a totally different legal and environmental background.

"Busted in Mexico" became the theme of a number of articles and features in the news media

in the United States in the early 1970's. The deplorable conditions claimed by American prisoners to exist in Mexican penal institutions became—through the emphasis of the media—quite notorious and led to an increasingly articulate protest in this country to the State Department and Congress. Relatives of persons incarcerated in Mexican penal institutions undertook persistent demands to their senators and congressmen for an adjustment between the two nations which would ameliorate or end the conditions of Americans imprisoned there under the circumstances as they understood them to be.

Recognizing an increasingly serious problem in its relations with the United States, Mexico in the summer of 1976 initiated a diplomatic approach to resolve the situation. Negotiations between the two nations took form and in September 1976 negotiating teams of the two countries met to consider the possibilities available to eliminate the sources of tension. The proposal was a treaty, one in which, as one American diplomat put it, both teams found great accord from the beginning. The treaty contemplated a transfer of Mexican prisoners convicted in the United States to Mexico to complete the balance of their American prison terms there, and a corresponding transfer of American prisoners similarly held in Mexico to this country to complete the balance of their Mexican sentences here. Mexican President Echeverria became a strong proponent for such a treaty. An accord acceptable to the executives of each country was signed in November and in the last few days of December 1976 the Mexican Congress adopted the agreement. It now remained for the United States to consider it; adoption of the treaty required a two-thirds vote.

The treaty was presented at the United States Senate early in 1977. After a series of hearings held by the Foreign Relations Committee of the Senate the treaty was approved in July 1977 contingent upon passing of implementing legislation. The American Civil Liberties Union questioned the constitutionality of the waiver by a prisoner of the right to contest his or her Mexican sentence in an American court following transfer to the United States to complete that sentence. At the Senate Committee hearings, abundance of testimony supporting the constitutionality of the treaty was presented. Of particular weight were the words of Professors Herbert Wechsler of Columbia University and Alan C. Swan of the University of Miami who testified that in their

judgment the proposed treaty was on firm constitutional grounds, citing in particular the already Supreme Court-approved "Status of Forces" agreements. Other arguments against the treaty were, in the judgment of witnesses who testified, answered by draft legislation that required a full, complete and knowing consent by each prisoner to be transferred. After passage of the treaty by the Senate, the implementing legislation was presented to the Senate and the House of Representatives, both of which passed the legislation as presented. Administration support of the treaty and the legislation, and public sentiment were of such strength that even before the final passage by Congress of the bill, the Department of Justice under the direction of Attorney General had moved to undertake the first necessary steps for the transfer of Americans held in Mexico back to this country.

Preparations for the Transfer

The first phase was the assignment of teams from the Department of Justice to the various prisons and jails in Mexico for the purpose of interviewing Americans to determine the number qualified to return under the terms of the treaty. This was essential since the treaty required that eligible persons must be: (1) citizens or nationals of the United States, (2) residents of Mexico for less than 5 years before the conviction, (3) convicted of a crime in Mexico which was also a crime in the United States, and (4) have 6 months or more of the Mexican sentence still to be served. All American prisoners had previously received a copy of an information booklet prepared by the Department of Justice which described the rights and options of the imprisoned Americans. Of the 600 Americans held, it was determined by the Department of Justice that approximately 250 to 300 would qualify for return to the United States. The interviews were concluded by the end of September; guidelines had now been developed for the next phase of the transfer program.

The legislation directed that following certification by the Mexican government of the list of prisoners which would be transferred and the consent to receive them given by the United States, each prisoner must then give his full, complete and unqualified consent to return to the United States, at a hearing held for the express purpose of "verifying" his consent. It was required also that at this hearing the prisoner agree to the conditions under which he was returning. These were

(1) that only a Mexican court could modify or change his or her Mexican sentence, (2) that he or she would serve the rest of his sentence in the United States under its laws of parole, which laws were subject to change, (3) that should he or she undertake an action in a United States court to contest the propriety and legality of the transfer to the United States and if that court should determine that the transfer was improperly completed, he or she could be returned to Mexico to complete the balance of one's sentence and finally, (4) that the consent once given was irrevocable. This verification hearing was to be held in Mexico under the direction of a United States magistrate or other authorized officer. The Attorney General as the official in charge of the program directed that such hearings be held by United States magistrates who would be specifically assigned to travel to Mexico to conduct the verification hearings. The cities of Tijuana, Hermosillo, Ciudad Juarez, Matamoros, Monterrey, Culiacán and Mexico City were designated as processing centers for Americans in those cities or in nearby areas in which they might be held. The Magistrates Division, Administrative Office of the United States Courts, was directed to coordinate the activities of the magistrate selected by their respective Federal districts in the United States to travel to these cities for the purpose of conducting the hearings. At each hearing conducted by a magistrate there would also be present a Federal defender chosen by the Criminal Justice Act Division of the Administrative Office of the United States Courts and then appointed by the magistrates to represent each of the prisoners to be transferred. The defender was to be assigned as soon as possible but no later than early November since each was to travel to Mexico to interview his respective prisoners beginning the week of November 14, 1977, well in advance of verification hearings.

A preliminary conference was held on November 8, 1977, at San Antonio, Texas, for all participants in the program. Present were all United States magistrates who were to go to Mexico, the Federal defenders, the Bureau of Prisons personnel, United States Embassy personnel from Mexico City, and representatives of the Administrative Office of the United States Courts. An orientation session presented by the Department of Justice representatives and the Embassy officials gave the background and developments in Mexico leading to the treaty. The magistrates and defenders were then assigned the files of all Ameri-

can prisoners in Mexico who qualified for transfer.

The Federal defenders posted to Mexico began their interviews with the prisoners November 14, 1977, and when finished reported to the magistrates assigned for each prisoner the results of the interviews. The treaty was to enter into force on November 30, 1977, and the hearings were to begin in Mexico City on December 5, 1977, at Santa Marta and Los Reyes Prisons and in the other cities of Mexico during the following weeks.

The Transfer

By reason of the distinct differences between United States law and that of Mexico, a special Mexican counsel was available at Mexico City for the Federal defenders and such counsel as had been retained. The magistrates going to Mexico City were of the opinion that it would be also of great value to have special counsel available to them should any questions arise about Mexican criminal procedure. Arrangements were therefore made with Licenciado Jose Higinio Nunez, an able Mexican attorney to serve as resource counsel to the magistrates. Lic. Nunez met with the magistrates on Sunday, December 4, 1977, and presented a brief but thorough resume of Mexican criminal procedure commencing with the arrest or "denouncement" of the defendant through the "sentencia." At this conference, the magistrates also reviewed and accepted a proposed "checklist" procedure form for use at the hearings to begin the next morning.

All participants in the program met at 9 a.m. Monday, December 5, 1977, at the United States Embassy for final instructions and recommendations preparatory to the trip to the penitentiaries. Present at the conference were the Department of Justice attorneys who would be present at the verifying hearings, the Federal defenders who would represent each transferee, as well as several State Department and Bureau of Prisons representatives. The formal consent forms were distributed to the magistrates, final questions regarding the procedures to be undertaken considered and assignments for transportation to the prisons made. At approximately 10 a.m. the group adjourned for transportation to the prisons. Magistrate Edward Infante of San Diego left for Los Reyes and Magistrates Baskine, Ronald Blask of Houston and myself for Santa Marta.

Santa Marta and Los Reyes Prisons are approx-

imately one hour east from the downtown section of Mexico City. Transportation was by van and private car to the prisons. When American transfer officials arrived at the entrance to Santa Marta, the press was present in force. Television cameras were directed at the group as they approached the entrance to the prison; there was little if any conversation at the time. The possibility of the press being present at the hearings themselves had been considered but discounted by reason of the negative attitude of the Mexican prison authorities regarding the presence of the press within the prison area. The press remained outside.

Santa Marta is one of the newer prisons in Mexico. From the main highway one approaches it by driving west along a wide boulevard approximately two blocks in length through the parking area to the entrance itself where the vans halted and the press were encountered. The outer perimeter of the penitentiary is a 10 foot high "cyclone" fence; the customary watch towers are of rather low profile, spaced periodically around the perimeter and larger taller ones at the corners. The entry area is a rather large cage approximately 25 feet in depth and 15 feet in width enclosed by bars. One side of the cage is a sliding doorway controlled by a guard to whom one's credentials are presented. Upon acceptance of the credentials, the doorway slides open and the visitor enters the caged area. Within the entry area are other prison officials who examine the visitor's credentials and retain them while the visitor is within the prison. After verification of our credentials (left as required with the officer in charge), we crossed the entry area, passed through a similar sliding doorway at its distant end, walked across the paved roadway which surrounds the prison structure itself and entered the administrative area of the prison. Each of us was assigned an office area in which to conduct the verification hearings and American liaison personnel were waiting to take us to them. Within the administrative area a rather informal air prevailed. Mexican prison personnel, both men and women, were seated at desks, American transfer personnel moved freely through the area to facilitate the hearings and American prisoners later discovered to be those who were waiting for the verification hearings, strolled casually about without restraint; they appeared to be quite at home.

The offices to be used were obviously those of the various administrative officials for the prison.

The one which I was assigned was a room of about 15 feet by 10 feet with a sizable desk, sofa, chairs and bookcase. As noted earlier, the Federal defenders had already counselled with the prisoners for transfer some weeks before and from that experience had reported that one of the problems in timing the interviews was that prisoners for interview often had to be summoned from distant portions of the prison and that time lags developed between the various interviews. This particular problem had been solved: one of the American prisoners became the self-appointed person in charge of arranging for the verification hearings and under his supervision the prisoners for verification had been called in advance and a number were already waiting to be interviewed. Within a matter of only a few minutes after the magistrates had completed their hearing arrangements, the first transferees were presented before them.

The verification checklist was found to be very useful and all hearings followed its format. A typical hearing began with the transferee entering the office and the magistrate introducing himself and the others present, namely the Federal defender (no introduction really required here) and the Department of Justice attorney. In my case after introducing myself and commenting that we both understood, I was sure, the reason for the presentation, I asked the transferee if he had objection to taking a formal oath (none did). Following this, the hearing personnel satisfied themselves that the recording equipment was operating properly and the formal hearing was begun. Following a brief statement by the magistrate into the record of the name and court of the magistrate presiding, the time and place of the hearing, its purpose and a statement of others present at the hearing, the magistrate then placed the transferee under oath. Following administration of the oath, the checklist was followed point by point to assure that the transferee fully understood the nature of his consent and the conditions upon which he would be transferred back to the United States should he consent to such transfer.

With few exceptions, all prisoners who appeared at the Santa Marta verification hearings had no questions and were ready to consent to transfer. The few questions raised by the transferees related almost exclusively to the matter of credit to be allowed them for work-time in the Mexican prisons. Response to such questions was that work-time credit was to be determined by

the Bureau of Prisons personnel who were available to answer these as well as any other inquiries relating to future detention. In each of these instances, the transferee was asked if he wished to consent to the transfer regardless of the work-time credit computation; all did.

At Los Reyes Penitentiary, the situation of verification hearings was somewhat different. Magistrate Infante, charged with the hearings for approximately 25 women there, found as he began the hearings that a number of the prisoners were not ready to give a full and complete consent. The reasons for their uncertainty were natural: some had husbands also imprisoned in Mexico who did not qualify for transfer back to the United States and would remain. In a few cases, the women were mothers with their children with them in the prison, a situation permitted in Mexican penal institutions but not in those in the United States. For those with children who wished to return to the United States arrangements had to be made for a relative or a friend to take the child in custody for the mother during the duration of her American detention period. The decisions for these women were more complex and Magistrate Infante extended the time of the verification hearings to assure that the statutory requirements of full and knowing consent were fully satisfied.

The FBI had earlier been requested to supply an arrest and conviction record (commonly called a "rap" sheet) on each of the transferees. These reports were in each prisoner's file and had been reviewed prior to his or her presentation. The Department of Justice attorney present advised the transferee whether there were any known warrants outstanding for his arrest in the United States pending the completion of his detention in the American institutions.

When the checklist and the Department of Justice advisory comments were completed, the transferee was informed that if he wished to consent to transfer, he should sign three consent forms. If he agreed, I then signed the formal verification, making at the same time a verbal finding into the electronic record that, he did in fact fully understand the implication of his consent and the conditions of his return and that I so found. I then sealed each of the three forms, two of which plus the tape of the hearing were handed immediately to the Department of Justice attorney for permanent custody. I retained one signed consent for delivery to the clerk of my district court. The

time expended for the hearings varied between 20 and 10 minutes. Each of us was grateful for our experience as magistrates which enabled us to make with reasonable confidence the judicial determination that persons appearing before us were fully aware of the nature of the proceedings and their implications.

The logistics for the transfer had now been completed by the Department of Justice and Bureau of Prison officials. The consents of a small group of 11 Mexican citizens desiring transfer back to Mexico from Texas had been verified the week before by Magistrate Blask in Houston and these prisoners with an additional 25 from Federal penal institutions were brought by chartered American aircraft from the United States to Mexico City on Friday, December 9th. Following deplaning of the Mexicans at the Mexico City International Airport, the first group of 61 American transferees brought to the airport under heavy guard were enplaned with accompanying American security personnel, and on Friday afternoon, December 9, 1977, the airliner took off for San Diego. At San Diego the prisoners were received, transported to the local detention center, processed and given medical examinations. By reason of the accumulated credits, approximately 31 percent would be eligible for immediate release; almost all the balance were given parole hearings and then transported to Federal penal institutions to serve the balance of the Mexican sentence. (Of this group 34 percent would be paroled by January 1978; an average of total prison time served would be 3 years.)

Summary

The treaty became effective on November 30, 1977; 17 days later 232 American prisoners had been verified and returned to the United States, and were either released or serving the balance of their sentences. Thus, in organization and enterprise, the prisoner transfer program showed the capacity of the United States to act by the concerted efforts of its three branches, legislative, executive and judicial, when motivated by a clear purpose.

Within a 6-month span hearings on the treaty had been held by the Senate Foreign Relations Committee and the Penal and Corrections Subcommittee of the Senate Judiciary Committee; the Senate ratified the treaty; implementing legislation already drafted was passed into law by Congress, signed by the President and then put

into operation by the Executive Branch. The Department of Justice Criminal Division sent teams to Mexico to interview all prospective transferees to this country and provided the Department of Justice attorneys to be present at verifying hearings. The Bureau of Prisons made the proper computation of credits for time spent by the transferees in Mexican prisons and arranged for their reception in the Mexican processing centers and for transfer to San Diego for dispersal to penal institutions in various parts of the United States.

The Judicial Branch through the Administrative Office of the United States Courts made arrangements for United States magistrates to act as verifying officials in Mexico for the consent hearings. The Criminal Justice Act Division of the Administrative Office made counsel available for appointment for each of the transferees to advise them in advance of the verification hearings and to be present at those hearings themselves. The Probation System conducted background investigation of returning prisoners to expedite parole hearings for them. The accomplishment of this enterprise prior to the commencement of the verification hearings themselves on December 5, 1977, in Mexico City earns for the many government staff directors and personnel who performed them special accolades of praise.

From the logistical aspect, the treaty and its implementation are admirable; from the legal and historical aspect, they are unique. The final chapter of the treaty's impact are yet to be written, but even at this midway moment, its adoption and implementation by the first prisoner transfer in December 1977 is unprecedented for several reasons:

(1) For the first time in international history

prisoners convicted of civil crimes in a nation of civil law heritage have been transferred to their home nation of common law origin to serve the sentence imposed by the civil law of the foreign country.

(2) For the first time in the history of the United States judicial officers of the United States District Courts have carried out assignments under terms of an international treaty in a foreign land.

(3) There are at present in foreign countries a fairly sizeable number of American citizens and nationals who have been convicted of crimes in those countries which are of dual criminality with the crimes of this country (this is, rising from offenses which are substantially the same in substance as similar offenses in this country, e.g., narcotics violations, etc.). The implementation of the present treaty has aroused international interest in this new dimension in the administration of justice; indeed, a treaty of similar nature has already been entered between this country and Canada. Several South American nations in whose penal institutions Americans are detained are particularly interested, as are a number of European governments. The capacity of the treaty to meet the United States constitutional requirements to which it may be subjected and the pragmatic results of the transfer of prisoners under it will be closely monitored by these foreign governments and international legal scholars. The significance of the entire undertaking—from the signing of the treaty and ratification by both nations through the reception and distribution of the transferees in their respective countries to complete their sentences—cannot be underestimated.

END

UNTIL quite recently, visits to prisoners have been widely viewed as privileges to be granted or denied the prisoner on the basis of his or her institutional behavior. Certain court decisions concerning the prisoner's right of access . . . have led some penologists to view the visit as a right of the prisoner.—N. E. SCHAFER