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THE NEW PENOLOGY: FACT OR FICTION?

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Twenty-six thousand, nine hundred thirty-eight persons are employed full time in state and federal prisons and reformatories. They are responsible for 161,587 inmates. For every six inmates, there is one employee. Prison personnel can be arranged in several functional groupings. The vast majority, 17,280, are hired to keep prisoners in prison; others, "to keep 'em busy, keep 'em fed, or to keep 'em reasonably well." A few, 1337, are there to get them ready to go out and stay out. More people, however, are employed to shuffle papers than to implement the new penology.

What is the goal of the new penology? It is to get men ready, as rapidly and economically as possible, to go out and stay out by returning them to society, as useful, law-abiding, self-supporting, self-sufficient, independent citizens who will not contribute to the commission of crime by others—men who obey the law because they want to and not because they are afraid not to. What kinds of professional people, and how many, have been hired to implement the new penology and achieve its goals? Not many!

Twenty-three full-time psychiatrists are employed to treat the 161,587 prisoners. Each psychiatrist is responsible for 7,026 inmates. If full-time employment for a psychiatrist meant an eight-hour day and a 160-hour month, it would mean that there is not more than 82 seconds of psychiatric help available for each inmate during a whole month. Little psychiatric time in prison, however, is focused on life after prison. Instead, it is focused on keeping things in reasonable order for the prison administration and on readying a man for transfer to a mental institution.

If the 67 psychologists and psychometrists distributed their time evenly, each inmate could secure about four minutes of their time monthly

for individual attention. The 96 institutional parole officers would have about six minutes for each man each month. Less than ten minutes a month could be afforded each prisoner by the 155 chaplains. The 257 employees responsible for individual case work services have less than 16 minutes for each man. Not over 45 minutes are available from the 739 academic, vocational, and trade teachers.¹

Inmates who consume more than 80 minutes of service in one month from the whole classification, training and treatment staff are taking more than their fair share.

This time analysis assumes that the professional training and treatment staff take no coffee breaks or vacations; that they are never sick; that they are not involved in classification committee meetings, institutional meetings, or staff conferences; that they never attend professional meetings; that they are not snowed under by paper work; that they need not plan their work; that they are not used to pacify the inmate population for the administration's peace of mind or to front for the institution in placating politicians; and that they are not sent out on public relations missions to inform the public—or to beguile it.

Half of the law violators who enter prison today will be back on the streets before 22 months have passed. It is appalling to realize that the average (median) prisoner will have had but 30 hours of treatment time allocated to him during the time that he was withdrawn from society to make him safe for return to society. One cannot avoid concluding from this that such rehabilitation as does

¹ FEDERAL BUREAU OF PRISONS, *National Prisoner Statistics: Prisoners in State and Federal Institutions, 1950, 1954*. Tables 42 and 43. Also correspondence with JAMES A. McCAFERTY, Criminologist, Federal Bureau of Prisons.

occur must be largely the consequence of a prisoner's do-it-yourself project. It should come as no surprise that so many men return to crime following such "lavish" treatment programs. It is, indeed, remarkable that there are not more recidivists.

Men like James V. Bennett, Director of the Federal Bureau of Prisons, and J. Edgar Hoover, Director of the Federal Bureau of Investigation, cite evidence that should alert the public to penology's batting average. Mr. Bennett calls attention to several carefully made samplings that indicate that "at least 55 to 60 percent of the prisoners leaving prison today will return within five years." In some places, he continues, "the recidivist rate exceeds 70 percent."² Mr. Hoover points out that 70 per cent of the fingerprints of arrested persons received by the F.B.I.'s Identification Division are of persons who have records of previous arrests. Hoover directs attention also to the 63.8 percent repeaters among the men received in federal prisons for sentences of more than one year in 1954.³

These figures serve to document the statement that the majority of the men leaving prison are not refraining from crime. Although it is not the purpose of this paper to assign responsibility for this fact, it is manifestly clear that the New Penology cannot be charged with responsibility for it. Very few practitioners of the New Penology have got inside the prison gates, and of this few, some are obliged to leave to maintain their integrity or to avoid dry rot. The New Penology has not yet really been drafted into the war against crime. The distribution of treatment personnel to implement the New Penology is uneven. Institutions where treatment personnel are concentrated serve as beacon lights to those of us who feel the New Penology should be tried. We take heart that this is an indication that someday diagnosis and therapy will supplant blame and punishment in the management of law violators.

For the New Penology to function effectively more than the mere addition of treatment personnel is required. The New Penology should be staffed by dedicated, persistent, sincere men who know what to look for and know the significance

² JAMES V. BENNETT, *Evaluating a Prison*, ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE, 293: May, 1954, p. 10.

³ J. EDGAR HOOVER, *The Challenges of Crime Control*, in NATIONAL PROBATION AND PAROLE ASSOCIATION, PAROLE IN PRINCIPLE AND PRACTICE; A MANUAL AND REPORT, New York, The Association, 1957, p. 45.

of what they see. The legal stage, also, needs to be properly set. Archaic judicial predestination in sentencing should be replaced by the absolute indeterminate sentence. Eventually, too, the ignorance now at work on the American crime problem should be retired through the establishment of a correctional accounting system and the use of its findings. Ignorance should be put on shorter hours at once through the use of what has already been discovered through research in human behavior and corrections.

Ignorance is credited with much of the blame for the floundering and ineffectiveness in the field of corrections. Mr. Richard A. McGee, Director of the California Department of Corrections, has made a significant statement in this regard.

Ideas and principles form the essential foundation of a system, but it is impossible to have ideas without facts about which to have ideas. It is, therefore, essential that an agency of the state government be set up to collect, analyze and publicize information about crime and delinquency. . . . The job is tedious, it is difficult, it is expensive, but undoubtedly much of the floundering in the correctional field has its genesis in the fact that we have too many theories and not enough information. No matter what a good fact finding agency may cost, it cannot possibly cost more than it is worth.⁴

No reasonable man could quarrel with the statements of Mr. McGee. To secure maximum efficiency in the administration of justice and attain the objectives of the New Penology, there is no question that much research is undoubtedly needed. Very little has been done to determine correction's batting average by evaluating the effectiveness of what is done to, for, and with the arrested law violator. If a business knew as little about the performance of its product and the explanation for its performance after it reached the market as corrections knows about the performance of its graduates and the reasons for their performance, the business would surely fail. Products that had to be taken in for repairs as often as correctional graduates are returned for more rehabilitation would soon be off the market.

However, corrections must also face the fact that very little of the correctional research that has been conducted is being utilized in practice. Although no reasonable man can quarrel with the need for research identified by Mr. McGee, any reasonable man should quarrel with the failure to

⁴ RICHARD A. MCGEE, *Planning a State Correctional System*, NATIONAL PROBATION AND PAROLE ASSOCIATION YEARBOOK, 1947.

apply what is now known. Dr. Thorsten Sellin once said "...progress in penology moves on leaden feet..."⁵ If penology does not get the lead out of its feet, a moratorium on research could safely be declared for several decades at least without researchers needing to have any fear that the practice of penology would catch up with them. There is no immediate prospect that the chasm between practice and theory will be bridged. The present relationship between correctional theory and correctional practice is well illustrated by the story about an eager salesman who was high pressuring a farmer to buy a book on scientific agronomy. He was squelched by the farmer's retort, "Shucks, Son, I ain't farming half as good as I know how to now."⁶

A material increase in the attainment of the objectives of the New Penology could be brought about through the immediate application of contemporary correctional knowledge to the control of recurrent crime. This would reduce some of the present inefficiency and vagueness of hunch, whim, intuition, informal experience, and anecdote in the treatment of law violators. For maximum efficiency, however, a continuous correctional accounting system should be established. Crime control and correctional treatment should have an efficiency that cannot be excelled.

Little real progress can be expected in providing maximum protection, at minimum cost, from crime's toll in personal violence and property loss until the importance of securing facts regarding the crime problem and its management is realized and the means are provided for securing and using them. Sound programs cannot be developed and operated in any line of endeavor without sound and relevant facts. There should be no doubt that the present methods of handling the crime problem are in urgent need of improvement to reduce the needless exposure of people to criminal violence. Many remedies have been proposed, and no doubt will continue to be proposed, to solve particular portions of the crime problem by individuals and groups who are especially conscious of certain aspects of the problem. By themselves certain remedies may be warranted for certain immediate purposes but the piecemeal adoption of ideas in response to dramatic instances merely serves to

prolong the short-sighted, unintegrated, uncoordinated, discontinuous procedures that characterize much of America's approach to the crime problem. With facts the merits of various contemplated reforms can be properly gauged and adopted or rejected intelligently. Without sufficient evidence, impulsive decisions may be made. This could mean that things will be done which are neither effective nor economic in solving the crime problem.

Effective administration of correctional policy requires the consideration of the results of past management and the conditions of present management, whether working in the present or planning for the future. With the information that a correctional accounting system can provide, members of legislatures and all other persons concerned with the crime problem will be more able to use present facilities effectively and to plan for the future with sound knowledge of the present and the past. When new ideas are proposed, they will be more able to know what is involved and what the idea is worth. More adequate evaluation of proposed legislation will be facilitated.

A correctional accounting system would promote better protection for the people from law violators and greater efficiency in the expenditure of money for correctional purposes by making knowledge of experience with law violators from arrest to release more readily available and usable. Correctional accounting will help the personnel concerned with crime control to recognize and demonstrate the need for altering, developing, and planning correctional programs.

If correctional administrators are to fulfill their responsibilities of reducing the crime potential of men through treatment they must know the possible effects any one of the treatment techniques now available may have upon the men under their jurisdiction. For treatment personnel to function effectively, the research personnel should make for them a series of evaluative studies of all the techniques used in the treatment of arrested law violators. Research based upon pre-arrest factors and upon manipulative and non-manipulative post-arrest, treatment, and post-release factors would assist the correction personnel in answering questions basic to their work and in fulfilling their responsibility to the people.

Basic research would provide more adequate bases for treatment. Grounds for determining what can be done in the current treatment situation with

⁵ THORSTEN SELLIN, *Foreword*, ANNALS OF THE AMER. ACAD. OF POL. AND SOC. SCI., 293, May, 1954, p. vii.

⁶ WILL C. TURNBLADH, *Substitutes for Imprisonment*, ANNALS OF THE AMER. ACAD. OF POL. AND SOC. SCI., 293, May, 1954, p. 117.

the available means could be established. Questioning of current techniques which retard reformation, or assist but little, would be stimulated. With decrease in post-treatment recidivism as the criterion for change, increased reformation would be secured through abandoning useless treatment techniques, reorganizing current procedures, and experimenting with new methods.

Through the development of prognostic instruments in connection with the work of the correctional accounting system, administrators would have additional help in selecting the most efficient treatment techniques for a given man. An additional basis for determining that further treatment will no longer contribute to adjustment would be provided. Such research will contribute to the day when those concerned with the treatment of law violators can prescribe treatment with knowledge of the expected effects of all the avail-

able techniques upon them. From among those procedures the ones that will help the offender the most can be chosen. This could be accomplished by identifying for him those methods that have minimized the recidivism of men like him in the past. Correctional authorities could act more according to calculation and less according to hunch and whim.

Because there are so few practitioners of the New Penology staffing our correctional services, because the legal framework for the administration of criminal justice is archaic, because the knowledge already revealed by research in human behavior and corrections is not being utilized, and because correctional accounting systems are not in operation, my answer to the question posed by the title of this paper: "The New Penology—Fact or Fiction?" is: "I don't know. It has not been tried!"