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A Proposal for the decentralization and urbanization of the United States penal system

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A PROPOSAL FOR THE DECENTRALIZATION AND URBANIZATION OF THE UNITED STATES PENAL SYSTEM

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TABLE OF CONTENTS

CHAPTER I

Crime has been a scare topic bandied frequently about the American public, especially for the past decade. Part of the platform of the winning candidate in the 1968 presidential election was devoted to the pledge that the streets of the nation would once again be made safe for Americans.[1] The public was aroused and demanded stronger laws to deal with the War against Crime. Crime on the streets had become part of the political "law n' order" rhetoric, especially in the context of the cities. The public complained that it no longer felt safe after dark on city streets. The Federal Bureau of Investigation's Uniform Crime Reports have shown crime to be on a dramatic increase.[2]

But despite the intense interest of the citizenry and the government, little of this alarm with crime has flowed over to the area of prisons. This is in spite of the hard fact of penology that 95% to 98% of the prisoners return to city streets after serving their time.[3] If these men were done away with in some fashion, by life imprisonment or death, then there would be little of the problem that exists with the vast majority that return. This paper will demon-

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[1]Samuel Lubell, The Hidden Crisis in American Politics, (New York: W.W. Norton & Co., Inc., 1970), p. 24.

[2]Norval Morris and Gordon Hawkins, The Honest Politician's Guide to Crime Control, (Chicago: The University of Chicago Press, 1970), p. 31.

[3]Clyde P. Vedder and Barbara Kay, Penology, (Springfield, Ill.: Charles C. Thomas, 1971), p. 300.

strate that offenders, because they will return to society, should be kept in the community, namely cities, in our urbanized society. This will offer more hope of successful reentry into society than incarceration in a remote, rural prison.

Community corrections was selected as a subject for Urban Studies because crime has become one of the most publicized problems in the cities. This paper's solution to the offender's punishment shall present the alternative of returning the offender to his community. This proposal would necessarily urbanize the prison system through decentralization. By this method, new forms of incarceration would become available for liberalization and experimentation in the highly bureaucratized state and federal prison systems. The urbanization of the prison system would return the offender to the place where the crime was committed, namely his community. He is most likely to return there anyway, once he is released from prison, because it is his home. To continue to take the attitude of out of sight, out of mind, is clearly wrong for a society if it desires conflict resolution. The argument for decentralizing prisons will be shown to be a hard-headed, pragmatic approach to the problems of prisons and prisoners.

With the Attica prison rebellion (and it was nothing less) of 1971 only two years old, it may behoove the public to consider alternatives to the huge monstrosities of today's prisons. These places have become highly bureaucratized, and given the nature of a bureaucracy, they tend to grow and the bureaucrats tighten their ranks to defend their position to society at large. Because of this defensive posture and the prison system's unwillingness to change,

Harvard political scientist, Daniel P. Moynihan, has aptly commented that "Prisons are the last medieval institution in American life."[4]

Recently a controversey has surfaced in Montana concerning the disposition of $3.8 million, which has been designated by the state legislature for the construction of a new state prison at Rothe Hall.[5] Opposition has grown to this proposal from the proponents of community detention facilities, which they would like located in Montana's urban areas. State Prison Warden Roger Crist has defended the new prison as necessary for the "proper incarceration" of the state's offenders.[6] This debate shall be reviewed later in the paper.

The question of community corrections versus large prions is therefore a timely one. If change is not in the air, then at least a challenge to the role of the penitentiary in our urban society has come of age. Prisons, once a sacred cow of the corrections bureaucracy, have come under attack from liberal as well as the conservative elements in the nation. The liberal attitude is such that it questions the humanity of a prison, and conservatives demand to know how much return they are getting for their prison dollar. Given the problems of crime and urbanization in America, the dispute between prison incarceration and community corrections should be resolved. This paper is directed toward this dispute, in the belief that an urban and humanitarian society will experience less social difficulties with a humane, community approach to corrections.

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[4]"Justice on Trial," Newsweek, March 8, 1971, p. 18.

[5]Gary Langley, "Regional Prison Idea Remains Alive," The Missoulian, May 8, 1973, p. 17.

[6]Marisa Mappes, "Crist: A Central Prison with Private Rooms," The Missoulian, March 10, 1973, p. 9.

CHAPTER II

A BRIEF HISTORY OF CORRECTIONS

Early Prisons

The concept of prisons began in Philadelphia, Pennsylvania in 1791 with the Walnut Street Prison, said to be the "first penitentiary in the history of man."[7] Prisoners were segregated into solitary cells, without interaction of any kind. Later, in Auburn, New York, another prison was erected. It enforced silence, but prisoners were allowed to work together in shops. The prisons were designed to make men penitent for their transgressions against society. By keeping the men isolated and unable to communicate with their fellow convicts, they were expected to seek forgiveness from the authorities and promise to err no more.

Alexis de Toqueville and Gustave Beaumont came to America from France in 1831 to study the American penal system for the French government, which was interested in penal reform. Toqueville discovered that much of the American prison system was based on the premise of free will and that an offender had the opportunity to choose between right and wrong. And if he should choose what society deemed to be wrong, the transgressor was to be punished. The two Frenchmen concluded their report in 1833, and wrote:

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[7]Lawrence Hazelrigg, Prison Within Society, (Garden City, N.Y.: Doubleday & Co., Inc., 1968), p. 84.

> While society in the United States gives the example of the most extended liberty, the prisons of the same country offer the spectacle of the most complete despotism.[8]

The dichotomy here between life on the outside of prison walls and incarceration, shows the imprisonment lends itself to a subversion of a man's spirit. Conditions have not changed much since de Toqueville's day, and the despotism of a penal institution would subvert the strongest psyche. To be released from an authoritarian environment into a societal arena where most of one's decisions are one's own, would be trying to even the strongest of personalities.

The Auburn system was to have brought reform to American prisons, because it attempted to make them behave as they were expected through incentives rather than coercion. About 1860, reform began to be talked of more than it had in the past, and it became one of the main topics for penologists. "Treatment" personnel were gradually introduced, such as instructors in trade and academic training, religion, close-order drill and calisthenics.[9] The theory that idleness makes play for the devil had come to roost in the prison yard. Efforts were made to give the offenders skills and education so they would not recidivate back to prison once released.

Penal Reformation

The late 19th Century was to become a period of reform. Parole was introduced in 1876 from Ireland and probation began in Massachu-

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[8]Gustave de Beaumont and Alexis de Toqueville, On the Penitentiary System in the United States and its Application in France, (Philadelphia: Carey, Lea & Blanchard, 1833), p. 47.

[9]John P. Conrad, "Need for Prison Reform," Current History, LXI (August, 1971), p. 89.

settes in 1878.[10] Parole was designed to release prisoners into society for the remainder of their sentences, whereas probation provided a ready alternative to imprisonment, namely no prison sentence at all, but rather supervision in the community. This period of reformation was designed to make the penal system more humane and responsive to the needs of the prisoners. But there is no proof, unfortunately, that the rehabilitative efforts of the reform institutions in fact reduced the recidivist rate or reformed anyone at all. Prison reform and rehabilitation (which literally means to take one back to his original state) had become part of the bureaucratic rhetoric. And so it has remained.

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[10] Ibid., p. 35.

CHAPTER III

THE PROBLEM WITH PRISON

Recidivism and Cost

The basic problems with the prison as we know it today are: (a) Prisons have a high rate of recidivism which is usually estimated at 66% for the high, and 38% for the low. Sociologist Daniel Glaser states that the recidivist rate is only 38%, because the record keeping procedures in prisons are poor and records are not centralized.[11] But if Glaser's low estimate is right, even then the failure rate of four out of ten ex-convicts returning to prison is far too high in terms of wasted lives and the expended resources of society to keep them under lock and key. (b) The cost of prisons is enormously high. It costs no less than $1.5 billion annually to maintain our prison system.[12] It has been estimated that it was cheaper in 1970 to send a daughter to the presitgious college of Vassar for $5,000 a year, than to send her to Ventura, California, a state prison for women, where the expense shoots up to $6,000 annually.[13] One of the features of the American public has been its resistance toward higher

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[11] Daniel Glaser, The Effectiveness of a Prison and Parole System, (New York: Bobbs-Merrill Co., 1969), pp. 4-5.

[12] Claude Pepper, "Prisons in Turmoil," Federal Probation, XXXVI (December, 1972), p. 3.

[13] Tom Wicker, "Ventura and Vassar," Great Falls Tribune, Nov. 8, 1971, p. 6.

taxes, especially when it feels that the public services taxes buy are minimal, if not altogether lacking. But rarely has the public spoken out on the issue of the prison budget. Perhaps people are willing to pay for the false security of keeping a man locked behind walls for a short period of time. But, however the public perceives the price, it is far too high in terms of what the public receives for its money. It is true, though, that the prison system does offer jobs to those who administer to or staff the prisons, but it is highly unlikely that the public would want to continue an operation that merely provides jobs. Syndicated columnist Sydney J. Harris has written: "Apart from education, the one thing the public is willing to pay for the least return is keeping a man in prison just long enough to ruin him for anything but a return to the way of life that put him there in the first place."[14]

Montana's Proposed Prison

As noted earlier, Montana plans to spend nearly $4 million on a new prison. The Missoulian newspaper has editorialized against it, and one of the reasons for the paper's stand is the cost of the prison. The editor pointed out that it will cost the taxpayer $6,000 per year to keep a man imprisoned, which is what it takes to send a son to Yale for the same period of time.[15] Perhaps because most of the money will be federal rather than state, most Montanans don't seem to be particularly concerned with such a large expenditure of tax funds.

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[14]Sydney Harris, "Strictly Personal," Great Falls Tribune, April 27, 1972, p. 25.

[15]Editorial, The Sunday Missoulian, March 4, 1973, p. 4.

If the public would have a substantial return from its prison dollar, such as the knowledge that the offenders would be permanently removed from society, then the cost might be justified. But since nine out of ten convicts will be freed, and most of them will naturally return to their home town, then it is difficult at best, if not impossible, to justify long-term imprisonment, which exacerbates the problems that originally promoted their offenses.

Over 100 years ago, prison officials met in Cincinnatti, Ohio, to reform U.S. prisons, and concluded that "Reformation, not vindictive suffering, should be the purpose of the penal treatment of prisoners."[16] Yet the vast majority of Americans appear to want their pound of flesh from offenders and desire punishment rather than a humane alternative to vengeance. A 1971 Gallup Poll revealed that 3/4 of the public believe that criminals are getting off far too easily.[17]

Despite these strong feelings of retribution, it would be absurd not to press on with a more humane alternative to prison. To lay the problem in the hands of a democratic decision-making process would be to suggest (by following this logic) that the Federal Drug Administration should make democratic decisions on which pharmaceutical substances are harmful. Clearly, then, the decisive factors of penal institutions are far too important to society to respond directly to public opinion.

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[16]Pepper, "Prisons in Turmoil," Federal Probation, XXXVI (December, 1972), p. 3.

[17]"The Public: A Hard Line," Newsweek, March 8, 1971, p. 39.

Effects of Incarceration

Many criminologists have come to the conclusion that institutional incarceration, rather than being beneficial, "is in fact usually deleterious to human beings. Worldwide experience with all 'total institutions,' prisons and mental hospitals alike, reveals their adverse effects on the later behavior of their inmates."[18] As a result, the high cost of prison does not deliver the rehabilitation, which is difficult to define, that the penal bureaucracy would like the public to believe. This penological establishment, to the detriment of its charges, has been more concerned with holding onto its authority, than with concessions to realism and humane principles - and the slaughter at Attica was a result of official obduracy.[19]

Isolation from the community of the offender is another problem feature of the modern day prison. It simply does not make sense in today's urban society to send prisoners to rural areas, far from their homes, when the crime took place in the community. This traditional disposition of offenders is a hangover from the days of the Auburn system. At that time, America was a rural nation and it was natural to assume that prisoners would become penitent in a country setting.

Attica and Prison Riots

At Attica prison in upper state New York, the typical prisoner was an urban black under 25 years of age. The average guard, however, was middle-aged, rural, and white. This is typical of the prisoner-

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[18] Morris and Hawkins, Honest Politician's Guide, p. 124.

[19] Sydney Harris, "Strictly Personal," Great Falls Tribune, Nov. 26, 1971, p. 24.

guard makeup throughout the land, where guards have as their main concern custody and not rehabilitation of any kind.[20] It is little wonder that Attica experienced rebellion when the prison staff is compared to its charges, and it is noted that there is so much disparity between race, age and social outlook. Before the rebellion, Attica's population was 55% black and 7% Puerto Rican, whereas there was only one black and one Puerto Rican on its staff of 540.[21] And the fact that the prison was in a small, rural, white town, far from the urban ghetto where most of the prisoners were from, did not help to neutralize difficulties between the keepers and the kept.

The public's fear of prison riots are well founded, given the state of penology today. Prisons are generally huge, housing far more men than the staff can adequately handle. Attica had over 2,200 prisoners, which leant itself to the explosive situation that had developed there.[22] Because prisons are so large, guards, even if so pre-disposed, could not begin to engage in any efforts toward rehabilitation. Their function, due to the size of the prison population, is sheer custody. Sydney J. Harris writes that "... everybody in prison is a subversive, or out to be. The American prison, as an institution, has deserved to be subverted for a long time. If any establishment was ripe for overthrow, this is it."[23] For the prison system to con-

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[20]Pepper, "Prisons in Turmoil," Federal Probation, XXXVI (December, 1972), p. 5.

[21]Ibid.

[22]Ibid.

[23]Sydney Harris, Great Falls Tribune, May 4, 1973, p. 20.

tinue as before, without fundamental change, would be an invitation to its timely death.

CHAPTER IV

THE MONTANA CONTROVERSY

'But what good came of it at last?'
Quoth little Peterkin.
'Why that I cannot tell,' said he
'But 'twas a famous victory.'[24]

The Pro-Prison Perspective

A public debate has been swirling in and out of the Montana news media concerning the efficacy of a proposed prison to be built at Rothe Hall. Proponents of the penitentiary claim that it must be built to replace the present prison at Deer Lodge, which was started on June 2, 1870.[25] It is this medieval monstrosity that both factions, anti- and pro-prison, agree should go. But the mutual accord ends there, as the pro-prison people, headed by Montana State Prison Warden Roger Crist, push for the $3.8 million institution that they feel would give convicts the best possible chance for rehabilitation, while simultaneously granting the public safety from these offenders. Crist's argument rests on the proposition that community correction centers would compliment the programs at the central prison. He opposes regional detention centers (for the use of many Western states) because they would most likely remove prisoners from the state, and certainly

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[24]Herbert J. Muller, The Children of Frankenstein, (Bloomington: Indiana University Press, 1970), p. 338.

[25]Marisa Mappes, "Crist: A Central Prison," p. 9.

far from their community, making it difficult for families and lawyers to visit.[26] But in stating his opposition to regional facilities, he unwittingly named the evils of his central prison program. Namely, one prison in Western Montana would prevent the inmate from being near his family, friends, lawyer and community.

The total community concept he is against would keep offenders in Montana's population centers, such as Missoula, Great Falls and Billings, where the crime was committed. If the offense was not in a city, then the offender would be sent to the corrections center closest to the locale of his offense. Since most of the state's population is west of the Continental Divide, two community corrections centers should suffice for the eastern part of the state. But Crist believes that a community detention center should work in alliance with a central prison, though he sees value in the community concept. The prison he proposes to take the place of the present penitentiary "won't be a Bastille, but instead a fenced-in area with guard towers," which he feels would provide adequate security.[27]

The plans call for a modern institution with individual private rooms with key and more liberal features such as separate dining tables rather than the present bench arrangement at Deer Lodge. He claims that a central prison for the entire state, that will provide maximum, medium and minimum security will save the state annually about $300,000.[28] He did not explain how he arrived at this figure.

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[26] Ibid.

[27] Ibid.

[28] Ibid.

Arguments Against A New Prison

The forces opposed to the big prison concept concede that some men may be so anti-social in their behavior, so as to present a danger to society. The small number represented by this group could easily and adequately be kept in a custody oriented institution. Richard Vandiver, University of Montana criminologist, has publicly argued for community detention centers because it is his firm belief that: Big prisons (a) corrupt both the keepers and the kept; (b) are expensive and unnecessary in that the close custody is not needed for most the the inmates; (c) take the minds of the community off the circumstances that led to the offender's behavior, thus negating any possibility for rectifying the causes of crime, and (d) neglect the idea of more realistic alternatives to maximum security.

Vandiver proposed that:

(a) The community can control a man far better if he remains in the community.

(b) Alternatives to illegal behavior should be offered, such as jobs or education.

(c) Most offenders present no danger to their community, so it is therefore nonproductive to move them off to a remote maximum security institution.

(d) Jobs of the offenders would keep them and their families off welfare.

(e) Contrary to Crist's suggestion, it is far cheaper to provide community alternatives to big prisons.[29]

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[29]Richard Vandiver, "Criminologist Weighs Advantages of Regional Detention Facility," Great Falls Tribune, Feb. 6, 1973, p. 6.

Montana State Prison employs 208 people,[30] and this may be an indication that the prison bureaucracy, given the nature of the bureaucratic beast to expand inexorably, may be doing just that. For community detention centers may actually present a threat to the employees. Whether this threat is real or a fiction, it is nevertheless important to realize that some of these employees might fear for their jobs in a decentralized institutional setting. The counter argument could be made, however, that all 208 could easily be absorbed in the various community centers that would be established in the major population centers of the state. Any move toward decentralization of the Montana State Prison would have to be presented in this light to MSP employees. Moving on to a new central prison facility would enhance the prestige of the bureaucracy and ensure its existence for at least as long as the building would last.

Unlike the typical prison bureaucrats, two men on the MSP staff have spoken out against a new prison. Harry Erikson, director of the Manpower Development and Training Program at the prison has flatly stated that buildings, new or otherwise, will not rehabilitate prisoners. The recidivist rate of parolees, he explained, has been 30%, but those trained under his program, have been returning to prison at a 15% rate.[31] Clearly, if any progress is to be made, newer and better buildings are not the answer, but perhaps better training programs would mean prison money would be better spent.

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[30]Marisa Mappes, "The Prison as a Warehouse for Men," The Missoulian, March 12, 1973, p. 11.

[31]Ibid.

Bill Molla, counseling prison psychologist, took a somewhat stronger view than Erickson. Molla believes that a prison, old or new, merely warehoused men, and served no other purpose but to give society a brief respite from the offender, who would return to the streets unable to cope with society itself. "There is the idea that if you've got something nice and new and shiny, it's good. You could spend $30 million and still end up warehousing men," Molla argued.[32] He is aware of a community's resistance to convicted criminals living and working within a community with less than maximum security. A 1967 Gallup Poll showed 80% of the public questioned the use of halfway houses for offenders.[33] This public fear of convicts could stem from the unknown, since the general public is unfamiliar with inmates, and this leads to prejudice.

The community fears, then, should be addressed before prisoners are introduced into the community for alternative programs to a central prison. This could be accomplished through an information and education program, especially directed at the community leadership. They should be told that little or no danger would come from community corrections centers. The incarceration of the true incorrigibles in a central facility, far from the communities, would help qualm fears.

A poll of 10% of the MSP inmates population revealed that nearly all were opposed to the new prison. It would be accepted only

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[32]Marisa Mappes, "The Prison as a Warehouse for Men," The Missoulian, March 14, 1973, p. 13.

[33]Pepper, "Prisons in Turmoil," Federal Probation, XXXVI (December, 1972), p. 7.

if it meant new facilities in the community center concept.[34] Training and education were high on their priority list, rather than new buildings with greater creature comfort for the staff and inmates.

Despite the strong push in the direction of a new prison, which has been authorized by the state legislature, Ed Kellner, Director of the State Department of Institutions, admits that community corrections is the wave of the future. But he believes it to be a gradual process, with men guilty of the violent crimes of murder, assault and rape going to a central prison. Community centers should work together with the prison, especially in the area of work release and half-way houses, Kellner believes.[35]

Montana State Supreme Court Justice Gene B. Daly has thrown his support behind community detention facilities. A Great Falls editorial that mentioned this, also stated that it is a "myth to believe that big prisons can rehabilitate criminals. Study after study has shown that prison programs, however progressive, generally have failed to cut down on the return rate of convicts."[36] There is no evidence to refute this counterpoint to a new prison and much to support it. Dr. D. Kim Nelson, Director of Public Administration at the University of Southern California, has commented: "The idea of correcting anyone in prison is bankrupt. You can't mix punishment and

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[34]Marisa Mappes, "The Prisoner's Point of View," The Missoulian, March 15, 1973, p. 27.

[35]Langley, "Regional Prison," p. 7.

[36]Editorial, Great Falls Tribune, Feb. 26, 1973, p. 6.

rehabilitation. Prisons should be used for punishment."[37]

The concept of community corrections is not dead in Montana, because the Governor's Crime Control Commission has established a $110,000 fund for the purpose of studying this concept.[38] With this in mind, it would be well to look closely at community corrections.

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[37]James Vorenberg, "The War on Crime," Atlantic Monthly, May 1972, p. 65.

[38]Bernadine Sohl, "State Prison Warden Describes Programs for New Institution," Great Falls Tribune, May 8, 1973, p. 10.

CHAPTER V

COMMUNITY CORRECTIONS

> The general concept of a community correctional facility separate from the jails is a rather new idea in American penology. Administrators are confident that the short-term correctional institution will be one of tomorrow's frontiers in corrections. Properly conceived and operated, short-term correctional facilities, which have held such low status in corrections, shall play a critical role in stemming the tide, and truly become "houses of corrections".
>
> --U.S. Manual of Correctional Standards[39]

The Need for Community Corrections

Despite this official optimism, the problem remains to put the community concept into operation, and not to allow it to remain buried in manuals, journals and texts that espouse the cause. There is always the possibility that inmates will be treated just as poorly in decentralized locations as they were in state prisons, but the community concept presents the alternative of shorter sentences, keeping the offender in his home area, if not city, and it enables the staff to work with fewer prisoners. These suggestions will not be a solution to crime, but it is proposed that it is much more than a palliative. The opinion of professional penologists and criminologists has turned against the prison, except for the few incorrigible offenders, especially in light of the staid and conservative Manual of Correctional Standards

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[39] American Correction Association, Manual of Correctional Standards, (Washington, D. C.: Government Printing Office, 1966), p. 65.

advocating the community concept. To reduce the sheer size of the institution, and thereby lower the number of inmates, would be a step forward. Another progression toward a more humane and better corrections policy would be to recognize the brutal fact that penal institutions punish people, rather than correct their behavior. Community centers would aid the inmates simply by releasing them faster than a prison would.

Robert Martinson, author of a series of articles on prison reform in the New Republic magazine, has vociferously attacked the sacred cows of treatment. That, coupled with the prison itself, he feels are the greatest obstacles to genuine reform, which means returning the offenders as quickly as possible to the community before he is tainted and corrupted by prison institutionalization.[40] He is against treatment because he feels it does not work for the most part, and that it is a negative approach since it lengthens the prison sentence. He believes that the big state prison should be torn down, and that anything else that remains to incarcerate inmates "will be small and humane; anything else is treason to the human spirit."[41]

Martinson's views on treatment are rather radical, but his point is well made that the longer a man is imprisoned the more difficult it is for him to reenter society. The 1967 President's Commission on Crime recommended that there be a shift to community treatment of prisoners because prisons usually make a man more a danger

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[40]Robert Martinson, "The Paradox of Prison Reform: Planning for the Public Safety," The New Republic, April 29, 1972, p. 23.

[41]Ibid.

to society than he was before incarceration.[42] Martinson does not concern himself so much with the ex-convict's danger to society as he does with the danger that the former prisoner will not become reintegrated into society after severing community ties while in prison. He stated that, "... the central paradox (of penal reform) is that deprivation of liberty is increasingly damaging in a society which fails to provide democratic opportunity, and yet demands skillful and uncoerced effort from its citizens."[43]

Reintegration Into Society

In a word, society cannot have it both ways - custody and reintegration into society following release. The custodial mentality, long the dominant theme in corrections, has gone the way of the stock and pillory in effectiveness. If the public wants its pound of flesh through prisons, and believes what J. Edgar Hoover once said: "modern penologists are coddling criminals,"[44] then it must pay the toll of revenge from the nine out of ten convicts who return to the streets. Conservative rhetoric to the contrary, punishment does not make people behave better. The only societal good it serves is to make those who administer the punishment feel better. Certainly prisons have been a failure at rehabilitation. They simply do not instill in the inmates a desire to go straight and stay out of trouble. Indeed, it has been suggested that the "shame, hardship and stigma of arrest,

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[42]Vorenberg, "The War on Crime," p. 65

[43]Martinson, "The Paradox of Prison Reform," The New Republic, April 8, 1972, p. 15.

[44]H. Jack Griswold, et. al. An Eye for an Eye, (New York: Pocket Books, 1970), p. 12.

public trial and conviction are greater principle elements of deterrence rather than the disposition of the offender."[45] If this be the case, then it is in the public's interest to adopt a community corrections program bent on a quick return of the offender to the community, rather than on custody and punishment.

The President's Commission on Law Enforcement and Administration criticized communities thusly: "... as depriving offenders of contact with the institutions that are basically responsible for assuring the development of law-abiding conduct..." The report concluded: "The task of corrections, therefore, includes building or rebuilding solid ties between the community and the offender, integrating or reintegrating the offender into community life."[46] By definition, prisons keep inmates away from free society for at least one year (jails keep those who are serving less than one year), with most sentences running more than one year. The avenues leading to the community that are accordingly destroyed are increasingly more difficult to reconstruct the longer the man is away from his community. Meaningful reintegration or rehabilitation must take this factor into account. Thus, the argument for community corrections.

Donald E. Santarelli, Associate Deputy Attorney General, United States Department of Justice, gave the following testimony to the U.S. Senate Subcommittee on Residential Community Treatment Center hearings:

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[45]Nerval Morris and Gordon Hawkins, "Rehabilitation: Rhetoric and Reality," Federal Probation; XXXIV, No. 4 (December 1970), p. 12.

[46]Clyde E. Sullivan, "Changes in Corrections: Show or Substance?" Manpower: III, No. 1 (January 1971), p. 3.

"All of the time of confinement for a convicted offender should be considered a time of preparation for the individual's return to free society."[47] Prisons, given their large size, are concerned with what they do best, which is to keep the prisoner in custody, rather than prepare him in any way for his release back to his community.

The emphasis behind corrections in the community is simply not to merely punish or hide offenders from society, but to give him an alternative to his illegal behavior while keeping him in the community corrections, but the most viable are work release, half-way houses, probation and parole. This is not to exclude other programs specially designed for those that have run afoul of the law because of alcohol or drugs. But while the inmates are being treated voluntarily for their particular medical and/or social problem, all effort must be made to allow them to reenter their community. If this does not occur, then Robert Martinson's perspective of treatment programs accomplishing nothing more than deferring freedom becomes a truism.

Half-Way Houses

Half-way houses are designed to aid the prisoners make the difficult transition from the institution to the community. They must serve as more than a place where the offender receives room and board, however, because services to enable the transition to occur smoothly must be included if the operation is not to be a farce. These would include vocational rehabilitation, job counseling and

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[47]Donald E. Santerelli, Testimony on Residential Community Treatment Centers before Subcommittee No. 3 of the Committee on the Judiciary House of Representatives, 91st Congress, 2nd session, on H.R. 2175, (Washington, D. C., June 25, 1970), p. 4.

educational training.[48] The President's Crime Commission recommended that half-way houses be "...located close to a population center, maintaining close relations with schools, employees and universities--housing as few as 50 each; serving as a center for various kinds of community programs and as a port of reentry to the community for those offenders that have been exiled for a time to the penitentiary."[49]

The half-way house is what its name implies, a point half-way between prison and the community. Its opponents may deride the program as being the worst of two worlds, but most prisoners would probably agree that nothing is quite as bad as prison. In the half-way house the men are allowed the freedom to receive services and treatment programs during the day, as well as to participate in work release. A curfew is maintained for the evening hours, but the men have the run of the house, with access to recreation rooms and television in a far more home-like environment than a prison can offer. Proponents of the program may cite the fact that though the men are active in the community by day, their reentry into the community is gradual and they are still closely supervised. This grants the community at the very least a modicum of protection, lest public fears and prejudices bring an end to the half-way house. The attractive aspect of this program is that it presents a humane substitute to prison, or a long prison sentence, and it gradually helps the inmate get back on his economic and social footing in the community. It is far better than releasing a prisoner, unprepared for an urban society, from the isolation of a

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[48] Pepper, "Prisons in Turmoil," p. 7.

[49] Ibid.

rural penitentiary, where he probably served for over a year.

Prison officials are finding that their charges are generally less dangerous and more trustworthy than they once thought them to be.[50] An energetic program of public information woudl be a prerequisite for a community detention center from being established. The anonymity of a city, though, would serve as an adjunct to the center's absorption and acceptance by the populace. Public approval would not be mandatory for a community correction program, but it certainly would be beneficial.

Work-Release

Work-release is likely the most popular and acceptable of community programs, because the offenders are paying their way by working in the community. The benefits that accrue from work-release are:

(a) Offenders are given on-the-job training that is unavailable in prison. It gets the convict away from institutional idleness, which is one of the most perverse features of prison life. Three-fourths of the nation's inmates lack marketable skills, and work-release would provide them with the needed training by getting them involved in a job other than manufacturing license plates or repairing state furniture.

(b) The men would help earn their keep with pay, support their dependents and keep them off the welfare rolls. This should appeal to community conservatives that are strongly against welfare.

(c) Work-release provides the opportunity to practice a new social

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[50]Ralph W. England, Jr., "Is the Prison Becoming Obsolete?" Current History, LXI (July, 1971), p. 50.

role outside prison walls.

(d) The inmate maintains his dignity because he is not kept continually under custody as he is in prison. He is more his own man and this should result in higher self-esteem.

(e) He has a job for his release.[51]

Work release is not new, because it was tried by Wisconsin during World War One. Communities must help to make it work by accepting the convict as a citizen rather than an outlaw. Reports do not show that half-way houses or work-release rehabilitates more offenders, but they do save money, without a decrease in public safety.[52]

Work-release works well as an alternative to costly counter-preductive incarceration. The following figures illustrate the success of the federal work-release program in 1967:

(a) Prisoners had gross earnings of over $1-3/4 million.

(b) Income tax and social security deductions totaled $280,000.

(c) The prisons received $232,000 for room and board payments.

(d) Dependents got $236,000.

(e) Saving accounts shot up by $468,000.

(f) The community received $536,000, which has spent by the work releasees.[53]

To operate effectively, this type of program must be placed in a population center. There would be no hope for jobs on work-release in the rural communities where most prisons are located. Rhode Island

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[51]Pepper, "Prisons in Turmoil," p. 8.

[52]Conrad, "Prison Reform," p. 90.

[53]Glaser, Prison and Parole, p. 285.

enjoyed a successful work-release program where 38 inmates lived in cottages, and travelled by bus to their jobs. They were unattended by prison staff the entire time and not one inmate escaped.[54]

Other Alternatives to Prison

Probation, the program that releases a convicted offender to a probation officer, affords the chance for the offender to escape prison entirely. It is highly recommended as an alternative to prison, because it is far less costly, supervision of offenders allows the community protection, it provides for a second chance at adjustment and it protects offenders from institutionalization and the stigmatization of being an ex-convict.[55]

Parole is the complementary program to probation, and it presents itself as an alternative to a convict serving his full sentence. Parolees are released after displaying a period of good behavior, and they must have a job and proper home arrangements upon release. Parole's purpose is above all public protection, because it releases a prisoner who has the best opportunity of achieving a noncriminal life.[56]

The President's Commission on Crime recommended that community corrections institutions be small, located near the home of the inmates rather than remote areas, that it would be constructed to look like a normal residential center rather than a prison, vocational and education-

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[54] England, "Is Prison Obsolete?" p. 39.

[55] Pepper, "Prisons in Turmoil," p. 5.

[56] Glaser, Prison and Parole, p. 13.

al training would be in the community rather than the center and that it would serve as a half-way house and pre-release center for the inmate's reentry back into society.[57]

California's Study of Community Corrections

In 1971, a massive study of California's prison system was completed and published in three volumes.[58] The study, the work of 57 penologists, concluded that it was cheaper socially and economically to keep a man out of prison than it was to incarcerate him. What was so unusual about the report was that the burden of its recommendations fell upon the community, rather than the state. The penologists wrote that: "It was in the community that the behavioral act occurred which brought the individual into the criminal justice system. And it is in the community where behavior will or will not recur."[59] The committee's specific recommendations were:

(a) Strong emphasis on community action, not state action.

(b) State subsidies should increase to local probation services from 20% to 75%.

(c) The state would subsidize 60% of county "open institution" programs, where offenders are technically imprisoned, but in close touch with family and community.

(d) The state would pay for 40% of the upkeep of county jails, where an offender would be imprisoned for no more than six months (the

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[57]Pepper, "Prisons in Turmoil," p. 4.

[58]Wicker, "Vassar and Ventura," p. 6.

[59]Ibid.

usual jail sentence is no longer than 12 months). Then, if a county gave up on an inmate, they could send him to a state prison, which would charge the county 75% of the cost of keeping the prisoner.[60]

This, in effect, would be a state tax on the county for passing a prisoner to the penitentiary. It then becomes a strong possibility that less people will be adjudged criminally deviant by the community if that same community must deal with the misfit on an ongoing basis rather than shunt him off to a state prison and effectively wash its hands of the offender.

This sort of state reinforced decentralization is what it may take for communities to take up their responsibility in dealing with those they label as criminal. Robert Keldgord, who chaired the California corrections committee, believes that inmates would be released sooner under community jurisdiction than they would be by a state prison.[61] As well they may, if local funds would pay for their maintenance in the detention centers. It would be a case of an economic necessity granting freedom rather than humanitarian arguments. Keldgord stated that the prime goal of his committee was to reduce California prison sentences from three years to the national average of two years; and the savings would enable the state to shut down its two largest penitentiaries.[62] This in itself is a strong case for the community concept, which is aimed at reducing prison sentences. It may very well come down to a confrontation of the taxpayer's protest against

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[60] Ibid. [61] Ibid. [62] Ibid.

higher taxes versus his fears of having criminals incarcerated and helped in his community.

A survey entitled "The Effectiveness of Punishment and other Measures of Treatment", was conducted in 1967 for the Council of Europe. Its conclusions were:

(a) Humanitarian systems of treatment (e.g. probation) are no less effective in reducing the probability of recidivism than severe forms of punishment.

(b) Money (if not souls) can be saved by revised treatment systems. The cheaper systems are more often than not also more humanitarian.

(c) Much money is wasted in many countries by the provision of unnecessary security precautions.[63]

Consequently, if the rationale for more humane forms of dealing with felons does not win support, chances are that a dollars and cents argument would gain conservative advocates. Judging the political mood of the nation by George Wallace's popular appeal and the landslide victory of a Republican President in the 1972 election, it would be safe to conclude that citizens want to spend less money for centralized government institutions. Community corrections would be a good place to begin trimming the $1.5 billion corrections budget. There is absolutely no documented evidence to show that there is a causal relationship between penology practice and the rate of crime in a society.[64] In view of this, it may be slightly absurd for the political "crime in the streets" and "law n' order" rhetoric to foist more expensive prisons on the public when the crime rate is not a function of penal practice.

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[63]Morris and Hawkins, "Rehabilitation," p. 11.

[64]Morris and Hawkins, Honest Politician's Guide, p. 116.

CHAPTER VI

It has been estimated that by 1975 the average daily population in corrections facilities will be 1.8 million.[65] This enormous number of inmates should force action to be taken toward a reduction in the length of sentences and prevent many from being imprisoned in the first place. The ineffectiveness of sheer custody in penetentiaries, and its corruption of the human spirit, may very well be overridden by the factor of cost. For it will be far too expensive for tax money to be continued to be spent on the archaic concept of prison.

By 1970, 1200 prisoners were released through the federal Community Treatment Centers, which offered daily counseling and job opportunities for releasees. Brief studies show that the prisoners had a better opportunity for success if released through CTC, than from a prison.[66]

Representative Claude Pepper (Democrat-Florida), who chaired the United States House Select Committee on Crime, held hearings in November and December 1971 on the Attica and Raiford prison riots. His conclusions were:

(a) Prisons are far too large and unmanageable for any serious rehabilitation. The ultimate goal must be to eliminate the huge monstrosities and replace them with smaller centers in the prisoner's community.

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[65] Bertram S. Griggs and Gary R. McClure, "Community Based Corrections Programs: A Survey and Analysis," Federal Probation, XXXVI, No. 2 (June, 1972), p. 7.

[66] Santarelli, "Testimony on Community Treatment Centers," p. 4.

(b) ...we need to allocate a greater proportion of our resources toward developing community-based treatment.[67]

With only 10% of the $1.7 billion corrections budget going toward community-based programs or alternatives to prison,[68] Pepper's priority proposal makes sense. Much remains to be done in community corrections if the program is to be provided with even so much as a proper beginning. The growing emphasis may be on community corrections, but steps must be taken for its actual use, else it will remain an idea for penologists and academics to discuss in speeches, books and journal articles. Montana is on the threshold of building a new prison to replace its century-old fortress. For this state to forego community corrections for a brand new penitentiary would more than likely spell the death of the community concept in Montana.

Criminologists Norval Morris and Gordon Hawkins, authors of The Honest Politician's Guide to Crime Control, have written:

> Our (penal) institutions are too large. Sweden has avoided the mega-institution; we should abandon it. There is little point in arguing the merits of this; few will disagree. It is a question of ignorance and tradition masquerading as political and social priorities. With small institutions, much else that we all seek to achieve in our correctional work is possible; with the mega-institution, little is possible.[69]

With prison insurrections occurring with alarming frequency, something must be done to alleviate the pent-up hostility of the prisoners. Community corrections is unabashedly a reformational, rather than a revolutionary approach to the emotional issue of im-

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[67]Pepper, "Prisons in Turmoil," p. 10.

[68]Ibid.

[69]Morris and Hawkins, Honest Politician's Guide, p. 23.

prisonment. But this liberal, rather than radical, proposal provides a humanitarian alternative to the long-term incarceration of the penitentiary that breeds inmate alienation, bitterness and revolt. The community concept should appeal to the conservative mind simply because it is noteworthy that a detention center with a small inmate population that is actively being integrated into the community would present far less opportunity for riots to occur than a huge prison where the convicts have lost all hope for a better alternative to their miserable condition. Offenders would spend less time behind bars. Programs like work-release would make that time more meaningful for those willing to participate. The idea of imprisonment, even in a community detention center, should be publicly recognized as retribution, nothing more. Then perhaps the programs to work the inmate quickly into the community will become more numerous than they are at the present time. Both the community and the inmates stand to gain from a firm commitment to community corrections. Winston Churchill once said that public attitude toward criminals "was a sure test of civilization."[70] For a people to behave with propriety and decency toward those it labels as criminal, then, is a fundamental confirmation of a civilized and democratic society.

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[70]John Bauer May, Crime and the Social Structure, (London: Faber & Faber, 1967), p. 228.

ADDENDUM

It seems to me that not only should the citizens of a community behave with propriety toward its deviants, those same citizens must realize their responsibility to those it forces to become criminal through a systematic denial of resources. People that exist in empoverished enclaves in an affluent society lose obedience to laws which they perceive as alien to their best interests. With avenues to material success blocked, they naturally tend to take what is otherwise denied. The raison d'etre for this dilemma rests with the community-at-large, which must ultimately accept the responsibility for all of its citizens. This should lead to everyone, through the availability of resources, sharing in a comfortable life without being compelled to resort to criminal acts to receive a share of the economic pie. When this societal imperative is achieved, then the need for most prisons and detention centers wither away.

It is not so much a problem of prison creating committed criminals, as it is a function of a society and its environment that are the causal factor for boken laws. Prison, then, is probably more of an unfunctional process, rather than dysfunctional, in rehabilitation and an inmate commitment to criminality. In other words, the concept of incarceration is far more neutral in causing criminal behavior than one's environment. One group concerned with social responsibility vis-a-vis criminality is the American Friends Committee, which has written: "If the social pathology assumed to encourage a criminal culture is not being changed, is there ethical justification for

individualized preventive detention?"[71]

Clearly then, the move toward community detention centers will alleviate the problems of the anachronistic concept of prisons, but ultimately the community concept may have to intrude even farther into the community. This would turn the responsibility of criminality over to the community so that it might alter its environment for the better to prevent other citizens from committing criminal acts. For to do less may well propagate the cycle of crime that necessitates prisons, jails and detention centers.

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[71]American Friends Committee, Struggle for Justice, (New York: Hill & Wang, 1971), p. 41.

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