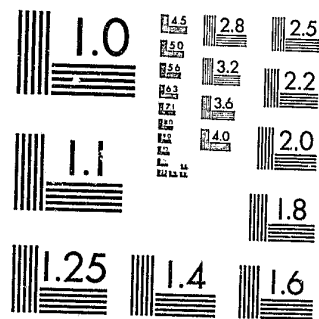


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# Federal Probation

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# Federal Probation

A JOURNAL OF CORRECTIONAL PHILOSOPHY AND PRACTICE

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## This Issue in Brief

**Can Corrections Be Rehabilitated?**—During the last 30 years much progress has been made toward dissolving the barriers of hostility that generated violence and distrust between correctional staffs and prisoners. Because of forthcoming budgetary stringencies, rapidly increasing populations, and a vast increase in the level and frequency of violence, much of that progress is in danger of reversal. Author John Conrad feels it is urgently necessary to reduce prison intake by making maximum use of community-based corrections. He proposes a new model of sanctions that will be more severe than the present community corrections without resort to incarceration.

**"It Only Gets Worse When It's Better."**—This article by W. Clifford of the Australian Institute of Criminology, and the following article by Professor López-Rey of Cambridge, England, present two differing perspectives on world corrections. Mr. Clifford states that in the past 10 years regimes have changed or been overthrown, ideologies have been transformed, but corrections throughout the world has not changed all that much. Some of the older and outdated systems are yet 10 years more behind the times. In fact, he adds, corrections in its old form has a remarkable facility for surviving all kinds of revolutions and looking much the same afterwards.

**Crime, Criminal Justice, and Criminology: An Inventory.**—This article by Professor Manuel López-Rey attempts to demonstrate that crime is not an ensemble of behavioral problems but a sociopolitical phenomenon, that criminology should overcome excessive professional aims, and that criminal justice is increasingly unable everywhere to cope with the problem of crime, even within the limits of common crime.

**Adopting National Standards for Correctional Reform.**—The concept of correctional accreditation, according to Dale Sechrest and Ernest Reimer, is built on the foundation of humanitarian

reform of prison conditions through the application of standards of performance. A Commission on Accreditation for Corrections was formed in 1974. The Commission, using trained professionals, has accredited over 250 correctional agencies including 80 prisons, having a total involvement of over 500 correctional facilities and programs of all types.

**Volunteers in Criminal Justice: How Effective?**—The acceptance or rejection of the use of volunteers in justice settings has been based primarily on personal belief rather than on sound empirical evidence, assert authors Sigler and

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Leenhouts. While many volunteer programs have been evaluated, the results are questionable because of methodological errors. Two methodologically correct professional evaluations have indicated that volunteers are successful in working with justice system clients.

**Volunteers in Corrections: Do They Make a Meaningful Contribution?**—This article by Peter C. Kratcoski examines the roles of volunteers in corrections in the past, the advantages and problems associated with using volunteers in a correctional setting, correctional agency administrators' and staff members' attitudes toward them, and the motivations and satisfactions of the volunteers. The findings of a study of the characteristics and motivations of a national sample of volunteers in probation are reported.

**A Delphi Assessment of the Effects of a Declining Economy on Crime and the Criminal Justice System.**—The research discussed in Professor Kevin Wright's article utilized the Delphi method of forecasting in order to obtain an initial and expedient answer to the question of what effect economic adversity will have on the incidence of crime and on the criminal justice system. Certain types of crime are expected to increase; however, an uncontrolled outbreak of crime is not predicted. Specific economic factors are identified as the primary producers of fluctuations in the incidence of crime. Some elements of the criminal justice system are expected to be burdened by economic decline.

**Presumptive Parole Dates: The Federal Approach.**—The procedure adopted by the United States Parole Commission to avoid unnecessary indeterminacy in making its determinations relative to prison confinement, while at the same time allowing for consideration of significant

changes in circumstances, is the focus of this article by Drs. Barbara Stone-Meierhoefer and Peter Hoffman. The presumptive parole date procedure implemented by the Parole Commission is described, and its relationship to the Commission's system of explicit guidelines for parole decision-making is discussed.

**Court—Prosecutor—Probation Officer: When Is Discretion Disparity in the Criminal Justice System?**—There is not yet in America any clear, consistent, rational policy regarding whether to pursue a correctional philosophy of rehabilitation or one of retribution. Former emphasis on treatment is being replaced by emphasis on punishment and uniformity of sentence. Supervising Probation Officer Robert L. Thomas believes traditional definitions of discretion and disparity are being prostituted to cover up the belated realization that after-the-fact solutions to crime do not work. What is really needed, he insists, is more realistic alternatives to traditional dispositions and a clearer understanding of who should or should not go to prison.

**Rekindling the Flame.**—The syndrome of burnout is a symptom of the crisis presently affecting the social service professions, asserts James O. Smith of the Pennsylvania Board of Probation and Parole. As such, the phenomenon presents both the danger of poorer quality services and, paradoxically, the opportunity for enhancement of services. Using as a general framework Maslow's hierarchy of human needs, this article maintains that through the medium of a comprehensive, in-service training program an organization can positively affect the "esteem needs" of its staff. The outcome of this relationship, as it is suggested, is higher quality service with less staff burnout.

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

## Adopting National Standards for Correctional Reform

BY DALE K. SECHREST, D. CRIM., and ERNEST G. REIMER\*

CORRECTIONAL institutions are not a priority for the American public. They have been organized on a state by state basis with no consistent set of rules to govern their operation and with complex and often confusing sets of goals. They constitute a priority for funding only to the degree that they ensure punishment, retribution and incapacitation, sometimes mingled with widely varying programs of rehabilitation, a concept which itself is constantly undergoing redefinition. Prisons have often been such places of despair that local and state governments and the judiciary have opted for programs of complete diversion from them, or, at the very least, wider use of probation to the community after sentence. Nevertheless, prisons have existed for a long time, and they will continue to be used to incarcerate the most dangerous criminals, a conclusion reached by most groups who have studied the problem, such as the President's Commission on Law Enforcement and the Administration of Justice.<sup>1</sup> More recently the National Advisory Commission on Criminal Justice Standards and Goals stated that major adult institutions represent the least promising component of corrections and, in stressing the need for more diversion programs the Commission said:

... the need for some type of institution for adults cannot be denied. There will always be a hard core of intractable, possibly unsalvageable offenders who must be managed in secure facilities, of which there are already more than enough to meet the needs of the foreseeable future. These institutions have and will have a difficult task indeed. Nevertheless, the nature of imprisonment does not have to be as destructive in the future as it has been.<sup>2</sup>

Since prisons are to continue as part of the American scene, what is necessary to preclude placing an offender in an environment in which the fear of bodily safety may be quite real, where food may be bad, where basic programs, such as

employment, training, and education may not exist, and where basic health and safety minimums may not be met? Whatever the goals of incarceration, the offender must emerge from the prison experience, at a minimum, not worse than at entry. One method of approaching this objective is with basic standards of performance for institution personnel, physical plants and program opportunities, and the correctional system as a whole. Nationally accepted standards are required which will tell correctional personnel, public officials and the general public what is needed to produce a safe and humane environment. Most importantly, the adoption of standards must be accompanied by a plan for their implementation within each institution of each correctional system.

### Background

Detailed documentation of humane conditions in correctional institutions is hardly necessary in light of the series of court decisions emanating from the implementation of Chapter 42, U. S. Code Section 1983 of the Civil Rights Law of 1971. In these decisions, which began in the mid-1960's, conditions which were clearly "cruel and unusual" and which had existed for many years were made public.<sup>3</sup>

As of February 1981, prisons in 39 jurisdictions were either already under court decrees or were facing constitutional challenges, including 24 non-Southern States, the District of Columbia, Puerto Rico, and the Virgin Islands. Twenty-five of the 39 states were operating under court orders affecting their entire prison system or the major institutions in the state.<sup>4</sup> In some of these systems, a "special master" has been appointed to implement the changes required by the court.

The most recent example of the current state of prisons is the Penitentiary of New Mexico which

erupted in violence on February 2, 1980. The inmates gained total control of the institution and seized a number of custodial staff as hostages. Although the inmates seriously injured some of the hostages, none were killed. The major thrust of the inmates' anger was directed at other inmates, 33 of whom were murdered. Over 25 million dollars damage was done to the institution, and 80 million dollars were appropriated to improve the system. One can only speculate about the shortcomings and stresses of imprisonment when inmate anger and frustration, when released, was directed less at the inmates' immediate keepers and more at the system of incarceration. The anger expressed against fellow inmates stemmed from the system because the murdered inmates were primarily "snitches" or informers created and promoted by the system to help staff maintain control of the prison.

### Prison Reform, Past and Present

Prisons have seen various reform movements, initially in protest to practices of capital and corporal punishment, followed by the emphasis on reformation through penitence and meditation and the evolution of the industrial prisons of the late 19th century, a good combination of reform and practicality. The concept of "hard labor" was, in turn, followed by models of treatment and prison management that featured various forms of therapy, mental health models, self-help programs, and attempts at various forms of "rehabilitation" based on the view that criminals could be treated and cured of their criminality, all supported by research on human behavior.

Although various forms of these programs and treatment models have survived and are in use today, none have demonstrated sufficient effectiveness to warrant systemwide adoption. Is it true then, as some critics have stated, that "nothing works"? When prison conditions are found by judges to be inhumane and prison systems deemed unconstitutional, is it surprising that new programs imposed on these systems fail to show any measure of success? Even some of the better correctional systems have not been able to provide conditions conducive to the success of new treatment models.

With few exceptions correctional systems have not provided offenders a setting that is safe, humane and neutral where they can pay their debt to society and perhaps improve themselves. The deprivations, dangers, and minimal living conditions of prisons have forced inmates to devote much of their energies to survival, leaving them

with little, if any interest in programs. Inhumane living conditions are too often matched by negative staff attitudes and behavior attributable in some part to institution working conditions. The combination of minimal living conditions and lack of the desire or ability of staff to support inmate programs, sometimes resulting in actual interference with them, only adds to feelings of anger and frustration which are already a problem for many offenders. To be certain, there are institutions where inmates can participate in self-improvement programs without any of the problems identified above; however, such institutions are the exception and not the rule.

Contributing to this situation is the continuing confusion about the purpose of imprisonment. For correctional staff, the primary purposes of incarceration must be separation from the community and safe retention of criminals—nothing more, nothing less. Being in prison with its accompanying loss of freedom is punishment; it is neither necessary nor productive to exercise punitive management of the inmate during his/her prison term. The vast majority of prison inmates keenly feel the constraints of their confinement—further punitive measures only serve to increase the resentment and hostility within these individuals.

This viewpoint in no way suggests that prisons are or should be "country clubs," with comfortable living conditions. The loss of individual freedom is a powerful tool, and unless one has undergone a comparable experience, it is difficult to assess its impact. To apply this loss of freedom in a humane and nonpunitive manner serves the purposes of imprisonment and could do much to correct the wrongs in many American prisons.

The confusion about the purpose of imprisonment, the minimal and, at times, unsafe inmate living conditions, and the attitudes and behavior of poorly motivated and trained personnel can be likened to an inadequate house foundation. Whatever structure is built upon a poor foundation will prove troublesome and yield undesirable outcomes. If prisons are expected to provide effective corrective experiences for inmates, basic programs and services must be available, but they will achieve maximum success only if built on a sound structure. This sound prison structure includes staff agreement on the purpose and goals of imprisonment, provision of safe and humane living conditions for all inmates and staff, a professional management structure, and personnel that are trained, professional, and objective in the performance of their jobs.

\*Dr. Sechrest is director of research, Commission on Accreditation for Corrections, and Mr. Reimer is a consultant to the Commission. The authors are indebted to Jane O'Shaughnessy, Commission deputy director, and Ilene Bergmann, Commission director for information and training. The opinions are those of the authors and do not necessarily represent those of the Commission on Accreditation for Corrections.

<sup>1</sup>President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: Corrections 45* (Washington, D.C.: U. S. Government Printing Office, 1967).

<sup>2</sup>National Advisory Committee on Criminal Justice Standards and Goals, *Corrections 349* (Washington, D.C.: U. S. Government Printing Office, 1973).

<sup>3</sup>See Stephen Gettinger, "Cruel and Unusual Prisons," *Corrections Magazine* (December, 1977); David Fogel, *We Are the Living Proof: The Justice Model of Corrections* (Cincinnati, Ohio: Anderson Publishing Company, 1975).

<sup>4</sup>*Criminal Justice Newsletter*, July 29, 1979, pp. 4-5; updated by the National Prison Project, April 1, 1980.



### Current Efforts to Improve Prisons

Recent efforts to improve prisons and the administration of justice generally have assumed three patterns. The first pattern, and the most persuasive one, has been the series of court decisions affecting prison management. The extent and impact of court decisions has been described earlier. Court decisions usually mandate change but cannot state all of the specifics of how changes must occur; i.e., the priorities needed and the format and/or dimensions of the desired change. Court decisions provide the essential first step, but additional refinement and followup is required, which is often gained through the appointment of temporary overseers, or "special masters," who work with the court to ensure mandated changes.

The second pattern is somewhat more diffused. Its central theme involves a redefinition of the purpose and thrust of correctional confinement and says little about how improvements will be realized. It has evolved principally out of the legislative and executive branches of government characterized by the move toward determinate sentencing and recognition that inmates should assume responsibility for their own lives. Through the adoption of determinate sentencing, legislators anticipate that the correctional system will be more fair and inmates better able to accept and manage their imprisonment when they know how long they will be locked up. Rather than base the term of sentence upon the offender's performance during imprisonment, the term is set by the sentencing judge based primarily upon the crime, with little or no consideration of the offender's criminal background. Under this approach, the latitude exercised by the courts and paroling authorities is sharply curtailed. One goal of the determinate sentencing pattern is the change in emphasis from coercive programming for inmates to one of voluntary participation. Under previous rehabilitative models the belief was that staff knew what programs the inmate needed, and the inmate was expected to accept this decision. At present it is generally held that voluntary participation in "corrective" programs is more productive than required participation, and the only activities which inmates should be compelled to participate in are personal sanitation and work programs. The second aspect of this pattern may be found in efforts to reintegrate the offender into

the community, particularly through temporary leave, work, and education furlough programs. Common to this general pattern is the belief that the inmate is personally responsible and fully capable of making significant life decisions.

The third pattern, to which the balance of this article will be devoted, covers the resurgence of national correctional standards and their use in a system of voluntary accreditation designed to improve all correctional agencies. While the redefinition of purpose and philosophy of correctional services is important, whether by court decision, legislative change, or administrative policy, the required changes exist in a relative vacuum until they can be implemented in an orderly manner, followed by verification of their use. This is the role of standards which requires compliance through a system of voluntary accreditation.

### Standards, Accreditation and Reform

The development of correctional standards is over a century old.<sup>5</sup> The problem, however, has been in their use to improve correctional systems. This may largely be due to the inability to separate the provision of humane conditions from concepts of rehabilitation. As Morris and Jacobs indicate, "The dilemma here may be that an institution built to carry out society's moral precepts through punishment and deterrence cannot also function as an effective means to rehabilitate the offender."<sup>6</sup> They differentiate the concepts of *humanitarian reform* and the *rehabilitative ideal*:

Humanitarian reform calls for minimum civilized standards of living conditions and of physical safety within the prison. The rehabilitative ideal refers to the kind of treatment that will bring about the successful reintegration of prisoners into society.<sup>7</sup>

As indicated earlier, the first and generally unrealized goal of corrections must be the provision of humane conditions through the application of basic standards of performance for each institution and the correctional system as a whole. Morris and Jacobs call first for protection from assault, extortion, theft, and rape, followed by nutritious food, decent hygiene, and adequate medical care and recreation as basic needs. After basic needs, they place the need for activities which will defeat boredom, principally work. Most important to implementing humanitarian reform is "the establishment of fair and orderly administrative procedures within the prisons."<sup>8</sup>

Morris and Jacobs conclude that the rehabilitative ideal, based on efforts to "treat" and "cure" criminals, the traditional medical model of rehabilitation, has been an unfortunate

development in American prison reform largely because it promises too much:

The answer to the American crime problem is not to be found in the prisons. Those who claim that various prison measures can reduce recidivism and thereby substantially reduce crime on the streets are deluding the public. . . By offering a cure for crime, the rehabilitative ideal has placed prison reform on a shaky foundation. If rehabilitation fails or is only moderately successful, should further efforts at reform cease? Hardly. Prison reforms should be vigorously pursued for humanitarian reasons whether or not prisoners are "rehabilitated" or recidivism is reduced.<sup>9</sup>

The concept of correctional accreditation is built on the foundation of humanitarian reform of prison conditions through the application of standards of performance. Compliance with a uniform and complete set of national standards in meeting these goals is based on a different premise than traditional models of treatment outlined by Morris and Jacobs as the "rehabilitative ideal." Accreditation does not conclude that particular treatment models are invalid, it simply states that, absent a safe and humane environment, any "rehabilitative" model is less likely to be effective.

Standards for humanitarian reform must address services and programs, such as communication with the outside world through mail, visiting, and the use of the telephone; and they must require decent food, often needed to counteract the effects of poor nutrition, and basic health care. These basic services must, however, be augmented with fundamental programs of educational instruction, vocational training and training in life skills as simple as learning to make application for a job or buying a car. The channeling of energies into constructive leisure time activities is also basic to such programs, as is a concern for the development of religious programs and the need for crisis and/or long-term personal counseling. These and other basic services and programs must be provided in the institution and continue into the larger correctional environment, but they can only be built on a foundation of sound administration and humane management.

The use of standards in a nationally recognized accreditation process allows for the accomplishment of basic reforms in prison conditions and provides the conditions necessary to establish corrective programs. Proven effective in achieving these goals has been the work of the Commission on Accreditation for Corrections, created as an

outgrowth of the need for basic reform in both prisons and other components of the correctional continuum.

### The Commission of Accreditation for Corrections

In 1974 the Law Enforcement Assistance Administration (LEAA) awarded a grant to the American Correctional Association (ACA) to establish a Commission on Accreditation for Corrections. Since existing "standards" proved insufficient for use in the accreditation process, the ACA recommended to the LEAA that the grant awarded in 1974 be amended to include the development of a comprehensive set of standards to cover all components of correctional services nationwide.

The Commission began an extensive program of drafting, field testing, revising, and approving thousands of individual standards covering the whole spectrum of corrections. With the publication of a uniform and complete set of 10 manuals of standards for corrections, this phase of the task came to a close in June 1979. The Commission then returned to its original objective of conducting accreditation proceedings in the field. In order to avoid any semblance of a conflict of interest, the Commission on Accreditation for Corrections became fiscally and operationally independent of the ACA on April 1, 1979. However, both organizations continue in a cooperative relationship, and as stipulated in the Commission's By-laws, the majority of its members are elected by the ACA membership. Also, the Commission jointly approves with the ACA the revisions to the standards prior to their adoption for accreditation purposes.

Commission principles, as expressed through the standards, articulate a concern for the protection of the public, assistance to criminal justice agencies, and the provision for just and humane care in the management of adult and juvenile offenders.<sup>10</sup> It is anticipated that accreditation can assist agencies in the development of safe, well-managed and ultimately more humane institutions and that such institutions will provide basic services to the inmates housed in them.

The American Correctional Association/Commission on Accreditation for Corrections (ACA/Commission) standards provide a tool for measuring compliance with constitutional requirements and the requirements of the field for humanitarian reform.<sup>11</sup> The standards and accreditation have been accepted by the field of corrections as seen by their voluntary application in over 450 facilities/agencies in 42 states and Canada, with more than 250 accredited agencies,

<sup>5</sup>D. K. Sechrest, "The Accreditation Movement in Corrections," *Federal Probation* (December 1976).

<sup>6</sup>N. Morris and J. Jacobs, *Proposals for Prison Reform 3* (The Public Affairs Committee, Inc. 1974).

<sup>7</sup>*Ibid.*, p. 4.

<sup>8</sup>*Ibid.*, p. 6.

<sup>9</sup>*Ibid.*, p. 11.

<sup>10</sup>R. Fosen, "Mid-Year Progress Report and Statement of Principles," *American Journal of Corrections* (May-June, 1976).

<sup>11</sup>D. K. Sechrest, "The Legal Basis for Commission Standards," *American Journal of Corrections* (November-December, 1978); see also Ernest G. Reimer and Dale K. Sechrest, "Writing Standards for Correctional Accreditation," *Federal Probation*.

including accreditation of 80 correctional institutions and six local detention facilities.<sup>12</sup> The correctional institutions included in accreditation make up over one-fourth of such institutions in the United States. As part of the process, some institutions and community programs have been turned down for accreditation through the stringent application of the standards by trained correctional professionals.

#### Adoption of Standards by the Courts

An increasingly important aspect of standards acceptance has been the courts' use of ACA/Commission standards in their efforts to bring prisons up to constitutional minima. The cases in the 39 jurisdictions already mentioned have provided adequate notice to corrections officials that they must reduce overcrowding, provide sufficient and trained staff, improve sanitation, provide better housing arrangements and offer meaningful programs for inmates who want them. Prior to the publication of ACA/Commission standards, one of the first and most notable cases involving court-generated standards was *Pugh v. Locke*, 406 F. Supp. 318 (M.D. Ala 1976), in which U. S. District Judge Frank M. Johnson, Jr., wrote 44 specific standards for institutions in Alabama. Many similar court cases, however, provided conflicting standards of performance for correctional personnel, legislative and administrative groups, and the public. Confusion existed regarding which standards applied under what conditions. Some judges called for a consistent framework of principles within which constitutional challenges to correctional practices could be decided. Krantz cites several attempts by the courts to establish such a framework and concludes that, "These opinions are representative of the current confusion over the rights of prisoners and the standards by which these rights should be judged."<sup>13</sup>

Since the publication of ACA/Commission standards, judges are using the standards as guidelines for improvement, thereby creating a more consistent pattern. The outstanding example of court use of standards has been their use in the case of *Battle v. Anderson*, 447 F. Supp. E. C. Okla. (1977), in which U. S. District Judge Luther Bohannon ordered the Oklahoma Department of Corrections to remedy unconstitutional prison conditions by complying with the national standards of the

ACA/Commission, the American Public Health Association, and the *Life Safety Code* of the National Fire Prevention Association. Proposed initial costs were estimated at six million dollars to fund projects to bring the Department into compliance. He called for an impartial audit of each prison facility by May of 1981. At a further hearing on his order in June 1980, Judge Bohannon narrowed his view of the standards by agreeing to consider the use of only ACA/Commission standards for medical and health services, indicating his preference for one set of standards. He indicated in both the 1977 and 1980 decisions that Oklahoma was working in good faith to come into compliance with the orders of the court. One reason for this was because the Oklahoma Department of Corrections was formally involved with the Commission on Accreditation for Corrections in upgrading its facilities, nine of which had been accredited by December of 1981.

Standards and accreditation are not easily accepted in some jurisdictions. Resistance to the adoption of standards stems in large part from external interference and from the costs involved in creating humane correctional institutions. In Oklahoma accreditation was initially perceived by many legislators as an attempt to dictate budget terms to the State legislature, an unwelcome "Federal" intervention into State affairs due to Federal funding of accreditation. Legislators also believed accreditation would form the basis for future inmate lawsuits.<sup>14</sup> In Maryland, one of 11 states funded to pursue accreditation by the Law Enforcement Assistance Administration, the legislature refused to fund accreditation for its prisons due to the potential costs involved and the fear of potential lawsuits once the State agreed to the standards.<sup>15</sup> Subsequent to the riot at the Penitentiary of New Mexico the legislature appropriated over 80 million dollars to rebuild the prison, construct another one, and pay the costs of prosecuting the responsible inmates. Ironically, if the Corrections Master Plan approved in 1976 had been implemented, this money might have been better spent and with no loss of life and far less human suffering.

While some legislatures may be reluctant to adopt standards, the courts appear to be willing to work with correctional officials in the process of standards implementation. In Washington State U.S. District Court Judge Tanner has made ACA/Commission standards part of his court order in the case of *Hoptowitz, et al. v. Ray, et al.* (No. 79-359, June 1980). Judge Tanner concluded that the totality of conditions at Washington State Penitentiary were below minimum constitutional

standards. The recommendations of an American Correctional Association visiting team were cited in the order with respect to guard recruitment and training. ACA/Commission standards were part of the order in physical plant requirements, and compliance was ordered for "all American Correctional Association standards relating to housing of prisoners in segregation and protective custody."

In the Kansas case of *Jouett E. Arney, et al. v. Robert Bennett* (May 7, 1980) a consent decree was issued regarding conditions at the Kansas State Penitentiary. In the consent decree it was alleged that conditions were overcrowded, unsafe, and unsanitary. The penitentiary was seen as "operat[ing] in a manner which provides inadequate opportunity for rehabilitation while generally debilitating the inmate population in violation of the Eighth and Fourteenth Amendments." The consent decree stated that:

By December 15, 1983, the defendants shall apply for accreditation to the Commission on Accreditation for Corrections. . . . Defendants shall undertake an active good faith effort to comply with the provisions set forth in the Manual of Standards for Adult Correctional Institutions as required for accreditation.

Specific reference is made to defendant compliance with "all American Correctional Association standards for medical and mental health care services in prisons which are required for accreditation."

The Kentucky Bureau of Corrections is required to implement several ACA/Commission standards based on the consent decree in the case of *Jerald L. Kendrick, et al. v. David H. Bland, et al., and James M. Thompson, et al., v. David H. Bland* (United States of America, Amicus Curiae; civil action number 76-0079-P as consolidated with 79-0092-P and No. 79-0001-L). The court stated that the "standards of behavior ultimately established shall be applicable at the Kentucky State Reformatory," as well as at the Kentucky State Penitentiary. Specifically, the Bureau was to develop a "supplemental training program for annual recurrent training utilizing ACA guidelines as a basis for [it]," "comply with the applicable ACA standards regarding the use of mace," use the ACA standard of 60 square feet per inmate for rooms or cells in determining rated capacity, and see that "any new construction in living areas . . . compl[ies] with American Correctional Association standards and that any renovation of living areas pursuant to this proposal will comply with such standards where structurally practical." The classification system was to be brought "into full compliance with American Correctional Association standards within nine (9) months." The stan-

dards were also to be used in formulating a plan for "restrictive confinement," i.e., various types of segregation from the general population, including physical conditions. ACA/Commission standards for emergency medical care were also mandated for both institutions. Many other requirements of the consent decree(s) reflect the substance of the standards.

In Oregon the issue of overcrowding was addressed by Federal District Judge James M. Burns in *Tom Capps, et al. v. Victor Atiyeh* (Civil No. 80-141, August 22, 1980) and *Joe West, et al. v. Victor Atiyeh* (Civil No. 80-6014, August 22, 1980). In his findings of fact, Judge Burns cited the ACA/Commission standards specifically in relation to cell size, stating in his conclusion that "Overcrowding at OSP [Oregon State Penitentiary], the Annex, and OSCI [Oregon State Correctional Institution] far exceeds the level of applicable professional standards . . ." While ACA/Commission standards were not specifically mandated by Judge Burns, they were clearly a factor in determining the conditions of overcrowding which led to his order to reduce the populations of the three facilities by a total of 500 inmates by December 31, 1980, and an additional 250 by March 31, 1981.

The ACA/Commission standards were also used as part of 13 consent decrees for improving conditions at the Penitentiary of New Mexico. The development of these consent decrees began before the February 1980 riot and continued through July of 1980 (*Dwight Duran, et al. v. Jerry Apodaca, et al.*, Civil Action No. 77-721-C). The consent decrees which most fully use the standards are those dealing with policies on visiting; classification; cell size, which quotes the ACA/Commission standard directly; living conditions, which stated that "no later than the completion of the renovation authorized . . . the Penitentiary of New Mexico at Santa Fe will meet applicable national standards as to living conditions for inmates"; inmate activity, including vocational training and educational programs, recreation and leisure programs, work programs and prerelease programs (including school release); medical care; training, which specifically states that "Training will be provided to all staff which is equivalent to that required by the Manual of Standards for Adult Correctional Institutions of the Commission on Accreditation for Corrections"; disciplinary detection and administrative segregation, particularly the conditions of such confinement; and, disciplinary procedures.

The standards have also been used in local detention facility cases in the Clark County Jail

<sup>12</sup>Commission on Accreditation for Corrections, Progress Report (unpublished).

<sup>13</sup>S. Krantz, *Corrections and Prisoners' Rights* 107 (St. Paul, Minnesota: West Publishing Company, 1976).

<sup>14</sup>*Corrections Digest* 1, 8-11 (May 11, 1979).

<sup>15</sup>*Washington Star* B1-B3 (February 21, 1980).



(Las Vegas, Nevada) and in Atlantic County, New Jersey.

The use of standards in court decisions is encouraging, and corrections professionals are working with the courts in implementing the standards. Agencies in over 42 states and the Federal Government have begun the accreditation process, most without the necessity of court intervention. Their desire to do so is indicative of the concern and support of governors, legislators, the public and other officials in initiating this basic step in the rehabilitation of prisons in the United States. Where costs are prohibitive, based on the minimal levels of compliance required in the standards, alternatives are being considered which may be less costly and possibly less severe in their impact on the offender. These alternatives and the provision of a just and humane correctional system are possible within the framework of standards and accreditation.

#### *The Usefulness of Standards*

The acceptance of national standards and their use in accreditation is not a panacea which will solve all of the problems of individual offenders, correctional systems or the public. Specific results or a guarantee of efficient and effective performance cannot be promised. Model programs with high ideals have failed in the past, such as the Walnut Street Jail in Philadelphia, which was the first such facility constructed in the United States and used from 1784 to 1835 when this model facility was closed due to overcrowding, lack of resources, and political haggling. In 1935 Mayor LaGuardia of New York City cited the new Men's House of Detention in New York City, later known as "The Tombs", as the model for the Nation. In 1975 it was closed for being unconstitutional. The rehabilitative ideal which was to provide "treatment" to offenders has been subjected to considerable examination and found wanting. A *Washington Post* editorial cited recent evidence from Sweden, often praised as having one of the most progressive and humane prison systems, as showing a recidivism rate of about 70 percent.<sup>16</sup> Sweden's chief prosecutor lamented that their philosophy of rehabilitation "has been shipwrecked" and that criminality could not be cured through prison rehabilitation. Regarding the United States, the editorial continued by stating that "our prisons should, of course, be run humanely—but without any illusions about their powers of redemption."<sup>17</sup>

<sup>16</sup>LEAA Newsletter (November 7, 1977).

<sup>17</sup>Ibid.

Without promising too much, standards and accreditation can provide the basis for a systematic approach to the humanitarian reform of prisons—the rehabilitation of correctional systems, which can provide the foundation for suitable corrective programs and services for offenders. Most importantly, however, accreditation has provided administrators the initiative in using standards to perform the job entrusted to them. Using national standards, they are establishing clear and supportable goals for correctional systems for presentation to governors and the legislatures. Once adopted, standards allow for the measurement of progress in meeting approved goals and objectives and in determining priorities for action. Standards are a useful management tool for the administrator for developing policies and procedures with staff, motivating staff to plan for and reach attainable objectives, and for measuring performance against stated goals. A single set of standards is also vital to the process of communication within and between agencies, and in communicating progress to executive, legislative and judicial branches of government and to the general public.

The application of standards and accreditation can also provide a foundation for the testing of innovative programs and management models. Once accreditation is achieved, a more objective and fair test can be made of various types of corrective programs. Even some discarded treatment models may be retested under better conditions to determine their value under more objective and neutral conditions. This is particularly true of work programs, such as those being tried under the Free Venture model.

#### *Conclusions*

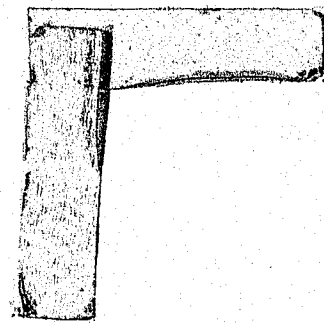
Corrections must pay attention to its basic problems. Institutions have been used to punish offenders, as places of reformation or rehabilitation, and most recently may have been redirected to the goal of incapacitation based on a just procedure for isolating offenders from society. Just being in prison is punishment, and the primary purpose of institutions should be the isolation and safe retention of convicted criminals. Since institutions will continue to be used as a correctional tool, they must be operated in a safe and humane manner, which is consistent with their use purely for the purpose of incapacitation. Concepts of rehabilitation must be placed in perspective in relation to the primary goal of providing sound basic conditions and a general upgrading of correctional practice. Once reform in basic conditions is ac-

complished it may be possible to develop new avenues of dealing with offenders in institutions. The development of national standards is directed at the foundation of corrections—not merely new programs or models to be superimposed on a weak foundation. Critical objectives must be met in developing that foundation, which include sound administration and fiscal controls, an adequate physical plant, adherence to legal criteria, and the provision of basic services. Basic services begin with the establishment of a functional physical plant, the adoption of sanitation and safety minimums, and the provision of a safe living environment. These must be followed by fundamental programs of education, vocational training and counseling in all aspects of personal development. The standards, already improved and upgraded in second editions, express these objectives.

The realization of critical objectives through the use of standards requires participation and involvement from correctional administrators and

staff in all areas, as well as acceptance by governors, legislators, judges and the public. Implementation requires fiscal resources and support at all levels of government, with goals and standards considered in any large scale effort at criminal justice planning. The American Correctional Association and the Commission on Accreditation for Corrections have obtained the necessary involvement in the first 7 years of the standards and accreditation program. The standards are surviving challenges to their validity, and accreditation is achieving increased acceptance from corrections professionals, the courts, and public officials as it is found to be a powerful tool in improving operations.

As corrections professionals continue to show through accreditation that they can meet tough and realistic standards, perhaps they can generate enough confidence from all segments of the field and the public to lead the way to better correctional performance throughout the Nation.



**END**