JOURNAL
THE NATIONAL PRISON PROJECT

ISSN 0748-2655 NUMBER 18, WINTER 1989

Sentencing: Guidelines and Planning Services Foster Wider Use of Alternatives

Russ Immarigeon

Good sentences resemble good inventions. Like Edison's light bulb, they should be simple and widely usable.
—Judith Greene
Sentencing Programs Director
Vera Institute of Justice

What we require is not so much distinctive responses to unusual cases but a policy of more imaginative sentencing.
—Andrew von Hirsch
Professor of Criminal Justice
Rutgers University[1]

If one wants to develop a fair, just and effective sentencing system, one must put more money and more intelligence into nonincarcerative punishments.
—Norval Morris
Professor of Law and Criminology
University of Chicago[2]

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[1]Andrew von Hirsch, "Creative Sentencing: Punishment to Fit the Criminal," *The Nation*, (June 25, 1988), pp. 901-902. The Greene and von Hirsch quotes are from this article; all von Hirsch quotes later in this article, unless noted otherwise, are also from this source.

[2]Norval Morris, "Alternative to Imprisonment: Failures and Prospects," *Criminal Justice Research Bulletin*, 3(7) (1987), p.6. A free copy of this article can be obtained from the *Criminal Justice Research Bulletin*, Sam Houston State University, Criminal Justice Center, Huntsville, TX 77341, 409/294-1635.

Lack of Political Leadership

In the midst of the recent Bush-Dukakis campaign, Ronald Goldfarb, a Washington, D.C. attorney and the author of several books on pre-trial practices and criminal sentencing reform, wrote in the *New York Times* that neither candidate "has offered a credible crime and law enforcement program that would improve public safety, cut public costs, or attempt to reform the criminal justice system."[3]

Indeed, both candidates' treatment of prison furloughs given to Willie Horton in Massachusetts, and other prisoners in California and Texas who later committed gruesome crimes, was increasingly devoid of credibility. By election day, the candidates shared an unadmirable common ground characterized by gross innuendo and the inability to put particular cases within a larger, and more reasoned, criminal justice framework.

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[3]Ronald Goldfarb, "Crime: Old Whine, New Bottles," *New York Times*, (October 5, 1988).

CLASSIFICATION

How to Evaluate Offender Needs Assessment

Carl B. Clements

Incarcerated offenders often share similar backgrounds, crime histories, or current offenses. Such factors form the basis of security/custody classification decisions—decisions that determine how offenders are assigned to institutions, to levels of supervision and control, to housing arrangements, and to jobs and programs. Although recent advances

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Courtesy of Charles Gatje/Corrections Today

An effective offender needs profile can address traditional classification concerns as well as evaluate vocational readiness.

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Political campaigns have never been fertile ground for thinking about crime in this country. Candidates often rely on failed strategies of the past for future fights against crime. In this campaign, decidedly little intelligence or leadership[4] was applied to society's response to criminal behavior. Bush's proposals centered on less lenient judges, tougher sentences and more prisons. Dukakis talked about more drug-crime prosecutors and more prisons.[5] These were proposals, one might think, that would not take root in a kinder and gentler society.

As the election drew near, Kelsey Kaufman, a former corrections officer now teaching at DePauw University, wrote in *The Wall Street Journal* about how American reliance on incarceration ill-fits a civilized nation. "A policy of imprisoning more and more young men has short-term appeal," she said. "As we may be learning too late, however, the longer-term effect is to make ours a more precarious society in which to live.

Political campaigns have never been fertile ground for thinking about crime in this country.

"The average inmate," Kaufman reminds us, "serves only a few years before returning to the outside community. What has he learned in that time? To survive in a world where everyone has access to a lethal weapon and must demonstrate a willingness to use it. To accept sexual and economic victimization of himself and his fellow inmates. To feign—eventually to feel—indifference to the sadism around him. We should consider the logic and the wisdom of subjecting millions of our fellow citizens to the horrors of prison life and then expecting them to return to society and sin no more."[6]

Campaign polemics, however, were not the only source of assaults on, or concern about, the use of alternatives to incarceration. Several criminal sentences, issued in different states during the lengthy campaign, also received significant, although generally underdeveloped, publicity.

In Maine, a federal district court judge sentenced Harvey Prager, a convicted marijuana smuggler, to five years probation, with the special condition that he organize, establish, and operate a hospice for AIDS patients. Several months earlier, John Zaccaro, the son of former vice-presidential candidate Geraldine Ferraro, was sentenced to a one-month term of house imprisonment after being convicted of selling a small amount of cocaine to an undercover agent.

Prager and Zaccaro, unlike Horton, were well-placed or well-to-do, and their sentences, like Horton's furlough, were met with skepticism and outrage. Ensuing publicity caused Vermont officials to forbid the use of home imprisonment for drug offenders. In Maine, letters to Portland's Sunday paper brought charges of class privilege, judicial impropriety, and inadequate sensitivity to the victims of the drug trade.

The clearest common note to these different cases is that they each may have resulted from unguided judicial or administrative discretion.

Andrew von Hirsch, in a cautionary article published in *The Nation* last June, noted how little guidance is given to those who prepare or decide to impose creative sentences. Von Hirsch's argument that creative sentences are imposed disparately and with little coherent purpose is strikingly similar to charges he and others brought against discretionary abuses which arose in the indeterminate sentencing systems, before a large wave of sentencing reform in the early 1970s began to restrict judicial discretion.

Creative Sentencing

"Creative sentencing," more a media term than a functional description of how courts impose criminal dispositions, refers vaguely to sentences which offer alternatives to prison or probation. More often than not, the term creative sentencing is used to mark highly publicized cases wherein the middle- or upper-class offender receives a less than traditional sentence.

Von Hirsch observes that the impulse behind creative sentencing is the desire for more imaginative sentencing options. However, a more important stimulus has been the desire to effectively change judicial sentencing decisions so that offenders who would normally be imprisoned would be given a community-based sanction.

Sentence Planning Services

In the late 1970s, the National Center on Institutions and Alternatives (NCIA) developed Client Specific Planning (CSP)

[4]The presidential candidates did have an opportunity to show positive leadership about alternatives to incarceration. When Bush raised questions about furloughing first-degree murderers, Dukakis had an opportunity to describe to the American public how the Massachusetts program helped numerous, violent offenders become nonviolent, responsible persons. When David Rothenberg ran The Fortune Society in New York, he typically responded to tabloid headlines like "Parolee Kills Cop" by holding a press conference at which newly released prisoners told about the difficulties they faced when they reentered free society. Rothenberg once asked how come we never see headlines saying "Parolee Gets Job." Dukakis could have emphasized the considerable achievements of this program. People who have spoken at any length with prisoners on furlough in Massachusetts know that the prisoners' desire to make the program work was an essential aspect of the program's success. But neither Dukakis nor his advisers looked in this direction, and the opportunity was lost. In the end, Dukakis ended up pushing on the American public television advertisements about Reagan and Bush support for furlough programs which released people who later committed violent crimes, an approach which seemed very "Bush-like."

[5]The October 1988 issue of *The Eighteen Eleven*, the professional journal of the Federal Law Enforcement Officers Association, reported Bush and Dukakis responses to the question, "What is your position on the federal role in our nation's inadequate prison system? Would you seek additional funding to build prisons to house federal, state and/or local prisoners?" Bush (read his lips) said longer prison sentences mean less crime (ignoring decades of criminal justice research) and that his administration would rely on unused military bases, quicker construction methods, and private sector initiatives. Dukakis said that more prison space was needed for dangerous criminals (ignoring the large number of nondangerous criminals currently incarcerated). Dukakis did mention, in passing, that the careful screening of nondangerous offenders for house arrest, electronic monitoring, and intensive supervision programs, but called these "new approaches to imprisonment." Typo or faux pas? Regardless, the Governor's next reference was to the fact that he made the "hard decision" to site the first new prison in the Commonwealth in twenty years (ignoring well-reasoned local opposition to what is essentially an inappropriate site and the fact that as the election drew near the state's plans for building this prison were at least a year and a half behind schedule).

[6]Kelsey Kaufman, "Horton Case Obscures the Issues," *The Wall Street Journal*, (November 2, 1988), p. A20.

THE
JOURNAL
OF THE
NATIONAL PRISON PROJECT

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The National Prison Project is a tax-exempt foundation-funded project of the ACLU Foundation which seeks to strengthen and protect the rights of adult and juvenile offenders; to improve overall conditions in correctional facilities by using existing administrative, legislative and judicial channels; and to develop alternatives to incarceration.

The reprinting of *JOURNAL* material is encouraged with the stipulation that the National Prison Project *JOURNAL* be credited with the reprint, and that a copy of the reprint be sent to the editor.

The *JOURNAL* is scheduled for publication quarterly by the National Prison Project. Materials and suggestions are welcome.

The National Prison Project *JOURNAL* is designed by James True, Inc.

to enable judges to choose nonincarcerative sentences for their clients. In concept, Client Specific Planning derived from methods used by public defender-based social workers developing community-based rehabilitative sentencing plans, and by NCIA founder Jerome Miller when he directed the court-ordered decarceration of juvenile offenders in Pennsylvania in the mid-1970s.

At the time, advocates of alternative sentencing were looking for a means of convincing judges (and legislators) that alternatives to incarceration should be preferred over terms of imprisonment. However, while many people advocated for alternatives to incarceration, little attention was given to how courts would actually impose such sentences. NCIA expertly exploited this situation with a successful marketing campaign which extolled CSP's virtues.

While most CSP cases are standard criminal cases, many of those cases highlighted in NCIA's publicity campaign were really more exceptional in nature. One case, for instance, involved a suburban Maryland youth who, with 11 friends, drove—and drank—from party to party one spring evening. As the night wore on, the youth—who had no prior record—lost control of his vehicle and ten of his friends were killed in the ensuing accident. NCIA convinced the court to sentence the youth to pay a fine, to participate in alcohol counseling, weekly psychotherapy sessions, strict community supervision, and 20 hours of community service work for three years in a hospital emergency room, instead of sentencing him to prison.

One danger of creative sentences such as these is the general perception that either these folks got off lightly or were given special treatment because of their position or status in society. The Maryland youth was a good, middle-class suburban kid. John Zaccaro had famous parents. And Harvey Prager—the Portland drug smuggler—was bright, a college graduate, and able to afford high-quality legal counsel.

Sentence planning services frequently propose creative sentences. These services imaginatively fashion a number of nonincarcerative options, such as community service, restitution and rehabilitative services, to form components of their clients' sentence plan. Plans must be accepted and imposed by the court.

These services are not simply for the well-off client, however. Joan Gauche, executive director of Sentencing Options, the sentence planning agency in Portland which worked on the Harvey Prager case, reports that many of her clients are indigent. Similar programs across the country depend on paying clients or foundation grants for support, but are typically centered on indigent, prison-bound clients. Comparative statistics about the operation of these programs are hard to come by. Program experience suggests, though, that if any injustice is done by the use of these services (particularly for the well-off) it is that these services aren't given routinely to indigent clients throughout state and local criminal justice systems.

Sentence planning services are, in fact, becoming more common in criminal defense circles. Marc Mauer, assistant director of The Sentencing Project, a Washington, D.C. agency which offers technical assistance to public and private defense bars on sentencing issues, reports that only 18 sentence planning programs existed in 1978. Today, more than 100 are in operation and the number is growing. At least 25 states have some form of sentencing planning program; some provide traditional rehabilitation-oriented planning services, while others are based on the Client Specific Planning model (NCIA itself has offices in California, New York, Texas, Virginia, and Georgia).

Despite constant funding problems, Mauer says, many of these programs have been in operation for a number of years. Slowly, they have become an integral part of defense services in many jurisdictions. States such as California, Indiana, New Mexico, New York, North Carolina, and Wisconsin budget from $150,000 to $760,000 a year for defense-based sentence planning services.

Sentence planning services are vulnerable, however, since they are not generally used on a system-wide basis. Instead, their referrals come from defense attorneys who know about their services. Ad hoc referrals and inadequate funding are two indicators that these programs stand little chance, by themselves, of having much impact on the overall number of persons sent to local jails or prisons, even when they are effective in diverting or displacing specific offenders.

The primary problem with creative sentences, von Hirsch argues, is that they have tended to gain acceptance "without any clear sense of what they are supposed to accomplish other than replace prison terms.

"Punishment conveys our disapproval of criminal conduct," von Hirsch explains, "and should be graduated to reflect that conduct's degree of reprehensibility. Maintaining proportionality requires an ability to compare penalties' severity. The more idiosyncratic the sentence, the more difficult the comparison becomes."

Von Hirsch suggests four possible benefits of standardizing noncustodial sentences: 1) clarification of the purposes for which we impose these sanctions; 2) more consistent application of these sanctions to otherwise jail- or prison-bound offenders; 3) greater availability of these sanctions to all appropriate offenders, regardless of their social class; and 4) easier enforcement.

Imprisonment Guidelines

Statewide sentencing policies may be necessary to assure that alternatives to incarceration are used for targeted jail- and prison-bound offenders, and that they are imposed fairly, without overburdening offenders with disproportionate amounts of these alternative sanctions. Recently Minnesota, Pennsylvania and Washington—states which already have incarceration guidelines—are contemplating the development of guidelines for nonimprisonment sanctions. The Minnesota Sentencing Guidelines Commission, for instance, is concerned about sentence disparity, lack of cohesive purpose, and the imbalance of having guidelines in place at one end of the sentencing scale but not at the other.

At a June 21, 1988, public hearing, the Commission heard testimony from those advocating nonimprisonment guidelines and those who oppose them. Only 20% of the state's convicted felons receive fixed sentences under Minnesota's sentencing guidelines, while 80% of the state's convicted felons still receive indeterminate sentences.

Proponents of nonimprisonment guidelines suggest five sets of problems resulting from a lack of such guidelines. First, proportionality problems have emerged. Some offenders want to return to prison because nonincarcerative sanctions are harsher than prison terms; some offenders, who have committed less serious crimes, are receiving nonincarcerative penalties which are as restrictive or more restrictive than other offenders, who have committed far more serious offenses.

Second, little uniformity exists in the amount of jail time, fines, restitution, or length and type of treatment imposed upon non-prison-bound offenders. Third, little certainty exists that nonimprisonment sanctions will be fully carried out prior to discharge by the courts. Fourth, whereas judges are held accountable for imposing prison terms, they are not required to explain their reasoning for jail terms, length of probation supervision, fines, and restitution.

And, finally, while one of the hallmarks of the Minnesota sentencing guidelines experience has been its success in controlling the state's prison population size, the Commission has yet to plan and implement community-based resources for nonimprisonment sentences.

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Intermediate Sanctions

Intermediate sanctions suggest a fuller range of penalties from which the court can more appropriately devise individual sentences directly addressing the punitive needs of specific cases.

Several years ago, the Vera Institute of Justice and other sentencing reform advocates began speaking about developing a full continuum of sanctions. These sanctions include restitution, day fines, community service, home incarceration, and intensive supervision probation. They are meant to offer the court an escalating nexus of control over convicted offenders without having to rely on imprisonment, particularly when terms of incarceration are given simply because less restrictive, but nonetheless incapacitative, options are not available.

Intermediate sanctions have been used for some time now, but they are rarely used with any sense of overall purpose. The Vera Institute of Justice uses intermediate sanctions such as community service and day fines for the explicit purpose of supervising modest, feasible penalties which can be easily enforced while diverting offenders from short-term jail sentences. Georgia has developed a "balanced approach to corrections" featuring a range of increasingly restrictive options. These planned efforts are, however, the exception rather than the rule.

The emergence of intermediate sanctions, along with increased attention to how courts and sentencing advocates shape particular criminal penalties, offers some hope that criminal justice practice can be improved in the near future.

In a monograph on intermediate sanctions, which the U.S. National Institute of Justice will publish later this year, Michael Tonry and Richard Wills of the Castine Research Corporation observe that "the existence of meaningful punishments other than incarceration makes it possible to specify linkages between the general purposes of sentencing and the specific purposes of individual sentences that are difficult to specify when the penal choice is limited to prison and non-prison."

Tonry and Wills give the following examples: "For an offender for whom incarceration is the overriding penal purpose at sentencing," they suggest, "house arrest enforced by electronic monitoring may do as well as a six-month jail term, at less cost to the state, and with less disruption to the lives of the offender and his family. Or, for another example, retribution and deterrence may be the applicable purposes at sentencing for an embezzler. A sizable, credibly enforced fine may be as effective for these purposes as a prison term, and much less costly to the state."

The emergence of intermediate sanctions . . . offers some hope that criminal justice practice can be improved in the near future.

Conclusion

Criminal justice reform measures have swept across the American scene with unprecedented speed in the past two decades. These reforms offer different ways of looking at victims, (e.g., restitution and victim-impact statements), offenders (e.g., prisoner rights and offender accountability), the relationship of victims and offenders (e.g., victim-offender reconciliation programs), and the criminal justice process itself (e.g., sentencing guidelines and victim-witness services).

Although these reform initiatives are essentially compatible with one another, they are rarely implemented together in a thorough fashion. Instead, individual reforms have fought for survival, staking new visionary grounds on old philosophical homesteads. A strong (and sound) implication of von Hirsch's critique of creative sentences is that real change comes not when we see individual instances of reform, but when reforms are accepted and applied across the board.

Creative sentences tend to receive publicity not granted more traditional sentences. They make news because they appear different. Such publicity often arouses public fears or opposition, but it also highlights public misunderstandings about the sentencing process and how alternative sentences are developed for and accepted by the courts.

By questioning creative sentences or the lack of nonimprisonment guidelines, von Hirsch, the Minnesota Sentencing Guidelines Commission, and others are forging the opportunity to examine the direction in which criminal sentencing may be heading in coming years.

In all likelihood, the debate will remain markedly similar to that which has occurred in various state legislatures and at regional and national conferences over the past decade. Like Minnesota, some states will continue to explore fixed, determinate sentencing. Other states will take comparatively ad hoc approaches toward sentencing reform.

This window of opportunity nonetheless opens a way to allay public fears by explaining how these sentences were developed, how they are offered for the court's consideration through a process available for all offenders in all cases, and what these sanctions are expected to achieve.

Creative sentences tend to receive publicity not granted more traditional sentences.

Finally, von Hirsch implies that reforms can gain strength and viability through critical self-examination. Model projects, such as the Minnesota Sentencing Guidelines Commission and the Vera Institute of Justice programs, routinely monitor and reassess their progress. Program development should expand beyond these model programs, however, and some evidence suggests this is beginning to happen. At a conference in Raleigh, North Carolina this past October, for example, the National Community Service Sentencing Association (NCSSA) raised the issue of how the goals of community service sentencing relate to community service program activity.

Dennis Schrantz, who was elected NCSSA's president at the conference, recently observed that "too many alternative programs use the popular rhetoric of diverting people from jail or prison to save money and then do very little if anything to make certain that jail- and prison-bound people end up in the program.

"The history of alternatives," he explained, "is that they have failed, by and large, to focus on the populations they have set out to divert. This increases admissions to institutions because some of the people who are enrolled fail and then are sent to prison as a result. Since they weren't headed for prison in the first place, the program goals are turned upside down.

"We must begin to focus on what we want our criminal justice sanctions to do and set policies to bring these goals about," said Schrantz, who is also the grants administrator for North Carolina's community penalties program. "These sanctions must be based on the amount of money we expect taxpayers to pay for the resources we are developing. Nothing is free." ■

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have improved our ability to "objectively" classify offenders for assignment and risk management,[1] we have made relatively less progress in identifying other important characteristics.

Beyond Custody and Security

Classification does not end when a security level is assigned. Offenders with similar custodial profiles may be vastly different in other important ways. Those with very different risk levels may have common traits or needs. This concept of profile uniqueness has critical implications for management, decision-making, and the discharge of correctional goals and objectives. Identify a large group of "medium security" inmates, for example, and you will detect a wide range of needs in such areas as vocational training, psychotherapy, treatment of sexual deviancy, job skills, aggression, and victimization. Locate law violators who need alcoholism treatment and you will find offenders ranging from the meek, passive, and low-risk, to the violent and hardened.

Corrections systems often fail to assess important offender needs, particularly when the appropriate service or program or intervention is not currently available. This failure has two important negative by-products. First, the offender may not be managed/treated in ways that facilitate his survival or improvement in the corrections system. Second, no data are collected that would reveal the absence of resources needed to improve correctional management. In the past several years, however, some states have begun to use a needs assessment system to guide the allocation of resources and to identify future priorities.[2]

HALLMARKS OF NEEDS ASSESSMENT

Establishing a Needs Profile

An individualized approach to offender classification has been discussed for several decades. Although "treatment" was an original goal of this approach, a preoccupation with custody and security has been evident, especially as prison crowding became commonplace. Other offender needs were considered secondary and were often evaluated in piecemeal or haphazard fashion. Despite this sometimes casual approach—and considerable diversity across jurisdictions—patterns and practices have emerged which allow certain offender sub-groups and common needs to be identified. As a result, correctional staff can potentially develop a more deliberate response to the wide range of offenders currently in prison.

How prominently the needs assessment procedure is featured in the classification process is one indication of attention to this issue. Whether that assessment achieves parallel status to the custody concerns may be inferred from how results are communicated. Is the needs assessment an afterthought? Are the results buried in the inmate's file? In a recent study sponsored by the National Institute of Corrections,[3] we found a trend toward integration of needs assessment with custody considerations. In several states, needs assessments and profiles—some of them graphically represented—are now centrally placed in the inmate's record. Logically, these profiles should guide prison staff in their choice of interventions directed specifically at documented needs. However, that outcome is often hard to trace. One facilitating process has been to at least identify the availability and location of resources. In some states, for example, the programs and services offered by each institution are catalogued and described. This procedure also typically features a display summary or resource matrix. Overall, such indicators suggest that assignments are being made with some acknowledgement of individual offender needs.

Courtesy of Correctional Service Canada/Corrections Today

New needs assessment techniques can identify which inmates will benefit most from vocational training programs.

Assessment Dimensions

What areas of needs assessment should be included in the classification process? Health, mental health status, and victimization potential seem to be high priorities for most prison systems. Such attention may be due in part to legal challenges in these areas. Also prominent are the traditional concerns of educational and vocational status. However, these well-known dimensions require more than a cursory assessment; recent refinements have been encouraging. Some state systems, for example, no longer simply describe offenders' needs in all-or-none fashion, e.g., as healthy or not, as psychologically adjusted or not, as needing vocational training or not. Instead, classification staff assess the nature and severity of problems within each dimension. This approach allows a more efficient matching of the offender to the type and intensity of service or management strategy. Programming, then, is not limited to the acutely ill or severely maladjusted.

What areas of needs assessment should be included in the classification process?

A second assessment trend has been to include other less traditional dimensions that have implications for management, treatment, and reintegration. Such factors may include alcohol and drug abuse, job readiness, or other crime-related dimensions. Specific interventions in the form of short courses, problem-oriented management groups, counseling, intermediate care facilities, or long-term treatment programs follow logically from these determinations. As implied earlier, these assessments are not an academic exercise but a meaningful part of the classification process, vital

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[1] J. Austin, "Assessing the New Generation of Prison Classification Models," *Crime and Delinquency* 29(4), (1983), pp. 561-576.

[2] C.B. Clements, *Offender Needs Assessment*, American Correctional Association, College Park, MD, (1986).

[3] *Ibid.*

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to both offenders and the correctional system itself.

Objective Approaches

Subjective, clinical, or even superstitious approaches to assessment and classification occasionally lead to spectacular prediction successes. Every correctional worker remembers having a "gut feeling" that later proved to be accurate. On balance, however, such approaches lead to scores of incorrect placements and wasted resources. What is needed is increased reliability and consistency in correctional decision-making—in other words, a more objective approach to needs assessment.[4]

In evaluating whether current practice meets objective standards, several criteria may be used: 1) each assessment should have a clearly defined purpose so that staff can determine what information is relevant; 2) standardized definitions and assessment guidelines should be provided so that each offender can be evaluated in a similar way; 3) each offender should be categorized with respect to the type(s) and severity of needs using a common language; and 4) for each need or assessment area, types of interventions should be established in advance so that treatment implications are readily apparent. Without these minimal guidelines, the assessment exercise is wasteful, even counterproductive.

The use of valid assessment instruments or techniques is another important criterion. Objectivity has been facilitated by the recent development of instruments to assess important traits, skills, and coping abilities. Although some scales or instruments were developed for other fields (i.e., they are not offender-specific), applications in such areas as alcoholism, depression, suicide potential, vocational readiness, and interpersonal skills can readily be made.

Environmental Management

The concept of needs assessment seems straightforward—assess, treat, cure. The medical, curative model is seductive but, by itself, usually inadequate. Correctional programs must not only provide some offenders with new tools, they must also provide an environment which increases the chance that such tools or skills will be absorbed and retained. The correctional environment itself should support, or at least not negate, the value of specific interventions. The recent decade of prison crowding has underscored how important the environment is in influencing offender behavior. Physical conditions, resource availability, and management approaches can all serve to provoke, inhibit, or facilitate a wide range of both negative and positive behaviors.

Every correctional worker remembers having a "gut feeling" that later proved to be accurate.

The day-to-day prison setting should be managed in ways that facilitate correctional goals. Assigning offenders to appropriate programs or custodial supervision addresses only one portion of the person-environment interaction. Other physical and psychological dimensions that influence offenders' daily behavior and adjustment are equally important targets. For example, Toch[5] suggests that, within certain risk levels, inmates should be placed and supervised on the basis of their assessed need for structure, privacy, safety, social stimulation, and other such person-environment factors. Quay[6] has developed a system of supervisory strategies that are tailored to different sub-groups of offenders. A similar type of assessment and management program is being field-tested by the National Council on Crime and Delinquency.[7]

Given the recent growth of the unit management approach—in which correctional staff are assigned to a particular housing unit and have responsibility for major aspects of programming—recommendations such as Toch's and Quay's seem a natural outgrowth. The objective of these models is to better use existing correctional resources through staff training and careful distribution. The random housing of inmates of very different needs and characteristics is simply not justifiable when management and correctional goals are considered. Ultimate success, however, will depend on the ability to assign offenders to the correct management group and to deliver a consistent and responsive supervisory approach.

Treatment Implications

As implied earlier, it is important to be able to prescribe, or at least identify, particular treatments, or interventions or management strategies that logically connect to the assessment outcome. While this step seems straightforward, it has often been overlooked. Institutional staff often must decide what the treatment implications are for a particular "diagnosis." Otherwise, they may assign offenders to programs based more on availability than relevance. The need for staff discretion and flexibility aside, it is necessary to have clearly defined interventions for targeted sub-groups of offenders.

Interventions may come in the form of courses, training modules, unit management assignments, special clinical services, sheltered housing, or a whole range of options. Several jurisdictions, including the federal prison system, have been able to specify the availability of program options and, in most cases, to identify which offenders will benefit from particular programs. Additionally, several systems are able to track offenders' assignments and enrollments and to assess the degree of compliance with treatment recommendations. A tracking or monitoring system is also essential to determine whether resources are being rationally distributed and whether they are achieving their intended effect. The presence of such a system suggests that needs assessment and programming are being taken seriously.

Information Management

Two problems often exist with offender information: quantity (too much) and quality (too little). Correctional staff often have more data than they can use. The problem is compounded when information is unreliable or incomplete. The technology of needs assessment requires that information necessary for decision-making be established *in advance*. The results of a systematic assessment—essentially a needs profile—should be an integral part of the offender's classification record. The capacity to code, store, and retrieve such information using microcomputer systems should be available. This technology should also provide access to system-wide data to answer such questions as how many medium security offenders have drug abuse problems, or what proportion of newly received inmates have psychological problems. Such basic questions can be overwhelming if the answers lie buried in file cabinets. While assessing each offender, the relevant data should be tabulated and stored. When such information is available, officials can evaluate the correctional system as a whole and make informed decisions about current demands and future developments.

[4]C.B. Clements, "Towards an Objective Approach to Offender Classification," *Law and Psychology Review* 9, (1985), pp. 45-55.

[5]H. Toch, *Living in Prison: The Ecology of Survival*, (New York, Free Press), (1979).

[6]H.C. Quay, *Managing Adult Inmates: Classification for Housing and Program Assignment*, American Correctional Association, College Park, MD, (1984).

[7]J. Austin and C. Baird, "Reducing Prison Violence Through More Effective Classification Management: An Experimental Test of the Prisoner Management Classification System," National Council on Crime and Delinquency (Proposal to the National Institute of Justice), (1987).

BARRIERS TO EFFECTIVE NEEDS ASSESSMENT

Although some states have implemented many of the procedures highlighted to this point, there are several barriers which must be addressed if needs assessment is to progress further.

Limits of Trait-centered Approaches

Human behavior is only partially predictable from measures of personal traits and attributes. In fact, most recent research suggests that behavior is primarily a function of person-environment interplay. Yet, needs assessment and other aspects of classification rely almost exclusively on an analysis of the individual. Psychological tests, interviews, and case histories are typically focused on individual traits. Such traits or internal attributes do not fully explain the diverse causes of law-violating behavior or prison misconduct and maladjustment. Although research has helped establish risk profiles or personality patterns that improve prediction accuracy, the payoff is inherently limited. While the behavior of some offenders may appear to be consistent across many settings, we must also develop a person-by-environment approach to classification. That is, we must be able to specify how offenders react to various prison conditions and how those circumstances influence their survival and reintegration into society. Current classification systems rarely address management or adjustment problems that arise as a product of the correctional environment.

Program Disruptions

Crowded prison systems seem particularly vulnerable to a constant shuffling of inmates from facility to facility. Frequent inmate turnover both in location and programs is a chronic correctional problem. The result is programmatic and environmental disruption that interferes with correctional goals. Crowded systems often respond primarily to bedspace demands or custody considerations. Needs assessment and programming considerations drop in priority, and the associated management advantages are lost, often at a time when they are most critically needed. Even when prisons are crowded and programs are few, efforts should be made to identify and follow through with offenders who may benefit most from correctional services. A degree of stability and continuity could be achieved for at least some portion of the prison system.

Poor Quality Intervention

Classification and needs assessment procedures seem irrelevant if there are few meaningful programs to which offenders may be assigned. Why conduct detailed assessments if they do not result in realistic opportunities for intervention? The principal justification would be to collect system-wide data on offenders which might stimulate the development of needed programs. If sufficient numbers of offenders can be shown to require particular kinds of programming or management, one may more easily argue for resource allocation, redistribution, or expansion. This kind of system planning is regrettably rare.

To enhance program options, some correctional agencies have copied well-known noninstitutional approaches to treatment and management. Current examples in the psycho-educational area include life-skills training, stress management, self-paced individualized instruction, and cognitive-behavioral self-control procedures. These applications seem to be enjoying some good success in justice settings.[8] An effective needs assessment system provides a means to selectively assign offenders to such programs.

Confusion About Goals

The corrections business has multiple and often competing objectives. Classification professionals cannot be expected to have solved this dilemma. The confusion is often transmitted to the needs assessment system, and its effectiveness may be diluted because the goals of prediction and intervention are unclear. In the face of multiple classification objectives, assessments must be designed to address each goal. If the concern is with security, assessments should have a demonstrated relationship to that objective; if survival in the institution is important, the relevant factors must be determined; for the goals of adjustment and reintegration, the assessment must reflect how those program objectives can be addressed. A worthy needs assessment system provides written descriptions of each classification issue, the relevant assessment tools, and the interventions that are available to address the identified needs.

SUMMARY

The field of corrections is increasing its use of needs assessment to guide decision-making. Criteria have been suggested in this article which may provide a basis for evaluating further progress or current adherence to basic principles.[9] Forces which undermine the use of needs assessment are also described, and suggestions to counteract them are offered. In general, needs assessment has achieved recognized status in the field. Full implementation of principles and procedures, however, lags behind. ■

[8]E. Morris and C. Braukmann, (eds.), *Behavioral Approaches to Crime and Delinquency*, (New York, Plenum), (1987).

[9]C.B. Clements, *Offender Needs Assessment*, American Correctional Association, College Park, MD, (1986). See also, C.B. Clements, "The Measurement and Evaluation of Correctional Resource Management," *Classification: Innovative Correctional Programs*, Eastern Kentucky University, (1988), pp. 5-10.

Status Report: State Prisons and The Courts

Compiled by the National Prison Project, January 1989.

The National Prison Project Status Report provides an inventory of states which are currently operating under court order or are subject to pending litigation. Encompassed is litigation which involves the entire state prison system or major institutions in the state and which pertains to overcrowding and conditions of confinement. Also reported are states which have been relieved from prior court orders (not including jails except for the District of Columbia).

* Asterisks indicate states/jurisdictions where the ACLU has been involved in the litigation.

1. **Alabama**:* The entire state prison system is under court order dealing with total conditions and overcrowding. *Pugh v. Locke*, 406 F.Supp. 318 (M.D. Ala. 1976), *aff'd in substance*, *Newman v. Alabama*, 559 F.2d 283 (5th Cir. 1977), *cert. denied*, 98 S.Ct. 3057 (1978); receiver appointed, 466 F.Supp. 628 (M.D. Ala. 1979). The district court entered an order establishing a four-person committee to monitor compliance with previous orders (1/13/83). In December 1984, the district court relinquished active supervision after agreement of substantial compliance by the parties. A possible application for reopening the case is being examined by the monitor's committee.

2. **Alaska**:* The entire state prison system is under a consent decree and a court order dealing with overcrowding and total conditions of confinement. *Cleary v. Smith*, No. 3AN-81-5274 (Su-

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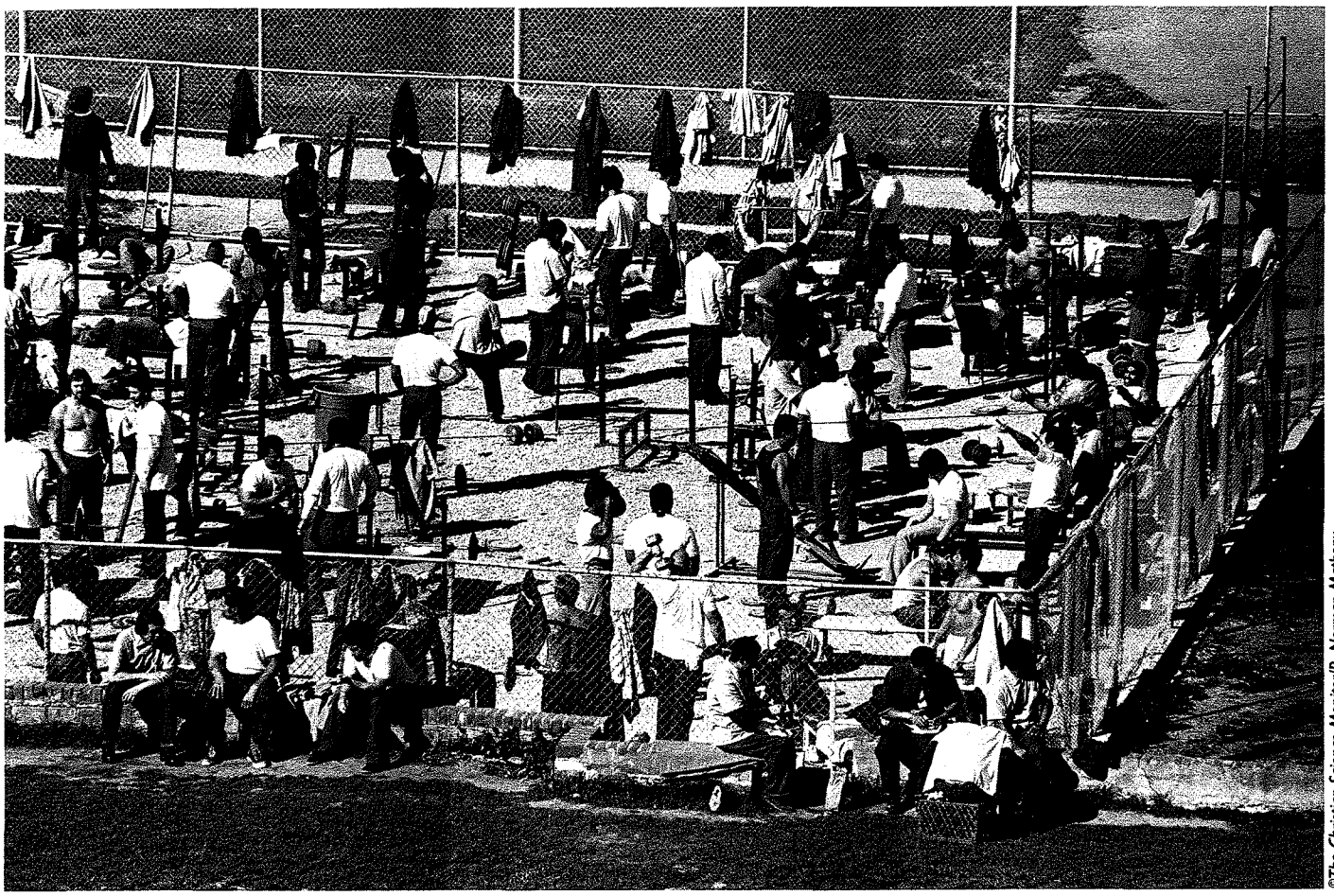

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The weight-lifting yard at San Quentin Prison, California.

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perior Court for the State of Alaska, 3rd Jud.Dist. March 3, 1986).

3. **Arizona**:* The state penitentiary is being operated under a series of court orders and consent decrees dealing with overcrowding, classification, and other conditions. Orders, August 1977-1979, *Harris v. Cardwell*, C.A. No. 75-185 PHX-CAM (D. Ariz.). A special maximum security unit is operating under a consent decree with an appointed monitor. *Black v. Ricketts*, C.A. No. 84-111 PHX-CAM, consent decree, December 12, 1985.

4. **Arkansas**:* The entire state prison system was under court order dealing with total conditions. *Finney v. Arkansas Board of Corrections*, 505 F.2d 194 (8th Cir. 1974); special master appointed, *Finney v. Mabry*, 458 F.Supp. 720 (E.D. Ark. 1978); on compliance, 546 F.Supp. 628. After a finding of full compliance, the federal court relinquished jurisdiction in August 1982. A new case challenging conditions and practices was filed in 1985.

5. **California**:* The state penitentiary at San Quentin is under court order on overcrowding and conditions. *Wilson v. Deukmejian*, #103454 Superior Court, Marin County (Aug. 5, 1983). Order includes a requirement that a special master be appointed. The segregation units at San Quentin, Folsom, Soledad and Deuel are under court order because of overcrowding and conditions. *Toussaint v. Rushen*, 553 F.Supp. 1365, *aff'd in part*, 722 F.2d 1490 (9th Cir. 1984). Also see *Toussaint v. McCarthy*, 597 F.Supp. 1388 (N.D. Cal. 1984), entering permanent relief. Later opinion at ___F.2d ___, 40 Cr.L. 2066 (9th Cir. 9/30/86). Two units at Soledad (Central and North) have been held unconstitutional but the injunction has been stayed pending appeal. *In Re Daily* and *In Re Rock* (Sup. Ct. Monterey). In addition, there is pending litigation at the California Medical Facility, San Luis Obispo, and the Women's Prison at Frontera.

6. **Colorado**:* The state maximum security penitentiary is under court order on total conditions and overcrowding. *Ramos v. Lamm*, 485 F.Supp. 122 (D. Col. 1979), *aff'd in part and remanded*, 639 F.2d 559 (10th Cir. 9/25/80), *cert. den.*, 101 S.Ct. 1259 (1981), *on remand*, 520 F.Supp. 1059 (D. Col. 1981).

7. **Connecticut**:* The Hartford Correctional Center operated by the state is under court order dealing with overcrowding and some conditions. *Larreau v. Manson*, 507 F.Supp. 1177 (D. Conn. 1980), *aff'd*, 651 F.2d 96 (2nd Cir. 1981). The Somers Correctional Center is under a consent decree dealing with overcrowding and some conditions. *Letezeio v. Manson*, No. H-82-252 (D. Conn. 1984). There is additional pending litigation on overcrowding at Somers, *Bartkus v. Manson*, No. H-80-506, and at the Montville Correctional Center, *Foss v. Lopes*. Niantic Women's Prison is under a court order. *West v. Manson*, No. H-83-366 (D. Conn. 10/3/84).

8. **Delaware**:* The state penitentiary is under court order dealing primarily with overcrowding and some conditions. *Anderson v. Redman*, 429 F.Supp. 1105 (D. Del. 1977). All major Delaware prisons are now under a consent decree. *Dickerson v. Castle*, C.A. No. 10256 (November 22, 1988).

9. **Florida**: The entire state prison system is under court order dealing with overcrowding. *Costello v. Wainwright*, 397 F.Supp. 20 (M.D. Fla. 1975), *aff'd*, 525 F.2d 1239 and 553 F.2d 506 (5th Cir. 1977). *See also* 489 F.Supp. 1100 (M.D. Fla. 1980), settlement on overcrowding approved. A special master has been appointed.

10. **Georgia**: The state penitentiary at Reidsville is under court order on to-

tal conditions and overcrowding. A special master was appointed in June 1979. *Guthrie v. Evans*, C.A. No. 3068 (S.D. Ga.). A number of other facilities are under challenge.

11. **Hawaii**:* The men's prison (O.C.C.C.) in Honolulu and the women's prison on Oahu are under court order in a totality of conditions suit. *Spear v. Ariyoshi*, Civ. No. 84-1104 (D. Hawaii). Order entered June 1985; monitors have been appointed.

12. **Illinois**:* The state penitentiary at Menard is under court order on total conditions and overcrowding. *Lightfoot v. Walker*, 486 F.Supp. 504 (S.D. Ill. 2/19/80). The state penitentiary at Pontiac was under a court order enjoining double-celling and dealing with overcrowding. *Smith v. Fairman*, 548 F.Supp. 186 (C.D. Ill. 1981), *rev.*, 690 F.2d 122 (7th Cir. 1982) (no proof of violence or long periods in cell). Litigation is pending at other institutions.

13. **Idaho**:* The women's prison is under a consent decree on conditions. *Witke v. Crowl*, Civ. No. 82-3078 (D. Id.), with an appointed monitor. The men's Idaho Correctional State Institution is under a court order on conditions. *Balla v. Idaho State Bd. of Correction*, 595 F.Supp. 1558 (D. Id. 1984).

14. **Indiana**:* The state prison at Pendleton was found unconstitutional on total conditions and overcrowding. *French v. Owens*, 538 F.Supp. 910 (S.D. Ind. 1982), *aff'd in pertinent part*, 777 F.2d 1250 (7th Cir. 1985), *cert. den.*, _____ U.S._____, (1986). The state penitentiary at Michigan City is under a court order on overcrowding and other conditions. *Hendrix v. Faulkner*, 535 F.Supp. 435 (W.D. Ind. 1981), *aff'd sub nom. Wellman v. Faulkner*, 715 F.2d 269 (7th Cir. 1983), *cert. den.*, 104 S.Ct. 3587 (1984). The state prison at Westville is being challenged on overcrowding and conditions. *Anderson v. Orr*, C.A. No. S83-0481 (N.D. Ind., case filed 1983, NPP joined 1987).

15. **Iowa**: The state penitentiary is under court order on overcrowding and a variety of conditions. *Watson v. Ray*, C.A. No. 78-106-01, 90 F.R.D. 143 (S.D. Ia. 1981).

16. **Kansas**: The state penitentiary is under a consent decree on total conditions. *Arney v. Bennett*, No. 77-3132 (D. Kan. 1980).

17. **Kentucky**:* The state penitentiary and reformatory are under court order by virtue of a consent decree on overcrowding and some conditions. *Kendrick v. Bland*, 541 F.Supp. 21 (W.D. Ky. 1981) (consent decree entered). On appeal, the Court of Appeals affirmed virtually all of the district court's orders, _____ F.2d _____, 35 Cr.L. 2366 (6th Cir. 7/27/84). The women's state prison is under court order on a variety of conditions. *Canterino v. Wilson*, 546 F.Supp. 174 (W.D. Ky. 1982), and 564 F.Supp. 711 (1983).

18. **Louisiana**: The state penitentiary is under court order dealing with overcrowding and a variety of conditions. *Williams v. Edwards*, 547 F.2d 1206 (5th Cir. 1977).

19. **Maine**:* The state penitentiary was challenged on overcrowding and a variety of conditions. The trial court granted relief only as to restraint cells and otherwise dismissed the complaint. *Lovell v. Brennan*, 566 F.Supp. 672 (D. Maine 1983), *aff'd*, 728 F.2d 560 (1st Cir. 1984).

20. **Maryland**:* Medium and maximum security prisons were declared unconstitutionally overcrowded. *Johnson v. Levine*, 450 F.Supp. 648 (D. Md. 1978), *Nelson v. Collins*, 455 F.Supp. 727 (D. Md. 1978), *aff'd*, 588 F.2d 1378 (4th Cir. 1978), *on remand*, _____F.Supp. _____ (D. Md. 1/5/81), *rev. and remanded*, 659 F.2d 420 (4th Cir. 1981) (*en banc*). A settlement agreement and consent decree were subsequently entered in both cases. *Johnson v. Levine*, now *Johnson v. Galley*, was consolidated with *Washington v. Keller*, now *Washington v. Tinney*, 479 F.Supp. 569 (D. Md. 1979), and another settlement agreement and supplement to the settlement agreement were entered in October 1987 and February 1988, respectively.

21. **Massachusetts**: The maximum security unit at the state prison in Walpole is being challenged on total conditions. *Blake v. Hall*, C.A. 78-3051-T (D. Mass.). A decision for the prison officials was *affirmed in part and reversed in part and remanded*, 668 F.2d 52 (1st Cir. 1981).

22. **Michigan**:* The women's prison is under court order. *Glover v. Johnson*, 478 F.Supp. 1075 (E.D. Mich. 1979); further order entered, 510 F.Supp. 1019 (1981). The entire men's prison system is under court order on overcrowding and other conditions. *U.S. v. Michigan*, No. G84-63, and also in *Knop v. Johnson*, 685 F.Supp. 636 (W.D. Mich. 1988). Part of *Knop* is on appeal. Monitor appointed. The state prison at Jackson is under a consent decree on other conditions. *Hadix v. Milliken*, C.A. 80-73581 (E.D. Mich. 5/13/85).

23. **Mississippi**: The entire state prison system is under court order dealing with overcrowding and total conditions. *Gates v. Collier*, 501 F.2d 1291 (5th Cir. 1974).

24. **Missouri**:* The state penitentiary is under court order on overcrowding and some conditions. *Burks v. Teasdale*, 603 F.2d 59 (8th Cir. 1979), *on remand*, 27 Cr.L. 2335 (W.D. Mo. 5/23/80).

25. **Nevada**:* The state penitentiary is under court order on overcrowding and total conditions. *Craig v. Hocker*, C.A. No. R-2662 BRT (D. Nev.) (consent decree entered 7/18/80). New addition to state penitentiary under court order on total conditions. *Phillips v. Bryan*, CVR-77-221-ECR (D. Nev.) (consent decree entered July 1983). Both cases have been consolidated with a new consent decree entered May 19, 1988. A monitor has been appointed.

26. **New Hampshire**:* The state penitentiary is under court order dealing with total conditions and overcrowding. *Laaman v. Helgemoe*, 437 F.Supp. 269 (D.N.H. 1977).

27. **New Mexico**:* The entire system is under court order on overcrowding and total conditions. *Duran v. Apodaca*, C.A. No. 77-721-C (D.N.M.) (consent decree entered 8/1/80). Special master appointed June 1983.

28. **New York**: In 1984, the state was forced by court order to keep open the Long Island Correctional Facility upon a finding that conditions and overcrowding in other state prisons was unconstitutional. This order was affirmed in the Court of Appeals. *Mitchell v. Cuomo*, 748 F.2d 804 (2nd Cir. 1984).

29. **North Carolina**:* A lawsuit was filed in 1978 at Central Prison in Raleigh on overcrowding and conditions and a similar lawsuit is pending involving the women's prison. *Batton v. No. Carolina*, 80-0143-CRT (E.D.N.C.); *see also* 501 F.Supp. 1173 (E.D.N.C. 1980) (denying motion for summary judgment). In September 1985, a consent judgment was entered covering overcrowding, staff, programming, and medical services in the 13 units of the state system's South Piedmont area. *Hubert v. Ward*, C-C-80-414-M (W.D.N.C.). A lawsuit covering conditions and crowding has been filed with respect to the Craggy Unit outside of Asheville, N.C. *Epps v. Martin*, A-C-86-162 (W.D.N.C.) (complaint filed on May 29, 1986). Consent decree entered August 1987.

30. **Ohio**:* The state prison at Lucasville was under court order on overcrowding. *Chapman v. Rhodes*, 434 F.Supp. 1007 (S.D. Ohio 1977), *aff'd* 6/6/80 (6th Cir.), *rev'd*, 101 S.Ct. 2392 (1981). The state prison at Columbus is under court order resulting from a consent decree on total conditions and overcrowding and was required to be closed in 1985. *Stewart v. Rhodes*, C.A. No. C-2-78-220 (S.D. Ohio) (12/79). The state prison at Mansfield is being operated under a consent decree on various conditions. *Boyd v. Denton*, C.A. 78-1054A (N.D. Ohio 6/83).

31. **Oklahoma**:* The state penitentiary is under court order on total con-

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ditions and the entire state prison system is under court order on overcrowding. *Battle v. Anderson*, 564 F.2d 388 (10th Cir. 1979). The district court's decision to retain jurisdiction to assure continued compliance was upheld, 708 F.2d 1523 (10th Cir. 1983). The district court relinquished jurisdiction in mid-1984 and that decision is on appeal.

32. **Oregon**: The state penitentiary was under a court order on overcrowding. *Capps v. Atiyeh*, 495 F.Supp. 802 (D. Ore. 1980), appeal pending (9th Cir.), stay granted, 101 S.Ct. 829 (1981), stay vacated by decision in *Rhodes v. Chapman* (see Ohio above). On remand, the district court determined there was no Eighth Amendment violation. 559 F.Supp. 894 (D. Ore. 1982).

33. **Pennsylvania**:* The women's prison at Muncy is being challenged on conditions and practices. The state prison at Graterford is being challenged on total conditions. *Hassine v. Jeffes* (trial in May 1986). The state prison at Pittsburgh is being challenged on overcrowding and conditions. *Tillery v. Owens*, C.A. No. 87-1537 (W.D. Pa., filed December 14, 1987).

34. **Rhode Island**:* The entire state system is under court order on overcrowding and total conditions. *Palmigiano v. DiPrete*, 443 F.Supp. 956 (D.R.I. 1977). A special master was appointed in September 1977. New population caps were imposed by order in June 1986. Various contempt orders have been entered.

35. **South Carolina**:* The state penitentiary is being challenged on overcrowding and conditions. *Mattison v. So. Car. Bd. of Corrections*, C.A. No. 76-318. The entire prison system is under a consent decree on overcrowding and conditions. *Plyler v. Evatt*, C.A. No. 82-876-O (1/8/85). Release order in summer of 1986 was affirmed by the Court of Appeals. Mediator has been appointed.

36. **South Dakota**:* The state penitentiary at Sioux Falls is under a court order on a variety of conditions. *Cody v. Hillard*, 599 F.Supp. 1025 (D.S.D. 1984). Overcrowding order affirmed, 799 F.2d 447 (8th Cir. 1986). Rehearing *en banc vacated and rev'd in part*, 830 F.2d 912 (8th Cir. 1987).

37. **Tennessee**:* The entire system is under court order for overcrowding and conditions. *Grubbs v. Bradley*, 552 F.Supp. 1052 (M.D. Tenn. 1982). Population ordered reduced and a special master was appointed (Dec. 1982). Court enjoined new intake because of failure to comply with population reduction orders. Order, 10/25/85.

38. **Texas**: The entire state prison system has been declared unconstitutional on overcrowding and conditions. *Ruiz v. Estelle*, 503 F.Supp. 1265 (S.D. Tex. 12/10/80), stay granted and denied, 650 F.2d 555 (5th Cir. 1981), stay granted and denied (5th Cir. 1/14/82). A special master has been appointed. On appeal, the district court order was *affirmed in part, vacated in part* and *vacated without prejudice in part* for further hearings. 679 F.2d 1115 (5th Cir. 1982). A stipulation was reached and a consent decree entered on the crowding issues in 1985. A contempt order was entered by the district court on December 3, 1986. *Ruiz v. McCotter*, H-78-987-CA (S.D. Tex.).

39. **Utah**: The state penitentiary is being operated under a consent decree on overcrowding and some conditions. *Nielson v. Matheson*, C-76-253 (D. Utah 1979).

40. **Vermont**: State prison closed.

41. **Virginia**:* The state prison at Powhatan is under a consent decree dealing with overcrowding and conditions. *Cagle v. Hutto*, 79-0515-R (E.D. Va.). The maximum security prison at Mecklenburg is under court order dealing with various practices and conditions. *Brown v. Murray*, 81-0853-R (E.D. Va.) (consent decree entered April 1985). The state penitentiary at Richmond was being challenged on the totality of conditions. *Shrader v. White*, C.A. No. 82-0247-R (E.D. Va.). Trial court decision dismissing the complaint in June 1983. The Court of Appeals *affirmed and remanded in part*, 761 F.2d 975 (4th Cir. 1985).

42. **Washington**:* The state reformatory is being challenged on overcrowding and conditions. *Collins v. Rhay*, C.A. No. C-7813-V (W.D. Wash.). The state penitentiary at Walla Walla has been declared unconstitutional on overcrowding and conditions and a special master has been appointed. *Hoptowit v. Ray*, C-79-359 (E.D. Wash. 6/23/80), *aff'd in part, rev'd in part, vacated in part and remanded*, 682 F.2d 1237 (9th Cir. 1982). In a later appeal, *Hoptowit v. Spellman*, 753 F.2d 779 (9th Cir. 1985), the Court of Appeals affirmed the findings of the district court on remand with respect to the conditions of confinement and remanded the case for the entry of an order.

43. **West Virginia**: The state penitentiary at Moundsville is under court order on overcrowding and conditions. *Crain v. Bordenkircher*, #81-C-320R (Circuit Court, Marshall County 6/21/83). Decision affirmed by West Virginia Supreme Court in 1986. A special master has been appointed. The Huttonville Correction Center is also under court order with respect to conditions. *Nobles v. Gregory*, #83-C-244 (Randolph Co. Cir. Ct. 2/22/85).

44. **Wisconsin**:* The state prison at Waupun is under a court order on overcrowding and conditions. *Delgado v. Cady*, 576 F.Supp. 1446 (E.D. Wisc. 1983).

45. **Wyoming**:* The state penitentiary was being operated under terms of a stipulation and consent decree. *Bustos v. Herschler*, C.A. No. C76-143-B (D. Wyo.). The federal court relinquished jurisdiction in early 1983.

46. **District of Columbia**:* The District jails are under court order on overcrowding and conditions. *Inmates of D.C. Jail v. Jackson*, 416 F.Supp. 119 (D.D.C. 1976), *Campbell v. McGruder*, 416 F.Supp. 100 and 111 (D.D.C. 1976), *affirmed and remanded*, 580 F.2d 521 (D.C. Cir. 1978). On remand, the court ordered a limit on the period of double-celling and an increase in staff. 554 F.Supp. 562 (D.C.D.C. 1982). In 1985, the district court held conditions at the jail required an order that intake be enjoined. A consent decree requiring reduction in population was entered August 22, 1985. *Inmates of D.C. Jail v. Jackson*, #75-1668 (D.C.D.C.). Several facilities at the Lorton Complex, the District's prison, are under court order for overcrowding and conditions. There are population caps in place in both the Central Facility and the Maximum Security Facility. *Twelve John Does v. Barry*, #80-2136 (D.C.D.C.). Contempt orders entered. On December 22, 1986, Lorton's medium security Occoquan facilities came under court order and a population cap was imposed. *Inmates of Occoquan v. Barry*, 650 F.Supp. 619 (D.C.D.C.), *vacated and remanded*, 844 F.2d. 828 (D.C. Cir. 1988), motion for rehearing *en banc* denied, 850 F.2d. 796 (1988) (dissenting opinions and separate statements).

47. **Puerto Rico**: The Commonwealth Penitentiary is under court order on overcrowding and conditions. *Martinez-Rodrigues v. Jiminez*, 409 F.Supp. 582 (D.P.R. 1976). The entire commonwealth prison system is under court order dealing with overcrowding and conditions. *Morales-Feliciano v. Barcelo*, 497 F.Supp. 14 (D.P.R. 1979). A special master was appointed in 1986.

48. **Virgin Islands**: Territorial prison is under court order dealing with conditions and overcrowding. *Barnes v. Gov't. of the Virgin Islands*, 415 F.Supp. 1218 (D.V.I. 1976).

Summary

Entire Prison System Under Court Order or Consent Decree
Ten jurisdictions: Alabama,* Alaska,* Florida, Mississippi, New Mexico,* Rhode Island,* South Carolina,* Tennessee,* Texas, Puerto Rico

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MARYLAND

Litigation Can Stop Unnecessary Jail Building

Claudia Wright
Susan Goering

In November of 1987 the National Prison Project, along with the ACLU of Maryland, filed challenges to the conditions of confinement in three small jails located on the remote Eastern Shore of Maryland.[1] Small jails like these with fewer than 100 prisoners are not usually the subject of our litigation. Over the course of these cases, however, we have discovered some new strategies and exciting opportunities that have made the effort even more worthwhile than we expected. One certain result of these cases will be the implementation of pretrial and post-sentencing alternatives to incarceration in a region where such programs had never existed before. We are also optimistic that our litigation will serve to slow or stop unnecessary new jail construction, by increasing public awareness about the need for and the effectiveness of alternatives.

Many of the most important early prisoners' rights cases were jail conditions cases.[2] They set the stage for the "big prison cases"—system-wide challenges to prison conditions— that have been the staple of the National Prison Project docket over the years. In subsequent years we were involved in jail cases only rarely. We participated in state-wide challenges to jail conditions based on statutory obligations of state officers to set standards and regulate compliance in local facilities.[3] We also represented sentenced prisoners in the mammoth District of Columbia jail case.[4] For the most part, jail cases have been handled by local private attorneys, legal aid offices, or other smaller public interest groups committed to addressing community problems. These cases number in the hundreds, and some have met with great success. Our role in these cases has been primarily as a clearinghouse to assist lawyers, through our National Jail Project, and through publication of the *Primer for Jail Litigators* which we continue to distribute.

Conditions in local jails are even worse than in large prisons.

Jails Often Worse Than Prisons

The NPP's reluctance to take on a substantial number of jail conditions cases is no reflection on their importance. Generally, the conditions in local jails are even worse than in large prisons. Overcrowding in jails has become a very serious problem, not only because more people are being locked up, but also because state prisons often consign their overflow of sentenced prisoners to the jails to alleviate systemic overcrowding. Jails tend to be more violent and dangerous places than prisons. Suicides occur more frequently. Prisoners come in directly from the street as unknown quantities, often with alcohol, drug or psychiatric problems. Meaningful classification and separation, while essential, are rarely effected. Vulnerable inmates are at the mercy of more aggressive cellmates. Especially in smaller jurisdictions, jail correctional officers are less experienced and less well-trained than their prison counterparts. All these factors combine to make life in the typical county jail intolerable.

Yet, we have been hesitant to take on jail cases because each one requires almost the same expenditure of time and resources as a large prison conditions case which would benefit many more people. Moreover, jail litigation is less attractive to us because we know that successful litigation almost inevitably leads to construction and expansion, widening the net of incarceration to include more and more people who really pose no danger to the community. The politics of jail construction do not seem to permit construction of smaller, new-but-improved jails. That tension between the need to improve conditions and the reluctance to fuel the movement toward more and bigger jails has discouraged our participation in this kind of litigation in the past. Our recent experience in Maryland, however, has given us some new ideas to consider and the incentive to rethink our attitude toward jail litigation.

Eastern Shore Jails in Shambles

In the fall of 1987, the ACLU of Maryland and the National Prison Project embarked on an inspection tour of seven county jails on the Eastern Shore. Conditions in three of these jails cried

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Claudia Wright is the associate director of the National Prison Project.

Susan Goering is the legal director of the American Civil Liberties Union of Maryland.

[1] *Hendricks v. Welch*, HM-87-274 (Wicomico County); *Dotson v. Satterfield*, JH-87-3123 (Dorchester County); *Macer v. DiNisio*, PN-87-3122 (Talbot County). All three cases were filed in the United States District Court for the District of Maryland in Baltimore.

[2] *See, e.g., Miller v. Carson*, 563 F.2d 741 (5th Cir. 1977) (Jacksonville, Florida); *Collins v. Schoonfield*, 344 F.Supp. 257 (D Md. 1972) (Baltimore, Maryland); *Rhem v. Malcolm*, 507 F.2d 333 (2nd Cir. 1974) (New York).

[3] *Arias v. Wainwright*, No. TCA 79-792 (N.D. Fla.); *Bush v. Viterna*, 740 F.2d 350 (5th Cir. 1984).

[4] *Inmates of D.C. Jail v. Jackson*, 416 F.Supp. 119 (D.C.D.C. 1976).

Major Institution(s) in the State/Jurisdiction Under Court Order or Consent Decree
Thirty jurisdictions: Arizona,* California,* Colorado,* Connecticut,* Delaware,* Georgia, Hawaii,* Illinois,* Idaho,* Indiana,* Iowa, Kansas, Kentucky,* Louisiana, Maryland,* Michigan,* Missouri,* Nevada,* New Hampshire,* New York, North Carolina,* Ohio,* South Dakota,* Utah, Virginia,* Washington,* West Virginia, Wisconsin,* District of Columbia,* Virgin Islands

Formerly Under Court Order or Consent Decree-Currently Released from Jurisdiction of the Court
Four jurisdictions: Arkansas,* Oklahoma,* Oregon, Wyoming*

Pending Litigation
Eight jurisdictions: Arkansas, California,* Connecticut,* Georgia, Indiana,* Massachusetts, North Carolina,* Pennsylvania*

Special Masters/Monitors/Mediators Appointed
Twenty jurisdictions: Alabama,* Arizona,* Arkansas,* California,* District of Columbia,* Florida, Georgia, Hawaii,* Idaho,* Illinois,* Michigan,* Nevada,* New Mexico,* Rhode Island,* South Carolina,* Tennessee,* Texas, Washington, West Virginia, Puerto Rico

Prison Systems Under Court Order and Cited for Contempt
Six jurisdictions: Alabama,* Mississippi, Michigan,* Rhode Island,* Texas, District of Columbia* ■

Note: There is some overlap between the second and fourth categories because, in some states where one or more facilities are under court order, others in that state are presently being challenged (e.g., Indiana).

We feared that prisoners might perish in a fire.

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out for redress. In Wicomico County, eight prisoners were jammed into each 7 x 15 foot cell. The stench of human waste and bodies crowded together in incredible filth was overwhelming. The noise was deafening. Toilets, sinks and showers were all in a state of filth and disrepair. Dorchester County regularly housed three men in each 7 x 6 foot cell in a jail that was constructed in 1883. The walls were literally crumbling. We feared that prisoners might perish in a fire. Talbot County also housed prisoners in a century-old facility that was grossly overcrowded, and, like the others, met none of the commonly accepted professional codes for fire or public health in correctional institutions. In all three jails prisoners were often held for a year or more before trial, with no provision for exercise, and no opportunity to go outside at all.

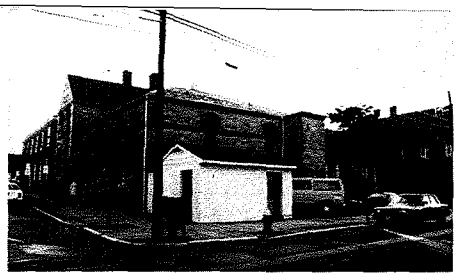
We decided to join together as co-counsel in challenging these conditions for several reasons. First, the inhumane conditions were compelling; we simply could not walk away. Moreover, we knew that the local ACLU did not have the resources to proceed without the NPP. Finally, we hoped to develop a new strategy that could further reform in a broader sense. As we looked more closely at the task before us, it became apparent that we could use the existing wretched conditions to draw attention to the need for alternatives to imprisonment and intermediate sanctions.

Because the three jails are located in adjacent counties, we decided that if we brought cases in all three simultaneously, we could coordinate our use of expert and lawyer time more effectively. Further, Wicomico County was constructing a huge new jail, built to house up to 600 prisoners—over three times as many beds as were needed. The other two counties had plans on the drawing board to build new large jails. Thus, one goal of the litigation was to force the counties to consider sharing resources by making the new Wicomico jail a regional facility, and to discourage the building in Talbot and Dorchester. This was an ambitious plan because of the history of political conflict among the counties; the outcome of our strategy is still uncertain. Nonetheless, the footing for our plan has been laid. Four hundred beds are now available in Wicomico County, and Dorchester and Talbot are being forced, by our litigation, to drastically reduce their populations. Housing prisoners in the neighboring county is the obvious solution, and time will tell whether local officials will take advantage of this unusual opportunity.

Attorneys Claudia Wright (l.) of the National Prison Project, and Susan Goering (r.) of the ACLU of Maryland, represent the inmates in three Maryland jail cases.

NPP photo

Women are kept in ankle chains in the recreation room of the Talbot County Detention Center, Easton, Maryland.



Talbot County Detention Center, Easton, Maryland.

Overcrowding is evident in this trusty cell in the Wicomico County Detention Center, Salisbury, Maryland.

This photo shows makeshift sleeping arrangments at the Talbot County Jail. A bed has been placed in the hallway in front of the shower.

NPP photos

Another Unexpected and Positive Result

The overbuilding by Wicomico compelled us toward an additional litigation strategy: leveraged alternatives to imprisonment. We were horrified when we learned the capacity of the new jail (600) under construction in Wicomico County. The old jail held less than 100 prisoners. The population of the largest city in the county was only 25,000, with no expectation of significant growth in this century! We decided when we filed suit that, although it was too late to affect that construction plan, we could force the county, because of the leverage we had in our conditions case, to start pre-trial supervised release and work release programs before the new jail was ready to open.

We set to work with the National Center for Institutions and Alternatives (NCIA) to study the population of the jail and devise appropriate alternative programs for them. NCIA experts Tim Roche and Lindsay Hayes were able to profile the county jail population for us in very short order. We demonstrated to Wicomico County officials that large numbers of prisoners they were housing in their jail had very low bonds, and were held on misdemeanor offenses for which it was unlikely they would receive prison sentences. In January 1988, under the threat of an imminent trial, defendants were willing to discuss settlement of the case. Given the inhumane and overcrowded jail, the lack of any plausible defense, and that the opening of the new jail was still six months away, defendants agreed to implement a pre-trial release program and a work release program designed to lower the population. In July 1988, they moved into the new 600-bed facility with only 65 prisoners. They have, as expected, increased the population now that they have more space, but the programs are still basically intact. And, importantly, space is still available for Dorchester and Talbot prisoners. Whether they will use it remains to be seen, but now we know we have a plan that will work to bring alternatives to Dorchester and Talbot Counties.

The possibility remains that the officials of Talbot and Dorchester Counties will get together to solve their similar problems. Both of these counties have very small populations and usually have no more than 50 to 60 prisoners at any one time. Both have approximately 100-bed jails on the drawing board, but construction is several years away. Like Wicomico, they have many people locked up who would be eligible for alternative sentencing options. We have reached an agreement in the Dorchester case which includes the immediate implementation of pre-trial release and work release

programs. We will likely be able to accomplish the same result in Talbot County. With time now on our side, we are convinced that the cost-effectiveness of these alternative programs will discourage the counties from building, or at least from building so much. Officials from the counties are talking to each other now about the possibility of a joint effort to build only one jail to house both populations.

To engage in litigation to improve conditions of confinement for the imprisoned justifies itself. But trying to keep people out of jails, drawing attention to the use of alternatives to incarceration, educating county officials about the benefits of alternatives to their communities, and finding ways to discourage construction, are exciting dimensions of jail litigation that make our efforts more meaningful and productive. It further justifies the expenditure of our scarce resources in jail cases. Key to this approach is, of course, our association with the National Center on Institutions and Alternatives. Through litigation we can capture the attention of county officials. Once they are listening, NCIA provides the facts and figures to make a persuasive case for the use of alternatives, and can then put together specific programs to meet the unique needs of a particular community. In this way, we offer a deal to the county that it really can't afford to refuse. ■

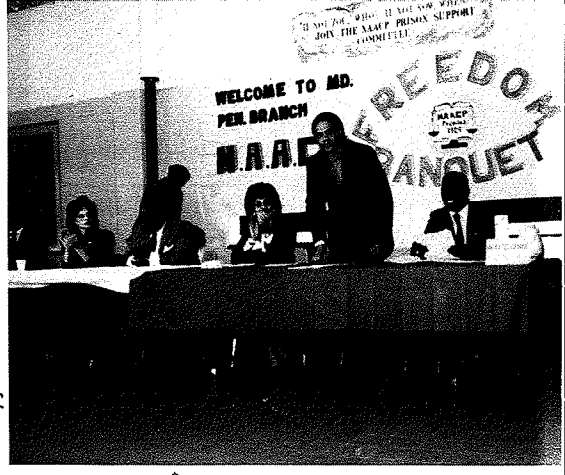


Photo by James D. Proctor

Speakers at the Freedom Fund Banquet in October 1988. Standing is Robert Brantley, chairperson of the NAACP Prison Support Committee.

"Tomorrow's Neighbors" Celebrate NAACP Inmate Chapter

Olinda Moyd
Robert L. Brantley

The National Association for the Advancement of Colored People (NAACP), the nation's oldest civil rights organization, was founded in 1909 by a group of black and white individuals representing a variety of civil and religious organizations. It has led the fight against racial discrimination and other systematic injustices that plague America's minorities and poor. The NAACP has diligently fought against injustice in every arena, from the courtroom to the picket line, waging an untiring battle to raise the standard of living of America's "underclass."

Approximately one year ago, prisoners at the Maryland Penitentiary were given the opportunity to join the NAACP family. (There have been other prisoner chapters formed, for example, at Lewisburg Federal Penitentiary, and in state prisons in Pennsylvania and New Jersey.) It was a dream that many thought would never come true. After several years of fighting to establish an inmate chapter, the Maryland Penitentiary branch was chartered in November 1987. The only existing NAACP inmate chapter in the state of Maryland, this chapter is sworn to support "principles of equality and justice" and to "keep the goals of the NAACP above any purely personal or individual interest." The Maryland Penitentiary branch, in its inaugural year, has worked hard to uphold and maintain the traditions of the NAACP.

During its first year, the branch sponsored its First Annual Jubilee Celebration which it joined with a commemoration of Dr. Martin Luther King Jr. A drive to fund a library in memory of Latonya Wallace (a Baltimore City student who was a victim of violence) resulted in the donation of more than $2,000 towards the purchase of books. The branch began a pen pal campaign with more than 100 elementary school students; sponsored a religious awareness seminar whose panel consisted of community representatives from various religions; and developed a newsletter, *The Communique*, distributed monthly.

On October 5, 1988, the Maryland prisoner branch held its first Annual Membership Social where family members and friends were able to visit their loved ones in a social atmosphere. On October 25, 1988, the branch held its first Freedom Fund Banquet, with Mrs. Frances Hooks as the keynote speaker. Dr. Benjamin L. Hooks, executive director of the NAACP, was scheduled to speak but was unable to attend due to a last-minute out-of-town engagement. Dr. William Pollard, former NAACP executive deputy director, also offered words of encouragement to the inmate members and commended the branch on its many achievements. Among the distinguished guests were City Council representatives Jacqueline McClean and Lawrence Bell; a representative from Baltimore Mayor Kurt Schmoke's office; and Rev. John L. Wright, president of the Maryland State Conference. John McDonald, president of the Maryland Penitentiary Chapter delivered a thunderous speech, exclaiming,

> *We (the inmates) have long awaited the institution of the NAACP and see it as a vehicle—a forum from which we could at long last be heard—a platform from which we could deliver a much needed message. Our message is much the same message that led to the formation of the NAACP eighty odd years ago. Simply put, that message is: we care!*
>
> *We care about racial injustices, teen pregnancy, the homeless, the Supreme Court's civil rights decisions, campaign election issues, disintegration of the black family, and drugs in our communities. We care about these things for the same reason you care. We care because we are still part of the human family.*
>
> *Regardless of the generalizations and stigmatizations that society places upon us, we are, and always will be, loving and caring men. We are still your sons, your brothers, your husbands . . . we are still part of you.*

The message was well received by the guests and the inmate members who have every reason to feel proud of their accomplishments. The branch has experienced a year of tremendous growth and development during its first year. The banquet was planned as a celebration of those successes and as the anchor of the coming year's efforts.

The inmate branch has adopted two

—*continued on next page*

Olinda Moyd is a staff associate with the National Prison Project and vice chair of the NAACP Prison and Support Committee.

Robert L. Brantley is committee chair and a member of the Baltimore NAACP Board of Directors.

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new projects—The School Uniform Project and the Christmas Project. The branch believes that many of the problems encountered by public school students are the direct result of the students' desire to wear expensive, brand-name clothes. Not only does this present a financial burden on parents, they feel, it brings about misplaced values among our young people. The branch feels that the proposed wearing of uniforms in the public schools is an innovative and effective way to alleviate some of the peer pressure and instill a sense of pride in young children. The branch plans to contribute to the Uniform Project by providing funding for as many as five uniforms at each of the city elementary schools that have adopted the Uniform Project. The second project is the Christmas Project. On December 16, 17, and 18 of this year, the inmates of the Maryland Penitentiary will be permitted to have special holiday visits with their children. The branch proposes to contribute to this event by providing token gifts to each child who participates during this special visitation period. The branch also plans to provide two photographs, free of charge, to each visiting party.

All members of the Maryland Penitentiary branch must pay $10 annual membership to the Association. The fee is forwarded to the National Office and distributed for use by the branches. The inmate branch has its own constitution and by-laws; it currently has 240 members.

This branch could not have been established without the support of the NAACP National Office and the local NAACP Prison Support Committee. The National NAACP Prison Program is responsible for establishing and stabilizing the 36 inmate branches, including 11 in federal institutions. However, there has historically been a decline in effectiveness of a prison branch when it has lost support of the external community. Without the guidance and direction of the more experienced NAACP members, prison branches tend not only to deteriorate internally, but also to fall prey to the repressive and divisive tactics of prison administrators. This has led to the establishment of the NAACP Prison Support Committee. This committee offers needed guidance and support to the inmate chapter. The Prison Support Committee, an NAACP subcommittee, acts as a liaison between the inmate members, the community, and the correctional officials. The inmates who are active NAACP members benefit in several ways by their affiliation with the NAACP. First, every inmate member is encouraged to take advantage of the educational opportunities offered by the institution. When existing educational programs have been found to be inadequate, the education committee of the inmate chapter has submitted proposals to improve and expand these programs to correctional officials. Second, committee chairs and elected officers develop acute leadership skills during their term of participation with the NAACP. Finally, with the help of the Prison Support Committee and other NAACP assistance, the inmate branch maintains a viable connection with the community and is able to address community concerns and support community projects.

The NAACP Maryland Penitentiary branch has become an active self-help group for its members and has served to offer support to the community to which they will return. The NAACP believes that the development and training of incarcerated individuals is important because "today's inmates are tomorrow's neighbors." ■

For the Record

Durfee Award Honors Prisoners' Rights Activists

■ Stephen B. Bright, director of the Southern Prisoners' Defense Committee in Atlanta, Georgia, and Isabelle Patten, founder of the Lewisburg Prison Project in Lewisburg, Pennsylvania, are among the 1988 winners of the Durfee Award.

The Durfee Award recognizes individuals who have "significantly enhanced the human dignity of others through the law or legal instruments."

Bright was honored for his "long and extraordinary commitment to justice for the indigent, particularly for defendants in capital cases, the justice system's least palatable cause."

Patten was recognized for her work on behalf of prisoners at the maximum security federal penitentiary in Lewisburg, Pennsylvania.

Others receiving the award were the Rev. James McClosky of Princeton, New Jersey, for investigative work leading to the overturning of the life sentences of several prisoners wrongly accused of murder and rape, and Franklin E. Kameny of Washington, D.C. for his work in guaranteeing the civil rights of gays and lesbians.

The biennial Durfee Awards Program was established in 1982 by trustees of the Durfee Foundation, a non-profit, charitable foundation in Los Angeles. Each winner receives a check for $10,000 and a framed Durfee Award.

■ **The National Center on Institutions and Alternatives (NCIA)**, in cooperation with **Juvenile and Criminal Justice International**, and with assistance from the **National Sheriffs' Association,** recently released several training aids on jail suicide prevention.

The *National Study of Jail Suicides: Seven Years Later* comprises data from all jails (county and city) and police department lockups throughout the country on the incidence of jail suicides during 1985 and 1986. Subsequent comparison with NCIA's prior national research revealed that, absent minor variations, there were no appreciable differences in jail suicide characteristics since 1979. Most of the key characteristics of jail suicide—offense, intoxication, method/instrument, isolation and length of incarceration—have remained virtually unchanged over time. The consistency of such findings could impact the ability to deter future suicidal behavior.

The *Training Curriculum for Suicide Detection and Prevention in Jails and Lockups* is intended to equip law enforcement officers and jail administrators and their staffs with a basic understanding of suicidal behavior as it relates to facility environment. Topics include jail suicide research, why jail environments influence suicidal behavior, signs and symptoms of suicidal behavior, high-risk periods, assessing suicide risk (screening), supervision of suicidal inmates, arresting/correctional officer role in prevention, litigation, facts and fiction, jail design, first aid, and controversial issues in prevention. Transparencies are also available.

The study sells for $20, the training curriculum for $25.

For more information, contact: Lindsay M. Hayes, project director, NCIA, 635 Slaters Lane, Suite G-100, Alexandria, VA 22314, 703/684-0373.

■ Several new books explore the influence of penal conditions on prisoners. University of Texas psychologist Paul B. Paulus' review of the prison crowding literature suggests that: negative effects increase as prison populations rise and exceed design capacity; smaller prisons have fewer health-related problems; and negative influences of prison size and degree of crowding vary according to levels of uncertainty and interference. Paulus finds that prisoners show a high degree of tolerance for crowdedness.

Canadian researchers Edward Zamble and Frank J. Porporino conducted prisoner response research at penitentiaries in Ontario where they found that posi-

tive effects of imprisonment wear off shortly after release. Prisons, they argue, have a limited ability to change undesirable offender behavior.

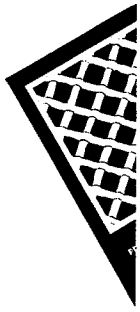
In a more narrowly defined study of the impact of imprisonment, a team of Yale University medical researchers, led by Adrian M. Ostfield, found that the blood pressure of offenders jailed in the Billerica House of Corrections in Middlesex County, Massachusetts varied according to number of times incarcerated, ethnic origin, age, education level, religiosity, transiency of pre-jail residence, and type of in-jail housing, among other factors.

Paulus' *Prison Crowding: A Psychological Perspective* ($43) and Zamble and Porporino's *Coping, Behavior and Adaptation in Prison Inmates* ($40) are published by Springer-Verlag New York, Inc., 175 Fifth Ave., New York, NY 10010. *Stress, Crowding, and Blood Pressure in Prison* ($29.95) by Ostfield, Kasl, D'Atri and Fitzgerald, is published by Lawrence Erlbaum Associates, Inc., Suite 102, 365 Broadway, Hillsdale, NJ 07642.

■ The Sentencing Project announces the publication of *Annotated Bibliography: Recent Articles on Sentencing Issues*, a 58-page bibliography listing over 150 articles from law reviews, bar journals, and other publications that have appeared since 1978. Issues covered include alternative sentencing, capital punishment, sentencing guidelines, mandatory sentencing, and sentencing advocacy. The *Bibliography* is available for $10 from the Sentencing Project, 1156 15th St., N.W., Suite 520, Washington, D.C. 20005.

PUBLICATIONS

The National Prison Project *JOURNAL,* $25/yr. $2/yr. to prisoners.



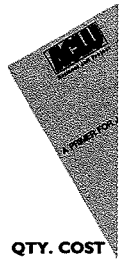
The Prisoners Assistance Directory, the result of a national survey, identifies and describes various organizations and agencies that provide assistance to prisoners. Lists national, state, and local organizations and sources of assistance including legal, library, medical, educational, employment and financial aid. 8th Edition, published December 1988. Paperback, $25 prepaid from NPP.

Offender Rights Litigation: Historical and Future Developments. A book chapter by Alvin J. Bronstein published in the **Prisoners' Rights Sourcebook** (1980). Traces the history of the prisoners' rights movement and surveys the state of the law on various prison issues (many case citations). 24 pages, $2.50 prepaid from NPP.

QTY. COST

The National Prison Project Status Report lists by state those presently under court order, or those which have pending litigation either involving the entire state prison system or major institutions within the state. Lists only cases which deal with overcrowding and/or the total conditions of confinement. (No jails except District of Columbia.) Periodically updated. $3 prepaid from NPP.

Bibliography of Women in Prison Issues. A bibliography of all the information on this subject contained in our files. Includes information on abortion, behavior modification programs, lists of other bibliographies, Bureau of Prison policies affecting women in prison, juvenile girls, women in jail, the problem of incarcerated mothers, health care, and general articles and books. $5 prepaid from NPP.



A Primer For Jail Litigators is a detailed manual with practical suggestions for jail litigation. It includes chapters on legal analysis, the use of expert witnesses, class actions, attorneys' fees, enforcement, discovery, defenses' proof, remedies, and many practical suggestions. Relevant case citations and correctional standards. 1st Edition, February 1984. 180 pages, paperback $15 prepaid from NPP.

QTY. COST

The **Jail Litigation Status Report** gives a state-by-state listing of cases involving jail conditions in both federal and state courts. The **Report** covers unpublished opinions, consent decrees and cases in progress as well as published decisions. The **Report** is the first nationwide compilation of litigation involving jails. 1st Edition, published September 1985. $15 prepaid from NPP.

AIDS in Prison Bibliography lists resources on AIDS in prison that are available from the National Prison Project and other sources, including corrections policies on AIDS, educational materials, medical and legal articles, and recent AIDS studies. 31 pages. $5 prepaid from NPP.

AIDS in Prisons: The Facts for Inmates and Officers is a simply written educational tool for prisoners, corrections staff, and AIDS service providers. The booklet answers in an easy-to-read format commonly asked questions concerning the meaning of AIDS, the medical treatment available, legal rights and responsibilities. Sample copies free. Bulk orders: 100 copies/$25. 500 copies/$100. 1,000 copies/$150 prepaid.

QTY. COST

Fill out and send with check payable to

The National Prison Project
1616 P Street, NW
Washington, D.C. 20036

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HIGHLIGHTS

The following are major developments in the Prison Project's litigation program since September 1, 1988. Further details of any of the listed cases may be obtained by writing the Project.

Abbott v. Thornburgh—This is the national class action which challenges the mail and literature policies of the Federal Bureau of Prisons. Argument before the Supreme Court was held on November 8, 1988.

Baraldini v. Meese—This case alleges that the Federal Bureau of Prisons assigned plaintiffs to the High Security Unit in the Lexington Federal Penitentiary in violation of their First, Eighth and Fifth Amendment rights. In August, the court granted plaintiffs a highly favorable decision, and in September, defendants filed a motion for expedited appeal. We opposed that motion.

Duran v. Carruthers—This case challenges conditions in the New Mexico state prison system. In October we received a favorable attorneys' fees decision on two of our pending fee applications.

Harris v. Thigpen—This case challenges the Alabama Department of Corrections' program to test all prisoners for HIV antibodies, and to segregate those who test HIV-positive. In late September we filed a memorandum in opposition to defendants' motion for summary judgment.

Inmates of Occoquan v. D.C—This case seeks to improve conditions and relieve overcrowding at the District of Columbia's Occoquan facility. The Court of Appeals denied our petition for rehearing *en banc* in a 6-5 panel decision in July and remanded the case to the district court. Rather then seek *certiorari*, we elected to return to the district court. We have been actively engaged in negotiations with the parties and plan to submit a settlement to the court very soon.

Jerry M. v. D.C.—This case challenges conditions at D.C.'s two juvenile facilities. On October 14, the court entered an order requiring defendants to take specific actions by court-imposed deadlines including hiring staff, placing youths in group homes within 45 days, and reducing all institutions to single room capacity.

Maryland Jails: Hendricks v. Welch, Macer v. DiNisio, Dotson v. Satterfield—These cases, filed by the Prison Project and the Maryland ACLU, challenge conditions and practices in three jails on Maryland's Eastern Shore. In *Hendricks*, just before an agreement by the parties was to be approved by the court, the county moved all prisoners into a newly constructed jail. Defendants moved to dismiss the case as moot and plaintiffs agreed to the dismissal. In *Dotson*, the court granted preliminary injunctive relief on the issue of inmates' right to receive publications. Following an August hearing, the court ordered an end to triple-celling and imposed a limit on the population in the women's dorm. We entered into negotiations with defendants and reached final settlement of all issues on October 3, 1988.

Palmigiano v. DiPrete—This case challenges conditions in the Rhode Island state prison system. In late October, the court found defendants, the Governor, and the corrections director in contempt for violating population limits at the Intake Service Center, and ordered that fines of $10,000 a day be imposed if defendants are not in full compliance by February 20, 1989.

Plyler v. Evatt (formerly Nelson v. Leeke)—This case challenges overcrowding and conditions in the South Carolina prison system. In September, we filed a petition for *certiorari* in the Supreme Court in response to a Fourth Circuit decision allowing defendants to modify the consent decree. *Certiorari* was denied in October. Defendants appealed the court's decision on attorneys' fees in September.

U.S. v. Michigan/Knop v. Johnson—This is a statewide Michigan prison conditions case. The Sixth Circuit granted a stay in *Knop*. We filed a motion to return the judgment to the district court to allow the court to modify its order on the racial harassment issue. In *U.S. v. Michigan*, following a hearing, we received a favorable court order concerning mental health and some aspects of overcrowding. ■

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New Prisoners Assistance Directory Available from NPP. Eighth Edition.
See PUBLICATIONS, p. 15.