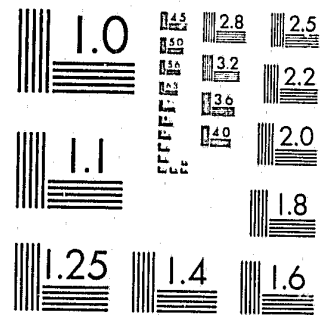


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THE POLITICS OF DECARCERATION

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CHAPTER I

INSTITUTIONS AND SOCIAL CONTROL

The idea of imprisonment, according to Michel Foucault (1977), may be as old as civilization itself. Rooted in our earliest experiences with contagious disease, particularly leprosy and plague, the twin notions of exclusion and control form the core of the concept of imprisonment. The penal institution is the tangible embodiment of these notions. It also exemplifies the institutionalization of authority and punishment in modern societies. The fact that the penal institution is an instrument of social control seems natural, even inescapable: in segregating and confining delinquents, it caters (symbolically) to our gut reactions to crime. In depriving liberty, a universal concern of citizens in free societies, it embodies progressive, egalitarian views of man and punishment. As an institutional manifestation of discipline as a type of power, it fits (literally and in terms of its functions) within our disciplinary society, in which institutions replace ceremonies of brute force as vehicles of socialization and control (Foucault, 1977, pp. 231-233). Decarceration - closing penal institutions and substituting non-institutional modes of control - is difficult, then, because it is hard to think of alternatives that really compete with our institutional network of social control: prisons, training schools and mental hospitals.

Despite their symbolic value, we have also been ambivalent about penal institutions, no matter how freely we may deploy them with our children and other marginal, powerless persons (Foucault, 1977). (Indeed most of us, as

Newman (1977) suggests, may be deeply ambivalent about punishment per se). For example, considerable discord accompanied the introduction of penal institutions both in Europe and America. Skeptics of this grand experiment in human management were not hard to find, though they may have been hard to hear over the enthusiastic claims of reformers who promoted the asylum. (Rothman, 1971). There were always individuals, groups and commissions committed to the notion that it is unreasonable to train adults (or children) for freedom while holding them captive. Detailed and moving descriptions of the "mortifications," "abasements" and "profanations of self" inherent in imprisonment were available soon after the first institutions were opened. Some noteworthy men became committed to decarceration. The idea of imprisonment was to prove its longevity, however. (Scull, 1977).

The peculiar resilience of the penal institution has been explained by Scull in terms of "an historically informed macrosociological perspective" that highlights the functions of these institutions as disciplinary mechanisms, while also emphasizing the dysfunctions of alternative modes of control. In essence, Scull ties the development and use of penal institutions to the "growth of the capitalist market and its impact on economic and social relationships" (1977, p. 24). The need for a large pool of interchangeable laborers, functioning as mindless, disciplined cogs in an increasingly industrialized and institutionalized capitalist state machine, highlighted two critical roles for institutions of confinement:

- 1) as forced training grounds for recalcitrant or unskilled workers (Scull, 1977: 31); and
- 2) as low-visibility institutions of welfare for those

unable or unwilling to work, thus nominally supporting the undeserving poor without demoralizing their more cooperative, pliant and hence deserving contemporaries (Scull, 1977: 129-130).

Given the self-sufficiency of many early penal institutions, they were highly functional for the burgeoning capitalist economy they served, and thus were virtually uncloseable.

Decarceration efforts today have been more successful than they were in the late eighteenth and early nineteenth centuries, in the sense that institutions are no longer the options of first resort for most deviant and delinquents. It is also true that the population of mental hospitals appears to have dropped dramatically over the last quarter of a century. The relative success of current decarceration efforts has been seen as "a response to the changing exigencies of domestic pacification and control under welfare capitalism" (Scull, 1977: 34). The high costs of a welfare state supporting the basic needs of many of its less fortunate citizens¹ make confinement an inordinately expensive form of charity devoted to an insignificant political constituency. Therefore, it makes better economic sense to decarcerate deviants, and it is cheaper still to simply disgorge ("dump") inmates from institutions to fend for themselves on modest welfare doles.

But movement toward decarceration has not been uniform. There are now more inmates in adult prisons than ever before. (Wilson, 1977; Cahalan, 1979). Analysts consistently point to massive and indiscriminate over-incarceration of juvenile offenders; they also point to powerful resistances to juvenile decarceration, which may presage an expanded use of confinement

institutions with these offenders (cf., Rutherford, 1977). Furthermore, penal institutions, whether serving adults or adolescents, remain functional and very much in demand. Reasons and Kaplan (1975) have postulated that such institutions serve a variety of other functions oriented toward the social control of lower socio-economic classes.²

We might add, with Foucault (1977), that the most critical function of penal institutions continues to be their tangible justification of our emphasis on the delinquencies of the lower classes. "Lower-class" crime is the primary target of our criminal justice system, with its institutions of punishment, treatment and restraint. Although upper-class crime is often more costly, it is rarely as public, and is most often classed as a matter of private or civil concern. This explains, in part, why it is hard to actually close an institution, even when its population falls dramatically. The institutions themselves stand as a reminder of who holds power over whom, and its symbolic value sustains the institutions even when the press of economics dictates a shift in public policy toward decarceration.

Beyond the symbolic issues, we find the petty politics of organizational survival and the indifference of self-serving and self-sustaining organizations. The fact is that between the larger society (whose needs should dictate public policy) and the lowly inmate or patient (whose needs should be served by public policy), a political and bureaucratic battle is fought that determines the actual shape of public policy. The outcome, we know, is neither always clear nor always rational. That we have not seen more rapid and widespread decarceration in the face of the various pressures supporting this policy is a tragic case in point.

Decarceration and The Juvenile Offender: Rowing Against the Tide

The logic of using institutions to discipline and control marginal, powerless persons has been especially compelling. Modern societies use discipline to shape and mold citizens into usable forms. Troublesome youth, physically or mentally ill individuals, and criminals represent obvious dysfunctional categories, encompassing persons who don't fit and hence must be subjected to special discipline and training. Indeed, these categories of marginal persons represent tendencies toward deviance which are subject to discipline whenever they are found in modern societies:

"In a system of discipline, the child is more individualized (exposed to socializing mechanisms) than the adult, the patient more than the healthy man, the madman and the delinquent more than the normal and the non-delinquent...and when one wishes to individualize the healthy, normal and law-abiding adult, it is always by asking him how much of the child he has in him, what secret madness lies within him, what fundamental crime he has dreamt of committing (Foucault, 1971 p. 193)."

Children have always been prime targets of control, particularly of the type represented by disciplinary institutions. "The history of childhood", Lloyd deMause tells us, "is a nightmare from which we have just begun to awaken" (deMause, 1974). deMause wrote mostly about brutality toward children as a key feature of education and schooling, and it should perhaps come as no surprise that reform schools (later more accurately dubbed training schools) antedated compulsory public education. Training schools, public

schools and, later, factories, were environments which exerted strict controls over children. As a group, these children were marginal and a potentially disruptive force in early industrial societies. Children and youth are still marginal economic and social actors, with little of importance open to them to say or do (Goodman, 1956; Liazos, 1978); the job of institutions and the mission of discipline has remained that of controlling this group and preparing them for passive, complaint lives. This is especially true for lower-class youths, whose future prospects are severely restricted. Training schools represent a logical extension of the institutional pressures they face at school and in the work place that operate to circumscribe their lives and foster resignation and alienation and defeat (Liazos, 1978).

Increasingly, however, we have begun to question the effectiveness, logic and humanity of institutional responses to troubled and troublesome youth. Incapacitation with young offenders simply doesn't work, because we cannot, in fairness, hold them behind bars long enough to have an appreciable effect on the crime rate (Clarke, 1975). Rehabilitation programs have been notoriously unsuccessful with adolescent offenders. Typically they are destroyed or co-opted by the social and bureaucratic position they occupy (Bartollas, Dinitz and Miller, 1976). Moreover, treatment programs generally have not been conceptualized, designed and executed with an eye toward meeting the special needs of youth in modern societies, and are themselves often abusive. It is therefore hard to imagine many institutional programs making headway in resolving youth problems (Wooden, 1977).

Juvenile corrections is, admittedly, a difficult job, and it is easy to lay all of the blame on institutions like training schools. The fact is that

adolescence is a difficult stage of life, in which critical problems of maturation, identity and career are at issue. Young people must also face the problem of "fitting in" or finding a niche in the larger society. Problems of personal development and social assimilation are hard under the best of circumstances: when most avenues are closed, and where the suitable options seem uninviting, adaptation often occurs at the expense of cherished hopes and dreams. As we have indicated, the futures open to most lower-class youths, (and to many middle-class youths as well), suggests that conformity in dull, grinding, authoritarian work environments will comprise their lot in life.

Corrections, to be sure, can have limited impact on the border social problems that contribute to youth alienation and crime. However, corrections can avoid its current role as a component of the network of institutional arrangements that protects the larger society at the expense of its youthful clients. More concretely, the correctional experience can be geared to equip the youths themselves to be social critics and advocates of change. To do this, corrections must seek to be more than simply fair -- more than an example of the just uses of authority, as advocated by Fogel (1975) in his justice model for corrections. Instead, corrections must teach its clients to be active, even militant, consumers of services, persons who demand accountability from the agencies and institutions ostensibly in existence to serve them. Such a consumer perspective provides a useful frame of reference for assessing the quality of life and justice in prison society. As Edmund Cahn has suggested:

Only when we...adopt a consumer perspective are we able to perceive the practical significance of our institutions, laws, and public transactions in terms of their impacts on the lives and homely experiences of human beings. It is their personal impacts that constitute the criteria for any appraisal we may make. How, we ask, does the particular institution affect personal rights and personal concerns, the interests and aspirations of the individual, group, and community? We judge it according to its concussions on human lives (1962, p. 30).

Juvenile prisoners know firsthand about the "concussions on human lives" produced by institutions. Aside from the obvious task of reducing the pains the youths feel as victims, the aim of corrections should be to arm them as consumers with a voice in shaping their fate.

Some movement in this direction has already occurred in juvenile corrections. In Massachusetts, where the juvenile correctional system has been denuded of its training schools since 1972, a diverse network of community-based programs has been developed, with advocacy as the keystone around which services are organized. Advocacy has been taken to mean individual care and assistance. This approach stresses the cultivation of linkages with existing community resources and the stimulation of new resources where they are needed. It also requires activism in shaping or altering public policy as it bears on youth needs and interests. The approach relies on private vendors to supply a range of programs and allows for limited youth participation

in selecting the programs of their choice. Its overall goal is the reintegration of youngsters into their immediate communities. The process can be characterized as one of attempting to provide the comprehensive care that would be afforded by a wise and concerned parent.

Systematic evaluation of the Massachusetts system reveals that in regions of the state in which integrated networks of community based programs were in place, a reduction in recidivism occurred. Where problems of implementation plagued the system, crime rates remained at previous levels, or rose slightly (Ohlin, et al, 1978). Even when the system worked more or less according to plan, problems in balancing the conflicting roles of staff as youth advocate (and hence pseudo-parent) with that of youth as informed and independent consumer (and hence aspiring adult) presumably detracted from program effectiveness. There is, of course, no immutable formula which spells out how much freedom of choice, and freedom to bear the consequences of choice, should be afforded correctional clients: particularly juvenile correctional clients. Correctional agencies, we know, have a way of retreating from radical reform into blind ritualism, particularly where the clients evidence a willingness to bite the hands that would feed them. Indeed, only a few militant consumers or social critics emerged from the Massachusetts experiment, a loss which we may attribute to benevolent agency control of its wayward youth.

While a lot of ground must be covered in moving juvenile correctional policy from punishment to advocacy and from control to consumerism, the Massachusetts experience is reassuring. There is reason to believe that adolescents as a group may be particularly willing and able to embark on such an expedition. If Erik Erikson (1965) is right, the principal cure

for delinquency requires that communities creatively harness youth vitality in service of meaningful goals. To harness is not to corral, however. We can (and do) lock up our children, but only rarely do we win their devotion, fidelity or loyalty. Yet loyalty is a core concern of adolescence. The oft-noted idealism of youth is, in part, a reflection of the youthful desire to be true to someone or something of value, to strike out on the path to adulthood following a person, movement or ideal of their choosing. Loyalty, to be healthy and constructive, must entail informed consent, and this, in turn, requires options and choices. Persons provided with real options and given the freedom to choose develop commitments and become loyal (and hence law-abiding) members of the community. "True communities," to use Erikson's concept, need and value youth for their energy, drive and idealism. Youth, for their part, need and value the community which calls forth and rewards these virtues of adolescence. Ideally, there is a mutual confirmation of person and community, and a shared loyalty that makes communal life stable and rewarding.

Corrections can play a constructive role in the relationship between youth and society. The correctional experience can provide a valuable education in citizenship. It can afford real options, require real choices and respond to demands for real services. Youngsters ask no more than a chance to work for open futures in which their autonomy and worth - adulthood - can flower. As bearers of societal authority, we can afford to provide no less. This means, at a minimum, that penal institutions, with their hypocrisy and human destructiveness, can have no role in a juvenile correctional system. Prisons do not spawn true communities, and neither, for the most part, do

programs that are "in" but not "of" the communities in which they happen to be physically located. Community resources must be stimulated, marshalled and mobilized to serve the needs of youth, and youth must be willing and able to demand their due. In such a situation, young people take on the obligations of citizenship, of reciprocal service in a social context in which they and their elders are confirmed as vital and valued human resources.

A Critical Look at Decarceration Movements

It is perhaps understandable that juvenile corrections has not assigned itself the humanistic role we have outlined. However, it is difficult to understand why juvenile corrections still relies primarily on the use of prisons and training schools. Indeed, as early as 1967 the Supreme Court (In re: Gault, 387 U.S. 1, 1967), noted, and the President's Crime Commission reinforced, the fact that large correctional institutions were virtually incapable of helping their inmates. (Task Force Report: Correction, 47). By 1973, the National Advisory Commission on Criminal Justice Standards and Goals recorded the following observations:

Dissatisfaction with incarceration as a means of correction has grown to a point where some States have almost completely abolished incarceration for some classes of offenders....

Clearly, the future lies with community-based corrections.

(Corrections, 1973: 221)

Further, class action suits filed in Federal courts across the country have drawn attention to the widespread nature of brutality and abuse in institutional settings (cf., e.g., Morales vs. Turman, 383 F. Sup. 53; PARC vs. Pennsylvania, 334 F. Sup. 1257). Moreover, investigative reporters within

the past ten years have produced even more evidence of such abuses (cf., e.g., Wooden, 1976), while a full-scale social scientific study of one "model" delinquency institution described exploitation and victimization as the primary characteristics of institutional life (Bartollas, Miller, and Dinitz, 1976).

Finally, in September of 1974 the U.S. Congress passed the "Juvenile Justice and Delinquency Prevention Act", one of whose goals was to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (Pub. Law 93-415:1)

The same Act provided that no less than 75% of the Federal funds made available to the states under its provisions should be used for "advanced programs" to provide such community-based alternatives to juvenile detention and correctional facilities. (Ibid: 11).

Despite our ever-increasing awareness of the nature and the deficiencies of juvenile delinquency institutions and the clear mandate of the Federal law, however, these facilities remain the nation's primary service agent for children in trouble.

The Failure of Deinstitutionalization Efforts

We know that delinquency institutions at best do not significantly help troubled youngsters; we also know that at worst they compound the problem they were designed to solve; we know finally that in many cases they exploit and victimize their charges. Indeed, full-scale efforts have been undertaken

to deinstitutionalize services to delinquent children in many states throughout the nation. Yet with very few exceptions these decarceration efforts have not achieved their objectives: either alternative programs were not developed or, when developed, they served only to increase the total number of court-committed youngsters while the same high total number of children remained incarcerated in the state's delinquency institutions (cf. Vinter, Downs, & Hall, 1974: 76-79). Despite the fact that alternatives are generally more economical (Ibid: 75), mandated by Federal Law, probably less destructive of their youngsters, and no less effective in protecting the community (cf. Ohlin, Miller & Coates, 1977: 55ff), the fact remains that decarceration has not been implemented on a scale across the nation that would seem to be indicated by its public policy potential.

We know that decarceration has not been successfully implemented on a wide scale. We do not, however, know why. In the one instance where decarceration has been successfully implemented throughout an entire state (Massachusetts)³, no unique or idiosyncratic variables were found to explain why this one effort could not be replicated in other states (Ohlin, Miller & Coates, 1977: 93). The absence of differentiation may reflect problems of conceptualizing and defining decarceration. The means for assessing the actual extent of decarceration in a specific state have not been clearly developed. Therefore, this monograph develops a tentative framework for analysis of the political and related factors which may explain why deinstitutionalization succeeded in some few cases and failed in so many others.

The Lack of Grounded Theory re: Policy Implementation or Planned Change

One of the reasons why the failures and successes of deinstitutionalization efforts have not been adequately explained to date is that we simply do not know why, how, or when large networks of public organizations change. Some theorists believe that conflict (for example) is ultimately destructive of the efforts at goal-attainment of large organizational networks (such as our various state juvenile justice systems). Others (Dahrendorf, 1959; Coser, 1964; Assael, 1969) believe that conflict and disruption of the system are helpful or even necessary to innovation within large organizational networks. But the fact remains that we do not at this time possess social scientific theories grounded in experience that can help to explain how, when, or why networks of agencies such as our juvenile justice systems begin to change or to embrace system-wide innovations such as deinstitutionalization.

Therefore, this monograph describes and analyzes factors which might contribute to the development of a grounded theory of organizational change or innovation. In particular, it has as a goal the assessment of the relative merits or deficiencies of conflict strategies versus consensus approaches to change and innovation as it relates to deinstitutionalization.

A Focus on Decarceration Efforts

With these two goals in mind, the monograph will focus on the deinstitutionalization efforts of four distinct states -- Ohio, Florida, Massachusetts, and Pennsylvania. The four survey states provide a broad spectrum of decarceration experiences, a positive efforts (Massachusetts) two marginal experiences (Pennsylvania and Florida) and a negative experience (Ohio). There has

been a particular emphasis on the deinstitutionalization efforts in Massachusetts and Pennsylvania reflective of the special expertise and experience of the principal investigator.⁴

The study will also attempt to contribute significant information relevant to grounded theory as it pertains to large scale policy implementation. By describing a series of change sequences in the survey states, we may shed light on the complex process through which networks of public agencies change.

Footnotes - Chapter 1

¹The state also helps support many of its more fortunate citizens, as is the case of public education.

²Reasons and Kaplans postulate the following functions of penal institutions

- 1) Schools for crime, providing human fodder for the criminal justice system;
- 2) Arenas for the politization of the under-class which function to undermine political consciousness;
- 3) Social milecux in which some disposed persons can build self-esteem to feel valued in their peer society;
- 4) Sources of professional and working-class jobs;
- 5) Sources of cheap or virtually cost-free labor for the state and some private industries;
- 6) Warehouses for unemployable persons, thus holding down the unemployment rate;
- 7) Sources of expendable subjects for social science and medical "experiments";
- 8) State run ghettos for young and troublesome racial minorities; and
- 9) Instruments of eugenics, holding down the birth rate among under-privileged classes.

³We do not suggest that decarceration or deinstitutionalization means only the total closing of delinquency institutions (such as occurred in Massachusetts). We are using the terms more generally to refer to the closing of institutional beds, so that significantly fewer children are confined in these facilities after such a process than before

⁴Dr. Jerome G. Miller, principal investigator for this study, was Commissioner of the Department of Youth Services in Massachusetts from 1969 to 1972. Subsequently, Dr. Miller served at posts in Illinois and Pennsylvania, where he was Commissioner of Children and Youth from 1975 to 1977. Following his departure from Pennsylvania in 1977, he established the National Center on Institutions and Alternatives (NCIA) based in Washington, D.C. In conjunction with the American University's School of Justice, NCIA embarked on this study, commissioned for the Law Enforcement Assistance Administration (LEAA) in January 1978.

CHAPTER 2

THE REVOLUTION IN JUVENILE JUSTICE

Over the last 10 to 15 years, there has been a dramatic change in our understanding of juvenile delinquency and approaches to "juvenile justice" in the United States. Beginning with the Kent (Kent, 1966) and Gault (In Re Gault, 1967) decisions of the Supreme Court, there has been a growing awareness of the shortcomings of the juvenile court, approaches to understanding delinquency, and the means for dealing with it. Surely there can be no greater indictment of a system of "care" than to suggest that the best service one can do for a potential client of that system is to "divert" him or her from it. This was precisely what President Johnson's Commission on Law Enforcement recommended (President's Commission, 1967). Since the late 1960's, the discussion has shifted to such issues as "decriminalization," "diversion," "due process," "deinstitutionalization," and the variations on these themes. Perhaps more interesting is the fact that support for this shift in emphasis has come from both civil liberties-oriented liberals and from conservatives concerned with issues of "law and order." The fact that this new "revolution" enjoys support from both groups is, in itself, indicative of the breadth of the disillusionment with juvenile justice systems of the last half century. It might also suggest that we are dealing with something less than a "revolution."

This current "revolution" was preceded by another one, usually dated from the founding of juvenile courts in the United States in the late 1800's. By 1917, juvenile court legislation had been passed in all but three states. There were over 600 independent juvenile courts

throughout the United States by 1932. The emphasis placed on the establishment of the juvenile court has often obscured the fact that there had been an even earlier "revolution" in the approach to juvenile offenders in this country dating from the early 1800's.

Long before the establishment of juvenile courts, there had been a firmly-entrenched tradition of institutionalization of juveniles, in facilities ostensibly designed to be different from adult jails and prisons. This tradition had existed for so long that there had already been movements to "reform" it. Before Dorothea Dix sought better institutional care for the mentally ill, Samuel Howe of Massachusetts was pointing out the unconscionable conditions in existing juvenile institutions in that state. One cannot read the descriptions of the Boston House of Reformation by Alexis De Tocqueville and Gustave De Beaumont without realizing that an earlier "revolution" had already taken place in the treatment of certain juveniles. This revolution was eventually undone and later resulted in extremely repressive institutional treatment of youngsters. However, this was not what De Tocqueville and De Beaumont saw in their early travels in America in 1831 and 1832. Their report, which is part of a volume on the penitentiary system of the United States written for the French government, describes in great detail such experiments as inmate self-government, exclusion of corporal punishment, and what would generally be described -- at least until recently -- as an "enlightened" approach to the treatment of delinquents. De Tocqueville and De Beaumont commented, for example:

"In Boston, corporal chastisements are excluded from the House of Refuge; the discipline of this es-

tablishment is entirely of a moral character and rests on principles which belong to the highest philosophy.

"Everything there tends to elevate the soul of the young prisoners, and to render them jealous of their own esteem and that of their comrades; to arrive at this end they are treated as if they were men and members of a free society....

"...[T]he early use of liberty contribute[s], perhaps, at a later period, to make the young delinquents more obedient to the laws. And without considering this possible political result, it is certain that such a system is powerful as a means of moral education." (Wines, 1910:379)

The founder of the Boston House of Reformation, Reverend E. M. P. Wells, was a young Episcopal minister whose ideas about "juvenile wickedness" differed considerably from those accepted at the time. As a later reformer, Frederick Wines (1910:376), noted:

"Wells believed that bad boys were no worse by nature than others and was convinced that a boy 'can always be reformed while he is under 15 years old, and very often after that age.' He became superintendent in 1828 and first drew attention to himself by introducing an educational curriculum that was wholly unlike anything that the staid overseers of delinquents at that time had ever seen. Regulated play and gymnastics figured prominently in the program and Wells

frankly admitted that the 'mechanical' parts of education such as arithmetic, writing and spelling, held a low place in his opinion."

Contrast the above description of a training school of the early 1800's with a report on the St. Charles School for Boys by the Illinois Crime Commission in the late 1920's, almost three decades after the establishment of the juvenile court in Illinois:

"...[A]ll whippings were administered by a disciplinary officer who went...to each cottage each evening after supper and whipped any boys who had been reported earlier by the house father, or for whom the house father requested punishment at that time. Some boys were punished by being locked up in the 'hole' for up to thirty-two days with no shoes and no mattress. They slept on wooden boards nailed to the concrete floor. Some were handcuffed to iron pipes and kept manacled day and night." (Platt, 1969:150)

When comparing this 20th century institution for delinquents with its 19th century counterpart, one is less impressed with the "revolution" brought on by the establishment of the juvenile court. However, we seem to be becoming a nation of lawyers and it may be that the legal confirmation of certain realities is more important than the realities themselves. It is of course true that by the time the juvenile courts were established, the "reforms" intended by the establishment of juvenile institutions in the 19th century had been effectively undone. However, the establishment of juvenile courts did little to better institutions for delinquents --

though these institutions remained the major treatment modality for what were considered to be more serious juvenile offenders. In 1925, for instance, Louise Bowen noted that the Cook County Detention Home had "every appearance of being a jail, with its barred windows and locked doors -- the children have fewer comforts than do criminals confined in the County jail. They are not kept sufficiently occupied and have very little fresh air." These comments were made seven years after a report to the Cook County Civil Service Commission on the investigation of the juvenile detention home had been submitted. The study commission called upon such persons as Mrs. Bowen, Miss Jane Addams, Amelia Sears, Dr. William Healey, Judge Franklin Chase Hoyt of the Children's Court of New York, Judge Edward F. Waite of Minneapolis, and a variety of others who would probably be characterized today as representative of the "child-saver" movement. This study group noted that:

"...The [detention] home as taken over by the County was founded largely in the idea that it was wrong to detain children in jail and in police stations with criminal adults. The ideal was to maintain for them a home. The idea has been carried out partly -- children are not now detained in jail with criminal adults, but dependent children, children mildly delinquent, are housed together and eat together with delinquents as deteriorating in their influence, as that of many adults in the jail. Neither is our juvenile detention home a home. For the dependents and the minor delinquents it has some of the qualities of a jail." (Cook County Commission, 1917:4)

The study group made recommendations for more homelike settings, deinstitutionalization, etc. -- recommendations which might as easily have been made in 1978 as in 1917. The Commission said:

"...For the seriously criminal its detention qualities [Cook County Detention Home] are inadequate. Can the County protect its children by a better separation of the dependents and the tractable from the incorrigible, the immoral, the confirmed juvenile delinquents? Can the Home give to its children or a deserving portion thereof a little more of a real home during their detention period?" (Cook County Commission, 1917:5, emphasis added)

The Commission recommended a separation and reclassification of the delinquents housed in the juvenile detention home. It suggested a strong effort be made to keep children in their own homes and that children charged with lesser delinquencies might be amenable to mild discipline. It argued that, for those who must be detained and are responsive to discipline, "a special portion of the Home may be reserved where they may receive less custodial care, more recreation and out-of-door play and perhaps simple vocational work. The few attendants necessary for their care should live at the Home with the children."

For all of its "progressive" recommendations, however, the Commission Report suggested that: "For the remaining children, - the immoral girls, the incorrigible and unruly boys and girls, the present juvenile detention home and the present custodial care are none too severe. In Detroit individual separation rooms are installed for and occupied by the incorrigibles

who deserve complete isolation, which we also recommend." (Cook County Commission, 1917:6, emphasis added) We see here the classic dilemma not only of the 20th century child-savers but of the social reformers since Elizabethan times -- namely, the separation of the "deserving" from the "undeserving." Humane "reforms" are reserved for the deserving, and the "unacceptable" systems of discipline are kept on for the undeserving. The problem then becomes one of diagnosis or labeling. It is a matter of deciding who is "deserving" and who is "undeserving." Basically, it is the defining of insiders versus outsiders, those who are viewed as a threat to the society versus those who are viewed as reformable. One can see the labels change to fit the times, but the process remains essentially the same -- exclusion, isolation, or worse for the "undeserving" -- balanced by new "services" for the "deserving." What is crucial in this exercise is knowing who the "undeserving" are, since, although their actions provide the rationale for reform, they themselves will not likely be the beneficiaries of humane reforms. They are seen as a threat and "reform" is a means of minimizing that threat. Reforms are not meant to deal head-on with those labeled in one way or another as "undeserving." Rather, we design systems to isolate them, to prevent contagion of others. Then we set about "reforming" the others.

Labels change to fit current ideologies. But labels cannot be separated from the means of "treatment" or handling available. This was a major limitation influencing the child-savers. Diagnosis is always partly a response to belief systems and is more often than not related to other societal considerations. Ronald Laing notes that the diagnostic process which denies social intelligibility to behavior and which concentrates solely upon intrapsychic factors:

"...sanctions a massive ignorance of the social context within which the person was interacting. It also renders any genuine reciprocity between the process of labeling (the practice of psychiatry) and of being labeled (the role of patient) as impossible to conceive as it is to observe. Someone whose mind is imprisoned in the metaphor cannot see it as a metaphor. It is just obvious." (Laing, 1968a:100)

He goes on:

"The unintelligibility of the experience and behavior of the diagnosed person is created by the person diagnosing him, as well as by the person diagnosed. This stratagem seems to serve specific functions within the structure of the system in which it occurs....The label is a social fact and the social fact a political event. This political event, occurring in the civic order of society, imposes definitions and consequences on the labeled person. It is a social prescription that rationalizes a set of social actions." (Laing, 1968b:18)

Laing could have added that such definitions made within the context of the juvenile justice system were virtually tied to the treatment options which antedated that system. For treatment options in juvenile justice do not grow as a response to diagnoses and labels attached to juvenile offenders. Rather, the labels are themselves typically a product of the treatment options available. And, for the most part, these options have been institutional options for the "undeserving" and, depending upon the

pool of clientele available, a selected number of the "deserving." For, it is unfortunately true that the labels change in proportion to the slots available in existing institutional or alternative settings. The community-based approaches appear, however, to have been developed primarily for the "deserving."

The treatment systems and the systems for control and handling of delinquents long antedated the juvenile court and preceded the development of modern diagnostic nomenclature. The physical facilities and staffs thought necessary for these systems of treatment and control were well in place when the juvenile court entered the scene. Usually overlooked, this fact might give some clue as to the reasons for the failure of the juvenile justice system. Unfortunately, those who tout the merits of the current "revolution" in juvenile justice have for the most part neglected to look at the bureaucratic and professional structures -- the social context -- out of which and within which that "revolution" has begun to develop.

If one looks closely, the political power and influence of the institutional industry and its ties to the development of professionalism in the United States is apparent. Early on, the administrators of institutions designed our systems of diagnosis and treatment of juvenile offenders. By the late 1800's, and certainly by the early 1900's, the "Boards" of institutions for the most part designed our systems of treatment, not only for juvenile offenders but for the mentally ill, the retarded, and to a large degree for the poor. State boards of charities took a variety of forms meaning usually "paupers, lunatics, idiots, possibly the physically handicapped-- blind, deaf and crippled" while corrections "meant chiefly prisoners in jails and lockups." According to

Breckenridge, one of the first to compile historical documents of these events:

"These authorities were created to meet two great groups of problems: 1. The diversity of practice, inadequacy of equipment, competitive relationships and often wasteful methods characteristic of the care of wards for whom institutions, whether state or local, had been established; and the same lack of uniformity, the same inadequacy of service, the same wastefulness characteristic of the 'outdoor' care of persons in distress given by local authorities." (Breckenridge, 1927:32)

Francis M. Rush (1978:31), in an unpublished paper on social and historical factors in the development of total institutions, notes that institutions were clearly the major concern of these boards. In Massachusetts, the new board had general responsibility for "the local almshouses, a state hospital on Rainsford Island, three state lunatic asylums, a state prison, a state reform school, a state industrial school for girls, and a school ship (The Massachusetts), and partially controlled by the state, the Massachusetts General Hospital, the Massachusetts School for the Blind, and the Massachusetts School for Idiots." Rush comments further that emphasis was "on administrative rationality that would result in efficiency and economy."

"This emphasis was carried over into the Conference of Boards of Public Charities, formed in 1874 when the members of the boards of New York, Wisconsin, Connecticut, and Massachusetts met with the American

Social Science Association to share views. The Conference (the National Conference of Charities in Corrections after 1879), which ultimately became the professional organization of social workers, emphasized administration and practice rather than scientific inquiry. By the 1870's, therefore, it was evident that the care of the mentally ill would be determined less by superintendents of individual institutions and more by centralized boards seeking to develop comprehensive and unified policies toward dependent groups of all kinds." (Rush, 1978:32)

One sees here the degree to which administrative and practical institutional considerations would influence later approaches, ideology, and even so-called scientific inquiry into issues of concern such as juvenile justice.

Platt sees the other side of the same coin -- the demise of theories of the "born" criminal: "The concept of the natural criminal was modified with the rise of a professional class of correctional administrators and social servants who promoted a medical model of deviant behavior and suggested techniques of remedying 'natural' imperfections." (Platt, 1969:35) It was within this context that the juvenile court and the so-called "helping professions" emerged.

Having said this, however, it is also clear that the revolution heralded by the founding of the juvenile court could have been of great importance. The failure was not one of intent. The hopes were bureaucratically undone. Roscoe Pound's famous statement (1950) that the juvenile court represented one of the most significant advances in the

administration of justice since the Magna Charta, reflected his awareness of the profound issues which could have been forced upon the scene by the establishment of the juvenile court. George Herbert Mead (1961), in his classic article on the "Psychology of Punitive Justice," noted that the juvenile court forced a breach in the wall of the criminal justice system. Unfortunately the ambivalences Mead saw reflected in the society around him -- whether to treat or to punish -- permeated the establishment of the juvenile justice system and the traditions of the juvenile court. This ambivalence was amplified by the bureaucratic structures which had been set up for "treatment" or "punishment" and which already existed at the time the juvenile court was created. Predictably, the clientele were soon receiving the worst of both worlds -- no due process, followed by punishment labeled as "treatment." Decisions such as Kent and Gault -- guaranteeing some elements of due process and equity in sentencing -- seem inevitable in retrospect.

It seems odd now that a system seen by the Supreme Court as essentially punitive -- one which called punishment "treatment" -- should more recently be perceived as molleycoddling young offenders. Even more interesting, much of the current "revolution" in juvenile justice is seen as responsive to both the above-mentioned criticisms. The trick is in the shift of target populations -- reserving the benefits (diversion, de-institutionalization, prevention) of the revolution for the "deserving" delinquent, and the strict sentences (due process, waivers to adult court) for the "undeserving." This is, of course, repeating the pattern which turned out to be the major weakness of the child-saving movement and of the juvenile court begun in the early part of this century.

As the court became established, it attached certain diagnoses and labels calling for certain systems of treatment and control -- the diagnosis being essentially determined by the alternatives which already existed, and the alternatives themselves restricted by diagnostic theory developed within that system. Although some "alternative" programs were begun, it seems they were most often additional programs resulting in more youngsters being caught up in the juvenile justice net. Certainly the numbers of incarcerated children and the budgets of detention facilities, industrial schools, parental schools, training schools, and reform schools grew dramatically during this period.

In summary, the establishment of the juvenile court did not result in the termination of any existing institutional child care or "treatment" bureaucracies. Rather, it sustained and nourished them. Further, new bureaucratic and professional systems developed around the juvenile court. And if we know anything about bureaucrats, it is that they do not take many risks. Therefore, a new process began -- the escalation of labels whereby the net could be thrown even wider. Under early banners of "prevention" and "diversion," the juvenile justice system could become involved with larger populations of lesser offenders. In most states "serious" offenders could be bound over to adult courts for handling in that system even at early teen age. In other jurisdictions the age levels for the juvenile court were made so low as to ensure the extrusion of most of the serious offenders into the adult system (such as New York). Although "stubborn" children and school truants had always been seen as fit clientele for "intervention" or commitment to reform school, as the system grew more formalized and professional, such intrusion became virtually guaranteed.

Professionalism in Juvenile Justice

As the juvenile court movement grew, it became more professional. There has always been a strong belief in this country that professionalization in and of itself guarantees quality services and scientifically informed problem-solving. Qualifications became of major import, and we see today the introduction of large numbers of psychiatrists, psychologists, and particularly of social workers into the juvenile justice field. It still remains true that if an administrator of a juvenile correctional agency wishes to gain credibility, or deal with the problems of a hostile legislature or press, he can usually do so by introducing greater numbers of "qualified" personnel and "professional" consultants. His approaches or ideology need not change nor in fact need it affect the institutional equilibrium. It has therefore been a common administrative ploy in the juvenile justice field to professionalize ineffective or, at times, brutal and destructive systems. Professionalism provides a paradox in fields which have captive clientele. Although professionals can at times advance the humaneness of the system, an indirect effect has been to give credibility to ineffective systems and to fix in further the unresponsive bureaucracies. The professional is more likely to be used by the bureaucracy than he or she is likely to change it. The screening processes, the culling out of obstreperous professionals, the gradual socialization to the institutional world, and a general lack of "realistic" alternatives have all served to dilute the issues and to "bless" and ratify the system.

We have often maintained the naive view that professional treatment of the juvenile offender is an objective, science-based exercise. In fact, diagnosis in the juvenile justice system is in large part a political problem which culminates in a bureaucratic process we call treatment.

The terms attached to the clientele are skewed toward maintaining equilibrium within the juvenile justice bureaucracies. (Some, such as "psychopath," fairly demand maltreatment!) Manageability is the issue, and the labels are enrolled to that end. Professionalization gives a rationality to the jargon which effectively masks the process.

Mead understood well the value and normative issues which would predispose the child-saver revolution in juvenile justice to failure. Although he had hoped the juvenile court would provide some means of breaking out of the traditional criminal law system -- something that Roscoe Pound probably perceived as possible -- Mead's own analysis of the role of the criminal in our society should have warned him otherwise. He wrote that:

"Seemingly without the criminal the cohesiveness of society would disappear and the universal goods of the community would crumble into mutually repellent particles. The criminal does not seriously endanger the structure of society by his disruptive activities and on the other hand he is responsible for a sense of solidarity, aroused among those whose attention would be otherwise centered upon interests quite divergent from those of each other. Thus, courts of criminal justice may be essential to the preservation of society even when we take account of the impotence of the criminal over against society, and the clumsy failure of criminal law in the repression and suppression of crime. I am willing to admit that this statement is distorted, not, however, in its analysis of

the procedure against the criminal, but in its failure to recognize the growing consciousness of the many common interests which is slowly changing our institutional conception of society, and its consequent exaggerated estimate upon the import of the criminal."

(Mead, 1961:882)

This seems to indicate that society could not tolerate the removal of a significant segment of the population (adolescent offenders) from the criminal labeling process. To do so would threaten underpinnings of the society itself. It would also give meaning to the trend of moving certain juvenile offenders into the adult criminal justice system, while at the same time justifying the juvenile court's spreading a wider net into non-criminal behavior, dependency, etc.

If Mead had investigated internal system dynamics, it is likely that he would have noted how they reinforce the broader macro-dynamics. An instance here are the problems of the interplay of appointed or elected judges with the politically-sensitive court and correctional bureaucracies which comprise the juvenile justice system. Such arrangements are skewed toward professional conservatism because of the bureaucratic risk involved in moving too far away from traditional criminal justice procedures. Perhaps the juvenile court was thereby structurally foredoomed. There is also in the juvenile justice system a built-in bias against dealing with dicey or potentially embarrassing problems (delinquents at the more "serious" end of the delinquency spectrum). At the same time, there is a counterbalancing incentive toward dealing "effectively" with lesser offenders. If one is to justify treatment, one must show "success" -- what better way than to deal successfully with those who would probably

be a success anyway? What better way to deal with "failures" than to conceptually and actually isolate them? There has been, therefore, a pull over the years on the part of the juvenile justice system to deal with the most tractable "delinquents" for the longest period of time. In terms of political support, it also helps if the clientele can in some way or other resemble one's own children -- those of the middle-class. The recent development of many so-called "preventive" programs in the juvenile justice field might be seen more accurately in this light. The current emphasis on "status offenders" is a logical step following the turmoil of the late 60's. For the first time in U.S. history, a significant number of middle-class youngsters were being caught up in the juvenile justice system. Changes in the handling of these "offenders" will not likely affect many of the more "undeserving" delinquents who populate the detention centers at the deep end of the juvenile justice system. Conversely, if the "revolution" had focused upon effective diversion, prevention, and deinstitutionalization of these more serious juvenile offenders, systems for dealing with status offenders would be profoundly affected.

Of crucial importance in the development of the child-saving revolution is understanding the role of professionalism. Professional theory and practice in this country emerged from institutional traditions. Rush (1978:42) notes that after the turn of the century the theoretical positions of the social and medical sciences gained influence as an independent force.

"It seems likely that this added influence was due largely to the grounding of these theories in professional disciplines based in hospitals and universities. After 1900 there was a rapid growth of the

professions of psychiatry, social work and clinical psychology and in associated academic disciplines."

With reference to the profession of social work, which eventually came to dominate the child-saving movement, the consequences of this development are dramatically illustrated by a comparison of the major items from the 1893 and the 1928 programs of the National Conference, "...reflecting the shift from an association of institutional administrators to the professional organization of social workers (the name had been changed to the National Conference of Social Work)." (Rush, 1978: 42)

National Conference of
Charities in Corrections

1893

1. State Boards of Charities
2. Charity Organization
3. Indoor and Outdoor Relief
4. Immigration
5. Child-Saving
6. Reformatories
7. The Prison Question
8. The Feeble-Minded
9. The Insane

National Conference of
Social Work

1928

1. Children
2. Delinquents and Correction
3. Health
4. The Family
5. Industrial and Economic Problems
6. Neighborhood and Community Life
7. Mental Hygiene
8. Organization of Social Forces
9. Public Officials and Administration
10. The Immigrant
11. Professional Standards in Education
12. Educational Publicity

Rush (1978:42) summarizes this as follows: "The 1928 program items are well on the way to becoming established specialized areas within academic

and professional disciplines and two areas are concerned with the profession of social work per se. While the emphasis in 1893 was on institutions, in 1928 they were clearly secondary."

Concomitant with this change was the development of standardized professional methodologies such as Mary Richmond's book, What Is Social Casework?, first published in 1922. Indeed, Willard (1925:55-56) stated:

"Social work no longer attends chiefly to the confinement and management of state wards, but derives its problems from community processes far beyond state institutions...On account of the necessary reference to social ends involved in social work thus broadly conceived, those ends must be fixed through appreciation of the social processes themselves in any state, and their merits defined in terms of social values."

Rush (1978:44) notes that "the institutions were not only now seen as just a small part of the overall approach to public welfare, but the theories of treatment no longer held the institutional environment to be significant." Yet, the theoretically-discredited institutions remained as the practical base for the "undeserving" and this had a profound affect on professional practices. Also, institutional management bureaucracies, backed by a century of institutional experience, heavily influenced professional training. The categories, labels, processes of management, bureaucratic arrangements, and interrelationships between emerging professionals and their newly-defined clientele, would all be necessarily affected.

In essence, one has the development of what Moynihan has called the "rehabilitation ethic" from the emerging professions of psychiatry, social work and clinical psychology. However, this philosophically-based ethic was also wed historically to bureaucracies which were more concerned with management issues than with scientific theory. It is here that the split between the theory and the practice becomes understandable. The hopes referred to in the writings of Mead did not take political arrangements and the bureaucratic traditions into account. A child-saving ideology introduced into this tradition of bureaucratic emphasis was more likely to be swallowed up or diluted than it was to significantly change existing or emerging bureaucracies. Indeed, it could be argued that the changes which occurred in institutions for delinquents, for example, were not introduced primarily by professionals but by outside citizens, advocates, and informed "lay people." Indeed, this has been the history of reform in institutions with captive populations. From Vincent de Paul to Pinel to John Howard to Dorothea Dix, it has been the volunteer from outside (usually of the upper class) who has provided the impetus for reform.

David Rothman, commenting on "the state as parent," calls attention to an essay by Lionel Trilling, "Manners, Morals and the Novel." This gives us another clue, I think, to the dilemma posed by "revolutions" in juvenile justice. Trilling, in his 1947 essay, focuses on the problem which will later be spelled out in detail by critics of the "child-savers." He notes that: "Some paradox in our nature leads us, once we have made our fellow men the objects of our enlightened interest, to go on to make them the objects of our pity, then of our wisdom, ultimately of our coercion." (Rothman, 1978:72) This is an accurate perception as far as it goes -- but it does not go far enough. Coercion is only one way of

dealing with those who do not adequately respond to well-meant ministrations. Coercion has provided the backdrop of the juvenile justice field. Many in the so-called helping professions engaged in juvenile justice (psychiatry, psychology, and social work) have used coercive methods with enthusiasm. But there are other ways to deal with the "unresponsive" client. Some of these are perhaps more useful to bureaucracies than is coercion, which is always potentially embarrassing. It also carries the risk of creating moral dissonance between the stated democratic goals of professions such as social work and the coercive practices of well-meaning professionals in juvenile correctional programs.

A safer response of a bureaucracy of helpers is to adjust the diagnostic categories. This ensures that failures are defined as being outside the expertise and responsibility of the helping professional. That is why the deep-end diagnoses, the hard-core labels, survive whatever professional or ideological era we find ourselves in. Along with them survive the "treatment" systems reserved for the "undeserving," i.e., extrusions, exclusions, and violence. Labels change, but the process remains essentially the same. At times, the treatment seems to validate the label. D. L. Howard (1960), the British criminologist, has shown how English practices of the late 19th century dovetailed with Lombrosian theories regarding the identification and labeling of the "criminal." He uses the example of the punitive bureaucracy introduced into prisons by Lt. Col. Edmund DuCane as director of the British Prison Commission and notes that men and women entered DuCane's "machine" as people and emerged later as Lombrosian animals, easily recognizable as "criminal types" by the Victorian middle classes. Denis Chapman (1968:237) commented that the whole system was "logical, watertight, and socially functional." He added

that although our contemporary system is more complex, the same social dynamics appear to be enforced. While there are a large number of persons who would change or abolish the prison system, there are others (perhaps the majority) who see the correctional system as one of punishment and social isolation. It is here that professionals dovetail with bureaucrats. In their diagnostic labeling processes, they dance a ritual choreographed to fulfill latent functions of social control while touting the manifest functions of science and care. The professions provide the new labels which change from decade to decade, while the basic insider-outsider dynamic goes untouched, e.g., "moral imbecile" of the late 19th century, "constitutional psychopathic inferior" of the early 1900's, "psychopath" of the 1930's and 40's, "sociopath" of the 1950's, "antisocial personality" of the 1960's, "the person unresponsive to verbal conditioning" of the 1970's, and, most recently, "the criminal personality" of the middle 1970's. In this sense Chapman (1968:237) is probably correct in referring to the helping professions as "latter-day Lombrosos whose social function is to provide the 'scientific' explanations required by the culture."

Such labels also remove the professional from responsibility for dealing with the phenomenon he names. He is thereby able to withdraw from the situation or enter into it at will, wearing success as a halo and placing failure on the head of the client. The degree to which the professions become involved with those juveniles seen by the society as violent or most dangerous becomes a function of bureaucratic and political considerations, though couched in professional jargon. One can anticipate that psychiatrists, psychologists, and social workers will become involved to the degree that clientele with lesser or virtually no problems are unavailable. It is a seller's rather than a buyer's market emerging from a

system with a captive clientele to be redefined, reassigned, or extruded from the system by those who, paradoxically, claim the expertise for dealing with the problem.

It is important, therefore, to question whether the nomenclature, training, and treatment modalities of the helping professions are relevant to dealing with serious juvenile delinquents. This would lead to more telling questions. For example, if professionals cannot deal with this problem, will they leave the field (and the budget) open for other agents of change? However, rather than engaging in this more difficult self-appraisal, "helping professionals" have characteristically switched the focus, usually finding a more felicitous target group of clientele such as the middle-class "neurotic" delinquent, the status offender, etc. For the sad truth is that, despite the rhetoric, we have had an inverse system whereby those who are most likely to present major problems to society in terms of violence or repeated crimes are systematically excluded from the system of care by professional diagnosis and are thereby relegated to the largest and most impersonal human warehouses -- jails, prisons, training schools -- where they find the fewest and least qualified professional "helpers." At the same time, those who are least likely to become involved in serious crimes are most likely to be dealt with by professional helpers. The rationale given is that of a "diversionary" or "preventive" exercise. This is why the new "revolution" with its emphasis on "possible" delinquents or "delinquents" (status offenders) who are not delinquents has been so fully embraced by the professions. Another group, the "lesser," "cool" offenders, sort themselves out without professional intervention as they mature.

Trilling's fear that we tend to move toward coercion of those we treat, is well-founded. One might make a case for the thesis that professional coercion in juvenile justice follows naturally from professional inadequacy. Consequently, labels (e.g., psychopath) which cry out for coercion are coined. Paradoxically, the violence which follows, having been prescribed by professionals, is usually dispensed by nonprofessionals in lower-level staff positions. This whole exercise is more a measure of the inadequacies of the professions than of the appropriateness of the coercion. It also points to a certain fragility in the "power" of the juvenile justice professions. If Hannah Arendt (1970:56) is right when she says that power and violence are opposites -- "where the one rules absolutely, the other is absent" -- then the history of the involvement of psychiatry, psychology and social work in juvenile justice over the past 50 years has not been felicitous either for the clientele or the professions. "Loss of power becomes a temptation to substitute violence for power -- and that violence itself results in impotence." (Arendt, 1970:54)

In summary, disillusionment with the child-saving movement and cynicism with the juvenile justice system are well-founded. It is disillusionment with the realities, not with the ideals talked about by the creators of that movement. The practice never approached the goals envisioned. Perhaps it never could, given the characteristics of a system which is accountable only to those who run it, rather than to its captive clientele. And perhaps it is of the essence of juvenile justice -- that captives can never have legitimate power. If that is so, reform will always be subject to the altruism of those who provide the "service."

Altruism, however, is notoriously undependable and eventually is worn away in bureaucracies. The product of unresponsive bureaucracies, however, is apathy and finally violence. And that, of course, has been the history of the juvenile justice system from 1900 to the present. Why haven't we broken out of this vicious cycle? The reasons reside in the system itself. In juvenile justice, even the "cures" are not so much that as they are means of providing reassurance to the rest of society. In this regard, comments of the British anthropologist Edmund Leach (1967) are to the point. He defines "cure" in the correctional system as "the imposition of discipline by force -- it is the maintenance of the existing order against threats which arise from its own internal contradictions." To the degree that this is so, to that degree the success of "revolutions" in juvenile justice will probably be limited.

The New "Revolution" in Juvenile Justice

Many of the issues surrounding the current "revolution" in juvenile justice have to do with rhetoric rather than substance. Catch words such as "preventive" programs, "alternative" programs, and "deinstitutionalization" are part of that rhetoric. There is little evidence that youth service bureaus, for instance, set up as diversionary, have lowered the numbers of juveniles going into the criminal justice system. Generally they have dealt with other youngsters -- it being difficult to prove that they either prevented delinquency or diverted delinquents. Vinter and Sarri (1975:46), in their massive national study, have shown that the deinstitutionalization spoken of so regularly has not occurred. It is clear that it has not happened in adult corrections with its record numbers in prisons and jails, and, though there are states in which institutional populations in training schools have fallen dramatically, there are others which have maintained or increased the numbers of juveniles in institutions. This is a bureaucratic rather than academic or ideological issue. Indeed, there are some who say that we traditionally institutionalize a certain percentage of the population in our society. (Brizius, 1976) As we close one type of institution, we fill another. William Nagel's study (1977) on prisons implies that we fill prisons to occupy empty cells. Those states which build more prisons have more prisoners, those which do not build more prisons have less prisoners -- and both phenomena are unrelated to crime rates. All of this is not to suggest that diversion, deinstitutionalization, or prevention are not important. It is simply to point out that such programs are seldom applied to the target population for which they were initially justified as new programs.

Nor do state juvenile correctional bureaucracies indicate an acceptance of these programs through appropriate and proportionate transfer of budget from institutional programs to community-based alternatives, diversionary, or preventive programs. There are practical reasons for this -- in that the juveniles dealt with in such diversionary or preventive programs are generally not those out of the institutions or likely to be sent to them. Therefore, the "new" programs require additional budget, while existing monies are needed to "service" the institutionalized youngsters who use up the bulk of most state juvenile correctional budgets (usually over 90%). If state correctional agencies were disposed to terminate ineffective institutional programs, one could anticipate the transfer of institutional budgets into alternative programs. However, this does not happen because (1) "alternative" programs are not really alternatives for institutionalized juveniles, and (2) institutions survive whether or not they are "effective" since they are there to provide for other needs, e.g., employment in remote areas, contracts with vendors, patronage, and political arrangements with state employees' unions, etc.

Ideological Sources of the New Revolution

Along with the current revolution in juvenile justice has been the acceptance of Robert Martinson's (1974) compilation of research on the ineffectiveness of treatment programs in corrections. In a curious turn, the assertion "nothing works" dovetailed nicely with the position of the helping professions (Psychiatry, Psychology, and Social Work) vis-a-vis Corrections.¹ These professions, though perceived by the public as

"expert" in the area of juvenile delinquency, had for the most part long ago withdrawn from dealing with more difficult delinquents. Martinson simply provided confirmation of the ineffectiveness of the professions with serious delinquents and ensured that whatever involvement they might have in the future could be limited by them to the more expensive, professionally well-controlled "pilot projects" and selected research projects.

Another issue contributing heavily to the rethinking of the juvenile justice model has been the recent emphasis upon rising juvenile crime -- particularly violent crime. Although there are a number of indications that this problem is receding, and that it peaked somewhere between 1973 and 1975, the media, particularly the liberal media, have projected the problem as a continually growing if not exploding one. This coincided with interest in the conservative views of James Q. Wilson (1975), Ernest van den Haag (1975) and others who provided an academic rationale for the new "practical" approach to crime. Van den Haag, who presents himself as a psychoanalyst and social critic, was also one of the founders of the New York Conservative Party and came to the field with a particular point of view. But all of this is by way of giving credence to Wilson's (1975:60) assertion that the field of criminology is basically ideological, having had a heavy "liberal" bent to it for the past 30 or 40 years. What masquerades as science is often, in fact, the bias of individual criminologists influenced by personal ideological convictions, rather than by facts or objectively-based theories. The way in which a number of criminologists of more liberal orientation in the past have moved to the right, as the liberal media have hyped the issue, is perhaps another indication of the validity of Wilson's conclusion.

Along with the movement to the right has been a rising of moral indignation in the society around the issues of crime. Some have pointed out that when a nation is not united in war against other outside nations, it will look inwardly for scapegoats, concentrating primarily upon the poor and the criminal. Perhaps the law-and-order sources of the current "revolution" in juvenile justice owe something to the cessation of the Vietnam war. Svend Ranulf (1964), the Danish sociologist, would put it another way -- that the expansion of criminal law is attributable to moral indignation. Such indignation, in turn, is connected with the rising power of the lower middle-classes. He notes that the reform of German criminal law advocated by national socialism and published by the minister of justice in 1933 proposed a widening of crimes to be punished with severity. The memorandum makes one comment commonly made in this country by critics of the juvenile justice system: "It is even doubted that the state had a right to punish at all. It seemed that the welfare of the criminal, and not the welfare of the people, was the main purpose of the criminal law." (Ranulf, 1964:11)

With reference to the joining of the right and the left around the present "revolution," perhaps the most telling issue has been that of the decline of the indeterminate sentence. We appear to have come full circle on this issue. Havelock Ellis (1903), in his treatise on the criminal, states that the great fault of our prison system is its "arbitrary character." In recommending reforms for the treatment of the criminal, he notes that "the first reform necessary is the total abolition of the definite and predetermined sentence. The indefinite sentence is no longer new, either in principle or practice; all that is needed is its systematic extension. It has been adopted by many of the American states, including

Illinois, Massachusetts, Pennsylvania, Ohio, Wisconsin, Minnesota, and Colorado. It was first introduced at the famous state reformatory of New York at Elmira by an act passed in 1877." (Ellis, 1903:321)

Although the indeterminate sentence is attacked by contemporary critics as an artifact of the helping professions -- primarily psychiatry -- it was in fact begun by institutional managers. Ellis pointed out that the establishment of the indeterminate sentence "was due to the genius and experience of Mr. Z. R. Brockway, who had had a long practical training in prison management, and who was well acquainted with the nature of criminals." (Ellis, 1903:321) In truth, the indeterminate sentence was developed out of needs for control and management in prison bureaucracies. The professional helpers who embraced it needed it in their roles as managers. Unfortunately, as so often happened in the history of corrections, the discussion centered around the rhetoric -- or what Robert Merton might call "manifest values" -- in this case, whether "rehabilitation" or "punishment" is appropriate. The system, however, rested on more latent issues related to bureaucratic calm and political peace -- issues which provide the "glue" for existing correctional systems. In this sense, both sides of the political spectrum have missed the point. Andrew Von Hirsch (1976), in his book Doing Justice -- a report of the predominantly liberal Committee for the Study of Incarceration -- draws conclusions similar to those of Ernest van den Haag (1975) in his conservative tome, Punishing Criminals. The Committee for the Study of Incarceration recognizes that rehabilitation in prisons and institutions does not seem to have worked. They go on to recommend a gradation downward in prison sentences as the rehabilitative model is abandoned. Of course the opposite will in fact happen. The Committee was legally correct but politically naive. It

would have been more authentic if the Committee had refused to discuss altogether the rehabilitative model -- since it is for the most part rhetoric in prison settings -- and dealt dear with the management issue, which is what the indeterminate sentence is about. Both books were welcomed by conservatives as rejecting the "two myths that have vitiated so much of the discussion about criminal justice -- the view that criminals are 'sick' individuals who are not morally responsible for their offenses, and the view that criminals are political rebels struggling against oppression. In place of these myths, both authors affirm the eminently sensible proposition that criminals are lawbreakers who deserve to be punished for their illegal actions." (Plattner, 1975:114)

These comments accept as fact the belief that prisoners generally have been treated as "sick" -- which, of course, is not true. Though the rhetoric of certain criminologists may have stressed this sort of issue, the budgets of the correctional bureaucracies have always been based in systems of neglect or punishment -- jails, training schools, and prisons. If one wishes to understand the latent realities of a system, one must not look to the manifest rhetoric but to more mundane considerations, such as how the money is spent. For the most part in juvenile or adult corrections it is not spent on "rehabilitation" or in dealing with the concerns of "political rebels." Those are catchwords meant for use by politicians and academics.

A middle ground in the current revolution, which walks a tightrope between abolishment of the juvenile court and total support of the juvenile court system, seems to have been taken by the Twentieth Century Fund Task Force on Sentencing Policies Toward Young Offenders. This report states bluntly:

"The theory behind the juvenile court is not merely obsolete; it is a fairy tale that never came true. The court has helped some young offenders, but it has punished others. From the beginning, juvenile court judges have considered the interests of the state as well as those of the offender. It is pointless to pretend that social policy toward youth crime is based solely on the best interests of the young offender or that the best interests of the offender and those of the state are always the same. But the juvenile court need not rely on hypocritical rhetoric to justify its jurisdiction over youths charged with crime." (Twentieth Century Fund, 1978:6)

The report then goes on to justify a "discrete policy" toward youth crime which includes the principles of culpability, diminished responsibility resulting from immaturity, providing room to reform, and proportionality. It recommends parameters of sentencing dictated primarily by the level of the offense, and supports the idea of custodial confinement and limited waiver to adult court of selected cases. It recommends reform of the principles in institutions in the juvenile justice system and criticizes the attitudes, actions, and professional inadequacies of certain judges, police, corrections officers, and magistrates. The conclusion is a compromise -- the kind of compromise one expects from the membership of the task force, consisting primarily of lawyers, retired judges, commissioners of youth service, and academics. The makeup of this Committee of experts necessitates a compromise document. There is little new in the document -- it being rather a realignment of issues on a continuum between the existing

juvenile court system and the existing adult correctional system. In many ways it appears to be a retreat or rear-guard action against what is perceived as a law-and-order backlash. Certain types of crimes and certain delinquents are moved closer to the adult system, while others are seen as more appropriate to the juvenile system. Very few new or alternative approaches are suggested -- the tack being one of wedding proportionality of sentence to seriousness of crime.

The Techniques of the New "Revolution"

In general, the current revolution has concentrated upon Prevention, Diversion and Deinstitutionalization. Due process has been seen as integral to these as well.

Prevention

In considering so-called delinquency prevention, Lundman and Scarpitti (1978) estimate that since 1965 alone over 6,500 different attempts at prevention have been launched. The authors found 1,000 citations in the literature regarding delinquency prevention programs. They examined closely 127 of these -- setting a requirement that a report contain "independently interpretable information on both the nature and results of the project." They found that 25 previous efforts and 15 continuing projects contained information on the nature and results of their prevention goals. The findings were summarized as follows:

"...[M]ost projects reported in the professional literature did not permit reliable assessment of results. And those projects with experimental designs and objective measurement of delinquent behavior had not successfully prevented delinquency...."

"...We found little reason to believe that a major breakthrough in delinquency prevention is forthcoming." (Lundman, 1978:207)

The authors did find other things, however, which should interest those involved in the current "revolution" in juvenile justice -- a "revolution" seen as throwing off the coercive protectiveness of the earlier "child-saver" revolution. One example is that of a Georgetown University psychologist, Juan B. Cortes (1972), who proposed a delinquency prevention project based upon early -- and largely unsupported -- theories about the relationship between body-type and delinquency. Cortes suggested that the delinquency prevention program be instituted in Washington's "wickedest precinct." He then proposed a program aimed at identifying families who have children under the age of seven, determining those who are "potentially delinquent" families, studying those families and classifying them into two main groups: (a) those with parents who would not or could not cooperate, and (b) those with parents who would and could cooperate. Techniques for "tactfully and helpfully informing and training the parents of the second group in the necessary modifications of their child-rearing practices and in their relationships with each other" were suggested. Both cooperative and uncooperative families, he concluded, should be helped.

This approach was based upon the Glueck Delinquency Prediction Scale which Lundman and Scarpitti found had a prediction error of 84%. In their summary of their research on prevention programs, the authors were apparently sufficiently struck with the intrusion of the "child-saver" ideology into so-called preventive programs to make the following comment:

"...Generally, these subjects have not been found guilty of anything beyond possession of characteristics or behaviors which someone believes are predictive of delinquency. In our zeal to help, we must not lose sight of the fact that juveniles who have not been adjudicated delinquent have the right to refuse that help." (Lundman, 1978:220)

Another approach to the issue of prevention of juvenile delinquency and diversion from the juvenile justice system was that advanced in 1972 by the Commission of Youth Development and Delinquency Prevention Administration of HEW. (Gemignani, 1973.) The YDDPA recommended a national strategy for the prevention of juvenile delinquency which had largely evolved from a meeting called by YDDPA in early 1970. It called for the nationwide establishment of youth services systems "which will divert youth, so far as possible, from the juvenile system by providing comprehensive, integrated community-based programs designed to meet the needs of all youth, regardless of who they are or what their individual problems may be." This strategy suggests with blind faith in the rationality of the system of "services" for youth, that if enough services are provided for all youth, that inevitably those going into the juvenile system will drop in numbers. Commendably, the strategy projected a 25% decrease in the rate of youth in court delinquency cases with an annual saving of the same amount. It recommended preventive programs and the offering of community-based rehabilitation programs as alternatives to placement of delinquent youths in traditional correctional facilities. The program strategy suggests that if youth service systems are set up there will be an automatic lowering of the numbers of youngsters involved in the juvenile

justice system. One wishes that the authors of the plan had read Durkheim (1964) more carefully when he noted the need for society to have a certain number of criminals, presumably including juvenile offenders, in one or another justice system. He said:

"Imagine a society of saints, a perfect cloister of exemplary individuals. Crimes, properly so called, will there be unknown; but faults which appear venial to the layman will create there the same scandal that the ordinary offense does in ordinary consciousness. If, then, this society has the power to judge and punish, it will define these acts as criminal and will treat them as such. For the same reason, the perfect and upright man judges his smallest failings with a severity that the majority reserve for acts more truly in the nature of an offense. Formerly, acts of violence against persons were more frequent than they are today, because respect for individual dignity was less strong. As this has increased, these crimes have become more rare; and also many acts violating this sentiment have been introduced into the penal law which were not included there in primitive times."

(Durkheim, 1964:68-69)

This is why diversionary and preventive programs are usually reserved for other populations than the more "serious" juvenile offender. Indeed, if diversionary or preventive programs were to deal effectively with institutionalized juveniles, labels attached to others would be escalated or changed in order to ensure another population to occupy the unacceptable

institutions, jails and detention centers reserved for "undeserving" delinquents. The percentages hardly change -- only the names.

Diversion

Diversion is generally defined as the channeling of cases to non-court institutions or systems in instances where these cases would ordinarily have been processed by the juvenile court.

Nejelski (1973) says the most significant part of this definition is the second half -- that cases diverted are those which would normally have been handled by the juvenile court. The problem with so-called diversionary programs is that they are advertised as diversionary but that their clients may never have gone through the juvenile court. "These projects may be useful in themselves because they aid juveniles, but they increase state intervention without reducing the workload of the courts. They are supplemental, but they are not diversionary." (Nejelski, 1973:83) As with preventive programs, there is little to show that diversionary programs lower the numbers of juveniles in the "deep end" of the juvenile system. A truly diversionary program should be able to show one less detained or institutionalized youngster, or at least one less person on a juvenile court docket, for every person "diverted." Allowing for shifts in population, and unusual surges in crime rates, this would mean that if a particular community "diverted" a thousand youngsters in a given year, the juvenile court docket would fall by at least a thousand. Of course, such measures are seldom if ever applied. This points to the issue of "widening the net."

These are the two questions that have to be asked in evaluating any so-called diversionary program: (1) Who will be diverted? and (2) How much intervention, with or without coercion, can be tolerated without due process?

There is question, for instance, if referral to a youth service bureau is actually "voluntary" when the alternative is to be labeled a juvenile offender with the threat of training school or reformatory. This is often the backdrop which colors diversionary programs.

Most important is the labeling process itself. Nejelski (1976:108) notes: "Diversion does not absolve society from making diagnoses. Diversion merely redesignates or shifts the responsibility for making these decisions. Fundamental questions remain. By whom are these individuals to be judged and upon what evidence?" In focusing on diagnosis, however, Nejelski immediately turns it into a "due process" issue. Although due process is a concern, there is a more important aspect to this issue. Diversion does, in fact, shift the responsibility for making diagnostic decisions. However, with this shift in responsibility, whole new systems, formal and informal, come into play. These systems base their use of diagnostic labels upon the means available for providing "treatment" options for the handling of labeled juvenile offenders. If those making the diagnoses have at hand a wide range of treatment "alternatives," the chances are increased that the diagnosis itself will become less rigid and less restricted to "either-or" types of choices (e.g., either home or an institution, either probation or training school). A range of alternative programs enhances the possibilities for greater choice, less bureaucratic risk, and ultimately less coercion. It does not guarantee this, but it certainly allows more fluidity. Looked at in bureaucratic terms, the possibilities for punitive treatment are greater where the "helping" bureaucrat has less options available and is consequently more at risk. Even when alternatives exist, there is an inherent conservative bias.

But the principle of the "least restrictive alternative" has no meaning in a system which does not have a spectrum or continuum of options available ranging from the very least restrictive to the very most restrictive. What most courts actually have, of course, are ineffective and neglectful programs (probation), on one hand, versus ineffective and overly-restrictive programs (detention and training schools), on the other. And even these "options" are usually differentially applied -- the "deserving" versus the "undeserving." Due process has more meaning in such a system. If a pot-pourri of options were available, due process would probably be less an issue.

Unfortunately, those concerned with diversion often see matters in terms of a dichotomy rather than a continuum. Nejelski (1976:114) comments that the notion of due process runs counter to the "social contract" theory suggested in the Gault decision -- "that theory may be interpreted as arguing that the juvenile court could dispense with due process if in fact the court were treating and correcting its clients." Justice Fortas in the Gault decision (1967) suggested that lack of due process in juvenile hearings might be excused if recidivism rates were improved. Quite rightly, Nejelski (1976:115) notes that "a sounder basis for according due process is simply the fact that the state is coercively intervening in the life of its citizens." What is not stated here, however, is that were a wide range of diversionary options available, coercive intervention would be less like¹ and entered into only in a considered way -- with due process increasing as choice decreases.

In diversion as well, the crucial issue is the "target population" to be "diverted." We already see the separating out of the "deserving"

delinquent from the "undeserving." For example, in the case of the New Jersey Juvenile Conference Committee (a diversionary program) there were already criticisms that in some communities the conference committees were being used to "divert" middle-class white youths, "but in the urban ghettos they have not been very successful; the juvenile courts continue to be flooded with poor kids from minority backgrounds." (Nejelski, 1973:89) One could anticipate that as diversionary programs became more formalized, this pattern would become more obvious. This is because juvenile justice is a seller's market, which goes hand-in-hand with the increase of professionalism in the rendering of "services" to delinquents. In this sense, the current "revolution" in juvenile justice has already in it the seeds of its own undoing.

Deinstitutionalization

Deinstitutionalization is another catchword in vogue. It has to do with the removal of juvenile offenders from institutional settings (detention centers, training schools, jails, etc.) and the placement of them in a variety of community "alternatives." It would be hard to find another issue over which there has been such an abundance of meetings with so little result. The research is sketchy and difficult because statistics are poorly kept, and the labels attached either to juveniles or to the institutions themselves are frequently changed. In a study conducted in the state of Pennsylvania (Office of Children and Youth, 1977), it was found that the numbers of juveniles in jails was underreported by as much as ten times by the official reporting body, the state Juvenile Court Judges Commission. Only by going to the jails, reading the log books, noting the ages of inmates, and counting heads were the researchers able to find out how many

were actually being kept in jails. Although the massive study of the "National Assessment of Juvenile Corrections" (Vinter, 1976) conducted by the University of Michigan showed some drop in institutional populations in the early 1970's, there are other indications of a rising population in juvenile institutions in the late 1970's. While certain states show a drop in institutionalization, others increased the use of institutions. By the time the Michigan study was published, trends toward deinstitutionalization in certain states had been turned around to further use of the institution. The first report of the Michigan group showed, for example, that Utah ranked fourth in "deinstitutionalization: percentages in community programs of the total 1974 daily average in all state-related residential programs." (Vinter, 1975) This had to do with the court-committed juvenile delinquency population only. However, this writer found, on a visit to Utah in 1978, that there were close to 200 juveniles in the state boys school. At that rate of incarceration, a state like Massachusetts, with an average institutional population of 75 to 100 (in closed facilities), would have between 1600 and 2000 in institutional settings. Utah did another interesting thing in 1978 in "lowering" institutional populations. The labels were changed and, although the "committed" population of delinquents in the state school dropped dramatically, there was a concomitant rise in the numbers of juveniles in the facility held on "detention" status for the courts -- either for "diagnostic workups" or simple detention. Although the labels changed, the numbers in the Utah institution actually rose in late 1978 -- though if one were to read official reports, one would find a drop in juveniles committed to the state training school. Similar ploys have been seen in other states. For instance, the California

Probation Subsidy Program showed a dramatic drop in youth committed to state Youth Authority institutions. However there is some question as to whether total numbers of juveniles in state and county institutions actually dropped, with conflicting figures being given. At a time when California was touting deinstitutionalization and community-based approaches, it was harboring in its detention facilities -- county-run and state-approved -- the largest per capita population of any state in the union. (California Youth Authority, 1975) Similarly, the state of Washington projects a doubling of the institutional population for delinquent youth in state training schools over the coming years. This is as a result of a new "set sentencing" law backed by civil libertarians, which got out of hand in the legislature. Removal of "status offenders" from juvenile correctional settings provided the rationale for the law. At this point, the cynic might predict that these youngsters will probably be institutionalized under a "child welfare" rubric, probably in privately-run residential facilities. Having been personally involved in the deinstitutionalization "movement" and a part of the current "revolution" in juvenile justice, we feel constrained to say that for the most part it is the tinkling of bells and the clanging of cymbals with little or no meaning. If the amount of money spent on conferences to discuss deinstitutionalization had gone into deinstitutionalization, perhaps some small progress might have been made. However, other issues are at work which make deinstitutionalization extremely difficult. We are back again to issues of diagnosis, target populations, professionalism, and politics.

There has, in fact, been no massive deinstitutionalization movement in the United States. The recent concentration by LEAA in the Office of Juvenile Justice and Delinquency Prevention upon the so-called "status

offender," though laudable, is but a variation on the theme of the "deserving" versus the "undeserving" delinquent. It is doubtful that the effort to remove status offenders from institutional settings will in fact lower the total numbers of juveniles in institutional settings. If the usual bureaucratic processes come into play, one can anticipate that as status offenders are removed from institutions, labels applied to other juveniles will be escalated to justify a given number of youngsters to fill a given number of slots in institutional settings.

If it is bureaucratically too risky to re-define the needed number of juveniles by escalating their diagnoses, the label placed on the institution itself will be de-escalated to justify its continued usage. For example, when it became illegal to assign non-delinquent youth (PINS) to training schools for delinquents, the schools were simply renamed as treatment centers for "persons in need of supervision." This pattern is seen in its most obvious and tragic face in the recent experience in Ohio. In that state the legislature passed, as law, a requirement that the Fairfield School for Boys at Lancaster, Ohio, keep a minimum number of boys (300) in the school whether or not they were "appropriate" boys for that school. The Chairman of the Ohio Youth Commission is on record as saying that he has had to "practically kidnap" boys in order to keep the minimum called for by the legislature and has had to keep boys long past their release dates in order to obey the law. The amendment was introduced by a legislator from the district in which the training school is located. He denied that the amendment had anything to do with jobs or employment in the area, insisting he was motivated by a need to keep "quality vocational programs" in the facility -- which necessitated a

given population of youth. (Institutions Etc., 1978) One seldom sees the issue so well defined.

There have been studies which exhibit an understanding of this dynamic of institutions. In the area of deinstitutionalization, for example, one might profitably look at the NACRO working-party report (The National Association for the Care and Resettlement of Offenders). "Children and Young Persons in Custody." (Jay, 1977) This group, under the chairmanship of Peter Jay, currently British Ambassador to the United States, considered the bureaucratic aspects of institutionalization and the self-fulfilling systems in government which, a la Parkinson's Law, "create" enough troublesome adolescents to fill the available spaces in residential care. They take into account the issue of escalation of diagnoses to fill available institutional slots. They suggest that it may be possible to remove as many as 95% of the 12,000 children in Great Britain presently in residential care (including group homes). They state:

"Those of us who favor the approach in this chapter (decarceration) believe that there is sufficient evidence to reach the practical conclusion now that, even for the 12,000 minority of young offenders now adjudged to be in need of residential treatment, any approach based on institutional care and theories of individual 'treatment and cure' do not have a sufficiently good prospect of general success to warrant the huge deployment of resources, to say nothing of the dedicated application of the staff involved, which present arrangements imply and would imply under any conceivable development in reforms of the current approach." (Jay, 1977:49)

In the light of this, the committee noted that "the best judgment that we could make was that not more than about 400 children throughout England and Wales are in any one day within the high-risk category" -- calling for institutionalization. They would hold institutionalization to those defined as "dangerous." But unlike considerations of this category in the literature in the United States, be it of the "old" or the "new" "revolution," this British study group notes that "the definition of the 'dangerous' child is a politically negotiable one." They go on to recommend a regular and scrupulous review of the necessity for continued detention based on statutory criteria relating to "dangerousness." They make the following interesting comment:

"We have said that on the best estimates available to us there are not more than 400 children in this category (dangerous). To an extent the decision will be arbitrary. What is crucial is that no amount of persuasion and pressure should allow the number to increase except in the light of a fundamental review of the strategy. In practice the effect of such a limit will not be very different from the position that faces magistrates and social workers under our present system. A child cannot be sent to a community home unless a place is available or the management is willing to accept him. While we fully appreciate the constraints that a limitation on numbers in secure accommodation will seem to impose, we firmly believe that if a strategy of decarceration is to be adopted, this is the only way to ensure that the number of young offenders in institutions will not escalate." (Jay, 1977:52)

Of interest to those proposing reform in the American system should be the fact that the only dissenter among the ten-person working party was the chairman of the London Boroughs Childrens Regional Planning Committee, who suggested that institutional care must be tied with consistent social work in the field.

Usually institutions are justified on the basis of their "manifest" functions, couched in terms of law and order, public safety, or in terms of child welfare and proper treatment, etc. The issues that should be of concern are generally not dealt with, those of employment in remote areas, political patronage, contracts with vendors of services, arrangements between specific institutions and particular courts, etc. Much of the juvenile justice system remains geared to these considerations.

Programs such as diversion and prevention should be tied to deinstitutionalization. They are usually connected in the rhetoric, but seldom in the real world of practice. That is, diversionary and preventive programs are justified with the rhetoric of deinstitutionalization. However, they seldom deal with the youngsters who actually populate our institutions. If they did, deinstitutionalization of most juveniles would occur as a natural by-product and we would be left with institutionalization only of the most serious offenders. Then we could go on to discuss alternative types of residential care for those who need such control -- generally restricted to the most dangerous and violent offenders. Institutionalization -- in terms of large monolithic, single-sex bureaucracies -- is inappropriate for this group as well. If we could maintain our efforts at the "deep end" of the delinquency continuum, we could develop caring, decent, small residential settings which would guarantee the control

society demands while mitigating the violence which flows from unresponsive bureaucracies we call institutions. Here, again, the same criteria which should underlay an effective diversionary or preventive program should underlay effective deinstitutionalization. It is a matter of building in due process, some elements of choice, and, ultimately, accountability of the service-giver to the client -- in this case, the offender (though, admittedly, many service-givers feel that their client is more properly the society at large).

THE FUTURE OF JUVENILE JUSTICE

It would be foolhardy to predict the future course of events in juvenile justice. Certainly, on the basis of past events, one might expect a repetition of the cycles of the past 100 or more years. Scandal and public upset with the juvenile justice system, followed by calls for reform, followed by more funding, followed by a "reformed" system, followed by scandals and public upset, followed by calls for reform, etc. Although a case could be made for the evolution of a certain progressiveness in the treatment of juveniles over the years as this wheel turns over and over, it is doubtful that juvenile justice has done more than lag along behind the larger society in whatever are the current life styles, norms, values, etc. -- keeping up only to the degree that the basic dichotomy between insiders and outsiders may be maintained and the systems to confirm that dichotomy may be sustained. Although from a contemporary vantage point, one might see a great difference between the whipping of a youngster in a reform school of the late 1800's and the cutting off of a youngster's hair in a training school of the early 1970's, the subjective experience may not be all that different, each for his own time. Even in those cases where there is clearly some advance in humanitarian handling of juvenile offenders, it lags behind whatever are the accepted approaches to handling deviance among the acquaintances of those who set the definitions (i.e., the "insiders"). It is unlikely (but not impossible) that we will return to flogging of adolescents. The systems which we have substituted for flogging, however, have maintained the basic labeling process, social prescriptions, and the

patterns of isolation and rejection which follow therefrom -- even though it is now more frequently called "treatment."

Robert Theobald once commented that what we need these days for understanding the future, is not so much a map as a compass. The problem with this analogy, true as it is, is that in the juvenile justice system, unlike topography, our preconceived "maps" actually create the terrain which we then later "explore." If we could drop our maps and set out sketching what we find, rather than what we have created, the future for juvenile justice might hold more promise.

Having said this, we should posit what we think will happen and then distinguish it from what could or perhaps should happen. One can anticipate the introduction of new technologies into the juvenile justice system over the next few decades. One can further predict that those techniques which are clearly that...to be used by whatever ideology...will gain most acceptance. Whether the rhetoric is "rehabilitation" or "just desserts," the concern will be upon more control in management, thereby guaranteeing more incident-free bureaucracies. Juvenile corrections will appear more humane and professional while being less incident-prone and chaotic. The punishment-rehabilitation argument, being a sham issue, will probably become diluted as legal and therapeutic bureaucracies become more effective and clientele are made less obstreperous. The new systems of control will provide the same functions as detention centers and training schools have always provided -- though it will be harder to recognize. One can anticipate growing professionalism in the field which will further fix in the system. We will continue to develop interesting approaches and models for the "deserving" offenders -- the general rule of thumb being that the less

the offender looks like, talks like, and acts like a judge's or legislator's son or daughter, the more likely he or she is to be isolated from the more progressive models of professional care and the less likely to receive the benefits of humane and decent care. As the set sentences of the "justice model" become longer and more punitive than the indeterminate sentences of the "rehabilitative model," "just desserts" will become more and more the fate of the "undeserving" youngsters.

The child-saver revolution of the early 1900's and the rethinking of these issues in the current "revolution" are two sides of the same coin. The current revolution has picked up on those youngsters which the child-savers saw as their proper clientele. As the juvenile court has lost credibility, another system has come into play to deal with deserving delinquents, whereas the undeserving were always meant to be handled not as one would deal with a threatening acquaintance but as threatening strangers. This pattern will likely continue. In the future we can expect for those in the deep end of the delinquency spectrum, the "undeserving," a concentration on "due process" to be followed by acquittal or imprisonment (neither of which allows for the "understanding" contributing to the societal evolution alluded to by Mead and envisioned dimly by the child-savers).

It is likely, therefore, that our rhetoric will continue to bounce back and forth between rehabilitation vs. punishment and the bureaucracies which that dichotomy engenders. The horns of the dilemma will be sustained. Both attitudes are now embodied in strong professional traditions and ingrained in power systems with political constituencies. It is not likely that either the child-saver bureaucracy or the legal bureaucracy will

ultimately "win"...at least not for any sustained period of time. However, the very existence of these bureaucracies will itself restrict the parameters of the debate, and it will be difficult to break out of those parameters. Mead (1961:882) put it another way:

"...But the two attitudes, that of control of crime by the hostile procedure of the law and that of control through comprehension of social and psychological conditions, cannot be combined. To understand is to forgive and the social procedure seems to deny the very responsibility which the law affirms, and on the other hand the pursuit by criminal justice inevitably awakens the hostile attitude in the offender and renders the attitude of mutual comprehension practically impossible. The social worker in the court is the sentimentalist, and the legalist in the social settlement, in spite of his learned doctrine, is the ignoramus."

That, is the problem for the future.

The current idea that "nothing works" has in it the seeds of despair, what medieval theologians called the ultimate sin. For with the assertion that "nothing works" (probably a false assertion), we turn our backs on the possibility of helping another human being. The consequence is more tragic than the premise.

Giving up the rehabilitative model negates the hope (admittedly unrealized) of understanding (not excusing) deviant behavior. Perhaps because of the rigidities of professionalism, such widening was not about to occur. Certainly recent approaches to criminal deviance based upon clinical practice would indicate that it is not presently occurring, e.g.,

Yochelson and Samenow, and that some clinical experience reinforces stereotypes. Perhaps we need to de-professionalize "help". But the hope remains that educated, intelligent persons would eventually learn something from their clientele. Constrained by, and trained to work within rigid categories, on the one hand, and to meet demands of institutional bureaucracies, on the other, professionals more often lose touch. However, from time to time there are at least attempts to give moral and intellectual meaning to an otherwise sterile experience and to carry that knowledge back to the larger society. Such hopes will likely be lost with the general abandonment of the rehabilitative ideal. In summary, it does not seem unlikely that in 2078 there will be convened a convention of correctional experts discussing the enlightened ideals and goals of correctional experts in 1978 and noting how these goals have been unrealized. This would be a repeat of the American Correctional Association Convention of 1970 pointing to the principles of the Cincinnati convention of 1870 which, had they been implemented, would have resulted in the dissolution of the correctional system as we presently know it.

With reference to what could or should be, let us set forth a few possibilities. The problem is not one of techniques, technology, not knowing what to do or how to do it. As Professor Daniel Glaser suggests, certain approaches "work" with certain clientele and we know what they are. The research of Ohlin, Coates, and Miller (1978) shows clearly the directions that an effective and humane system of juvenile corrections should take. It should:

- follow the principle of the least restrictive alternative consonant with public safety,

- place stress upon family supports,
- residential care should be in the most family-like setting possible,
- group living situations should have strong community linkages,
- secure care should be a last resort (knowing that there is little evidence one can do more than provide a least harmful program), and
- the definition of "dangerous" or "in need of secure care" should be applied only when all other avenues have been exhausted.

However, the problem of designing an effective and humane system for the future is more basic than the above mentioned. It is not a question of not knowing what to do or in which directions we must turn to provide humane and effective juvenile corrections. The problem is that in taking those steps, we must impinge upon a network of political, professional, and bureaucratic relationships now so deeply imbedded as to make the very notion of basic change sound revolutionary -- which, rationally, it need not be. To move toward an effective system, certain basic steps must be taken. The most basic relates to the introduction of some elements of the democratic ideal into the juvenile correctional system. The problem is one of building some element of choice into a system designed for keepers and captives. It is a problem of accountability to clientele who have no power to demand such accountability. It is not whether one should become involved in more punishment or more treatment. It is not useful, therefore, to discuss the possibilities of punishment, for example -- shorter terms vs. longer terms, strict handling vs. "permissive"

handling, etc. Variations on this theme have been with us as long as human memory. By the same token, it is not a question of specific types of "helping" or therapy -- behavior modification vs. transactional analysis, therapeutic communities vs. psychoanalytic regimen, etc., institutional vs. community-based, etc. Variations on these themes have been with us in one form or another for the last century and a half. Rather, any new possibilities in corrections will have to emerge from a close look at the bureaucracies which define and treat "outsiders." Unfortunately, present reforms do not consider this.

If one were to look for a "model," it would approximate that proposed by Etzioni which, though applied in another context, has meaning in juvenile corrections. Speaking of an ideal of "authentic societal guidance," Etzioni (1968:619) says: "We refer to the combined sources of social regulation and change, the downward and the upward flows, as social guidance, while we reserve the term social control for downward flows and consensus formation for upward ones." It is precisely this reciprocity in authentic social guidance which is lacking in our juvenile correctional system. It suggests that we think the unthinkable -- the possibility of de-escalating levels of social control and building in some elements of consumerism. In the introduction of authentic consumerism, there is hope for meaningful systems change.

From this it follows that there must be, in the labeling and diagnostic process, a potential for authentic listening whereby those who apply the labels develop a capacity for understanding more clearly the world the juvenile offender brings to the juvenile justice system. The categories of reference must be constantly readjusted by this experience. Whatever

"social prescriptions" emerge from the labeling processes must themselves be subject to at least some elements of consumerism. The youngster must be able to influence the labeling categories and have some choice between and among prescribed courses of action. A wide variety of options and programs heightens the possibility of informed choice and diminishes the potential for rigidity and coercion. There must be built into this, the potential for a "least restrictive" alternative and for movement into more restrictive alternatives only on a staged basis -- with due process entering as freedom diminishes.

But even those at the deepest end -- those who have committed the most heinous crimes -- must be (1) understood and (2) given some element of choice in their "treatment." There is no reason, for example, if a decision is made that a person who has committed a violent crime cannot be free for a given period, that that person not have some choice over the conditions under which his or her freedom will be denied. Further, there should be the possibility for movement between and among alternative settings (even secure settings), based upon the perceptions of the client rather than the service-giver. Those programs and facilities which can guarantee public safety and still be the choice of "dangerous" offenders (admittedly a choice among lesser evils) should be sustained. Those facilities and programs which cannot, should be closed. It is not a question of permissiveness vs. control, but rather one of making our correctional bureaucracies in some way accountable. Even a Phillips-Exeter Academy given a solely captive population of students would deteriorate over time. The best of educators, therapists, or administrators will not sustain their altruism without some means of accountability to clientele being in the structure.

In whatever correctional system might evolve in the future, there should be an understanding that certain problems must remain "insoluble," for their very solution invites tragedy. The category, for example, of the "most dangerous" offender must remain a negotiable one, open to constant reconsideration. This is not to say that such offenders do not exist, but to point out that they represent as well, the quintessential "outsider." They are, thereby, those individuals upon which bureaucratic and political careers can be made through mistreatment, neglect, scapegoating, etc. Juvenile offenders who fall in this category are the keystone of the juvenile justice system. They must be treated deftly. This sad group carries the potential of telling us more about our society and ourselves than of themselves. They also provide the only legitimate test of our labeling and treatment systems.

Finally, none of this can happen until there are a wide variety of alternative resources available. With growing awareness of how limited our resources are, it is not likely we will sustain many new approaches until we can reallocate existing resources. This means taking money from where it is -- primarily in institutions -- and giving it to new approaches and programs. That, in turn, means the termination of certain existing bureaucracies. And this, of course, is the major barrier to any substantive change.

CHAPTER 3

DECARCERATION MATRIX

Methodology

Relatively little research has been done on decarceration processes. With the notable exception of the long-term evaluation on the closing of training schools in Massachusetts (Miller, Ohlin & Coates, 1978), little is known regarding factors which may foster or inhibit attempts to decarcerate institutionalized persons. Due to the lack of data on decarceration processes, this study was necessarily exploratory in nature. The primary research task, therefore, was to obtain such information as would best facilitate analysis of the four diverse processes under study.

Data Needs

Toward this end, the initial phase of this research effort involved the development of an informational format thought to encompass much of the data that would be required in order to draw useful comparisons between the four states.

One primary source in the development of the initial format was an extensive review of the literature on social policy implementation in general and on decarceration in particular. The result of this effort, a comprehensive bibliography on Correctional Change is included in this study as Appendix B. Additional factors were culled from the experience of the researchers, who had first-hand personal experience with, and had themselves played crucial roles in decarceration efforts in two of the states under study.

From this initial analysis the data was classified in four categories. Broadly stated, these categories included:

- 1) Background Information - Historical data on the juvenile justice system in the four states studied, prior to the attempt to decarcerate, and the compilation of a history of the process in each state;
- 2) Organizational and Political Structure - Descriptive and anecdotal data on the functioning of the inter-organizational and political context of the decarceration movement. Specifically this included an assessment of:
 - a) The characteristics of executive branch support or opposition, and the degree of involvement.
 - b) The characteristics of legislative branch support or opposition, and the degree of involvement.
 - c) The characteristics of judicial branch support or opposition, and the degree of involvement.
 - d) The characteristics of professional organizations' support or opposition, and the degree of involvement.
 - e) The characteristics of private child care agencies' support or opposition, and the degree of involvement.
 - f) The characteristics of news media support or opposition, and the degree of involvement.
- 3) Data describing the operation of the juvenile justice systems of the target states after the completion of the decarceration process and;

- 4) Descriptive and comparative data on the human aspects of decarceration process, dealing with the experiences of youngsters held in the most secure facilities in each of the four states studied.

Data Sources

Background Information

Much of the data on the history of juvenile justice systems and decarceration movements in the four states came from structured interviews conducted with key system participants (c.f. p.78 for a more detailed description). In Pennsylvania and Massachusetts, background information was also gleaned from documents in the public record Juvenile Justice: A Stance for Cooperation (Anderson, et al., 1974), and Dissolution the Training Schools in Massachusetts (Rutherford, 1974). In addition, much information regarding these two states was derived from the experiences of the principal researchers. For all four states, documents, memos, and reports collected from interview informants provided hard evidence of events that had taken place within the system. For Massachusetts and Pennsylvania, documents were available from a number of different sources² and were quite comprehensive in scope.

Also of value in providing background information were newsclippings, which were obtained by extensive library research. Newspaper accounts were particularly valuable for insights into the public view of ongoing change processes.

Organizational and Political Structure

The largest part of the data on organizational, interorganizational and political factors were derived from the structured interviews. In conjunction with these interviews, the researchers sought to obtain from informants all pertinent documentary data. Among the documents received were budget reports, organizational charts, and descriptions of funding arrangements that helped greatly in developing the relationships among significant actors in the system.

Through these interviews we sought to collect information about the workings of the system during the change process. Crucial to the utility of the interview format was the fact that interviews were conducted with many different participants in the same process and provided many different perspectives. In addition, illustrative anecdotes gleaned from the interviews were used to substantiate salient issues.

After the Completion of the Process

Data on system functioning after the decarceration efforts had ended was in part the result of state visits to and observation of institutions, programs and the state organizations present functioning. The data base for this category also includes information elicited in the structured interviews and documentation ordinance. Equally important was the data available from statistical compilations, reports, and fiscal projections obtained during site visits to the states under study.

The Structured Interviews

Interviews were the primary research tool used in this phase of the study. This approach was judged most appropriate because the research required a broad range of information pertaining to a lengthy time period. Moreover, it required a number of different perspectives on the decarceration efforts. This required the use of many informants with differing status, authority, and job responsibilities. The structured interview format provided a basis for comparing responses from different levels of system personnel, and as such provided a rudimentary verification procedure (Dean and White, 1958: 34). At the same time, it allowed the flexibility to ask individualized questions of each informant.

In addition, it was advisable to obtain information on the attitudes of key personnel toward the proposed change, and toward other significant actors, since it can be assumed that these attitudes colored their actions during the change process itself. Thus, a wide variety of data - facts, anecdotes and attitudes - was desired. Structured interview techniques seemed most likely to facilitate the collection of valuable information, while minimizing extraneous data.

Respondents

Interviews were conducted with a variety of state officials, and others, including but not limited to:

- 1) Correctional Administrators
- 2) Juvenile Judges
- 3) State Legislators
- 4) Institutional Administrators
- 5) Private Agency Representatives

The average length of the interviews was 1 and 1/2 hours. A total of 32 key participants were interviewed, which amount to an average of 8 per state

To orient the interviews, an open-ended interview guide was developed and employed. The Interview Guide was an outgrowth of the interview schedule used in the Harvard study of decarceration in Massachusetts, but with a more open-ended focus on exploring the political and organizational issues, groups and processes judged significant in our initial analysis. Interviewees were asked to diagnose the national picture regarding juvenile corrections generally and juvenile decarceration specifically; to dissect and analyze local juvenile decarceration trends; to assess their own role in shaping policy for or against juvenile decarceration; and to provide a prognosis for the future of juvenile decarceration in their state, complete with concrete recommendations.

The guide proved fruitful in organizing our sessions with key participants, and in opening up new and unexplored areas of inquiry. The relative success of the interviews stemmed from their focus on the informants as both experts and analysts. Informants thus provided key information unavailable elsewhere and assisted in the process of synthesizing the data. Surprisingly few of our respondents had been exposed to comparable queries regarding this area of their expertise. Most responded with enthusiasm to our invitation to participate in the survey.

The Juvenile Experience and Secure Facilities

In order to assess the human costs of decarceration in the various states, a series of interviews with youngsters presently incarcerated in the secure units in the states under study were conducted.

We surveyed correctional settings for "end of the line" juvenile offenders in the four survey states as a first step toward mapping correctional responses to such offenders and tracing the human experience of offenders in states characterized by varying degrees of decarceration. Two of these states rely on institutions for the management of serious offenders. These states are Ohio and Florida. Pennsylvania provides a mix of community-based and institutional settings for the management of serious offenders. The fourth, Massachusetts, deploys a wider range of community-based correctional settings for such persons, from secure group homes to foster care placements.

The focus of the survey was on perceptions of social climate, programs, and subsequent life changes after exposure to various correctional settings and regimes. Our aim was to provide a description and assessment of major correctional options in force with the serious juvenile offender in the survey states. Our efforts highlight the relevance of non-institutional settings in the management of these offenders and spark inquiries into alternative, nonintrusive correctional responses with the more serious juvenile offender.

Method

A questionnaire comprised of open and closed-ended questions was the primary research tool in this phase of our research. The questionnaire was administered to samples of offenders housed in institutions or community based settings reserved principally or solely for the end-of-the-line offender in the survey states. Sampling frames were adjusted to yield samples of approximately 40 inmates per state. In all, 159 youths participated in the survey.

The questionnaire represents a revision and expansion of the instrument used in the Harvard evaluation of juvenile correctional settings after the massive closure of training schools in Massachusetts. The closed-ended portions of the instrument contain sets of items bearing on the social climate of the settings, the programs offered, and the extent of community linkages and their bearing on life chances after release. The social climate portion of the questionnaire is further subdivided in terms of five (5) social climate dimensions: communication (within and between inmates and staff), decision making (demerative vs. authorization), control (as goals of staff governance of inmates, in contrast to help or treatment), fairness (of rules and their implementation) and personal safety.

Three open-ended questions were included in the questionnaire. These questions related to key adaptational requirements of correctional settings, generally valued aspects of life, and factors bearing on success or failure subsequent to release from the correctional setting. Typologies were developed to classify the dominant themes expressed in the responses to the open-ended questions. The themes associated with adaptational concerns evoked in

correctional settings included: fear (in response to pressure from inmates or staff), need for emotional support (from family, peers or staff), powerlessness (the feeling that others, principally staff, call the shots in significant areas of one's life), growth (enhancement of interpersonal, emotional or other skills relevant to dealing with personal problems), and maintenance (passivity, or a "doing time" approach to life in the institution or program). Generally valued aspects of life were classified in terms of: support (from family, peers or authority figures in the achievement of life goals), autonomy (ability and freedom to make important choices in one's life), growth (development or possession of any of a range of interpersonal or other skills that make success possible), and stimulation (need for environmental diversity and outlets for energy and activity). Issues linked to subsequent adjustment in the free world included: support (availability of significant others to aid in transition and readjustment to outside world), growth (possession of usable skills or "success tools" to gain a foothold in the free community; also, positive character change, if personal problems were seen as impediments to readjustment), commitment to deviance (felt need for a high-risk lifestyle, independent of its costs, as in reincarceration), deterrence (feeling that one was "burned out" by repeated involvements with the justice system, or otherwise tired of lifestyles that resulted in confinement), and fate (the belief that one's future was subject to forces beyond one's control pushing toward deviance; generally, the feeling that positive change was impossible and that one's future would be a linear extrapolation of one's past). Themes which emerge as important in analysis will be further defined and explored in the text of this chapter.

Background information was also collected on each subject. At the termination of the interview, respondents were queried as to their age, race, residence on arrest, offense, confinement history and length of stay in a given correctional setting at the time of the interview. These factors will be used to describe confined populations, and as control variables in our analysis of setting impacts. (See Appendix C.)

The aim of the study was to explore the range of correctional resources deployed with serious offenders in terms of the impact these differing correctional environments have on such offenders. The emphasis in administration of the questionnaire was on the open-ended questions, and particularly on the questions focusing on adaptation to correctional settings. The strategy of analysis principally entailed an assessment of correctional environments in terms of the adaptational demands they posed, the compatibility or incompatibility of such demands in terms of generally valued aspects of life (as enumerated by the research subjects), and the perceived long-term costs and benefits of exposure to varying correctional environments. Overall, we characterize correctional settings along dimensions highlighted by the closed-ended questions and explore these findings in relation to the open-ended questions which place relevant dimensions in the context of ongoing efforts by the youth to survive and in their consequences for equivalent (serious) offenders of assignment to differing correctional milieux.

Analytical Approach

The Decarceration Matrix

The implementation of new public policy is inherently a political process. Social policies and programs function in environments in which many diverse groups compete for scarce resources. There may be many conflicting interests, and power in these environments is usually unequally divided amongst them. Thus, those seeking to achieve policy change must guide their efforts through a maze of public opinion, and a turbulent organizational and political environment, while simultaneously demonstrating that the new policy "works": that is, that it is somehow "better" than the policy it replaced.

"Implementation is interpreted as an accommodation to institutional realities. The imperatives in the law are redefined to take account of the practical problems faced in practice. Implementation seen as learning about feasibility seems especially appropriate in arenas where there is little understanding about how to achieve (desired) goals... (Rabinowitz, et al, 1976: 400).

The study at hand is an assessment of the interplay between desired policy goals and "institutional realities" - the political and organizational power balance in the four states studied.

These states comprise a rudimentary continuum of decarceration efforts, from a highly successful attempt to a state where no substantive activity has taken place. In roughly descending order of success, the decarceration continuum comprises:

- 1) Massachusetts - This state completed a major decarceration effort, abolishing its training school system in favor of a network of private, community based programs and services. This decarceration movement was the subject of intense study by the Center for Criminal Justice of the Harvard Law School.
- 2) Pennsylvania - Decarceration efforts in Pennsylvania centered on the removal of 400 juveniles incarcerated in an adult prison (the State Correctional Institution at Camp Hill), and the closing of that facility to all juvenile commitments. This state still operates a training school system, however, and its per capita institute commitment rate remains high (Vinter, Dorns and Hall, 1975: 17).
- 3) Florida - Decarceration efforts in Florida were highly publicized and focused on the establishment of community based services as a prerequisite for the closing of institutional placements. The institutional population in Florida has remained the same and no institutions were closed. The number of youngsters encapsulated in the Florida Juvenile Justice System has doubled, however.³
- 4) Ohio - While some interest in decarceration was evinced in Ohio during the early 1970's, no substantive action has been taken to reduce the number of institutions within the system, or the number of juveniles held in that system. Ohio relies on institutions for the great bulk of its delinquency programming, and maintains a high per capita commitment rate (Vinter, Downs & Hall, 1978: 55).

Utility of the Matrix Approach

As can be seen even from these cursory descriptions, the actions taken in each state regarding decarceration goals varied widely. Indeed, the "institutional realities" of each of these states may be expected to vary to a similar degree. At the least, it must be assumed that varying political and organizational factors within each state contributed to the widely differing manifestation of decarceration in the states studied. A primary research problem, therefore, was the matter of how to present qualitative types of data on essentially political processes in a way that would facilitate reasonable comparisons of the four states studied. The development of a "decarceration matrix" was found to be suitable and useful for assembling the data, and serves as a framework for the comparative analysis of decarceration efforts. The matrix is divided into six dimensions, based on refinement and modification of the data categories developed during the initial phase of the research project. The dimensions of the matrix are described below:

- 1) Social History of the Decarceration Movement - for each state, this section contains the fundamental descriptive narrative base for a more specialized analyses of the remaining four dimensions. Some history of organizational, environmental and individual activities relative to the decarceration movements was a necessary prerequisite for an understanding of the various change processes.

- 2) Interorganizational Factors - this facet of analysis uses the organization-set framework (Evan, 1965) as an analytical tool. The focal organization in all cases is the primary provider of delinquency programs and services. Specific attention is paid to the focal organization's ideological and resource commitments to decarceration goals and to an assessment of its power and authority within the interorganization environment (c.f. Benson, 1975).
- Subsequent to this analysis, attention is paid to other significant actors in the interorganizational environment, notably the role of juvenile judges and their organizations, and the role that private agencies play in the particular organization network.
- 3) Political Factors - As per Mott (1970), Perucci and Pilisuk (1970) and Ostrum (1972), assessment of political interest and involvement is essential to the understanding of social policy implementation. Toward this end, significant alliances of juvenile justice and political interests are explicated for each state. The use of political devices - committee hearings, government audits, budgetary controls - is analyzed when relevant. Legislative trends in each state are analyzed as significant indicators of legislative intent regarding juvenile justice policy.
- 4) Crises and the Role of the Public Media - From existing literature on decarceration process in Massachusetts and Pennsylvania, and from the experience of the researchers, it was evident that public opinions on juvenile justice issues could have a bearing on

- the outcome of decarceration movements (c.f. Feldman, 1967). In addition, assessment of the media involvement in and representation of political concern to significant developments. Particular emphasis was placed on the key variable of crisis manipulation, the administrative response to deplorable conditions existing within the juvenile justice system in each state.
- 5) Change Dimensions - This facet of analysis describes and characterizes the various attempts at change. Characterizations include the focus of the change effort (what institutions or types of youngsters are targets), the direction of the proposed change, the type of strategy employed to achieve desired ends, and any problems and obstacles encountered during the process of implementation.
- 6) Outcomes - In this section the end results of each state's decarceration efforts are described and analyzed. Particular attention is paid to the rates of juvenile incarceration in each state, before and after the decarceration effort occurred. Equally significant is a description of the secure facilities existing in each state and the results of the survey of juvenile inmates of those secure facilities. Through this analysis it will be possible to at least partially assess the relationship of the extent of decarceration efforts in the actual experiences of institutionalized youngsters.

Presentation

In each section of the matrix (except for the social history section) a similar format is followed. Initially, a description of the foci of analysis for each dimension is provided. Subsequently, the variables are discussed for each state under study, in the order dictated by the rough continuum of decarceration we employed (Massachusetts, Pennsylvania, Florida, and Ohio). Within each section, interview data, statistical and documentary evidence, quotations and anecdotes are used to illustrate salient issues. The end of each section presents conclusions that may be derived from a comparison of the four states for comparative purposes whenever feasible. After all significant dimensions are discussed, a concluding section presents the overall matrix and a summary of the comparisons which can reasonably be extrapolated from the existing data.

FOOTNOTES - CHAPTER 3

INTRODUCTION

¹Jerome G. Miller and Herbert Hoelter

²These sources included the files of the Center for Community Alternatives, Inc. (CCA) and the Camp Hill Project. John Mattingly, Director of CCA, and Harvey Lowell, Supervisor of the Camp Hill Project, were instrumental in supplying the necessary documents. Tom Jeffers, Director of the Pennsylvania Youth Advocate Project, was also extremely helpful.

In Massachusetts, various documents were obtained from Joseph Leavy, former Commissioner of the Department of Youth Services (DYS) and Anthony DeMarco, former legal counsel at DYS and currently the Director of the Northshore Children's Law Project in Massachusetts.

³In 1969, there were 1188 youngsters in Florida training schools and community-based programs. In 1977, that number rose to 2267.

	<u>1969</u>	<u>1977</u>
Training Schools	1153	1111
Community-Based Programs	35	1150

CONTINUED

1 OF 6

SECTION 1

Social HistoriesMassachusetts

Massachusetts has a history of innovation in juvenile corrections. Responding to the rapidly increasing urban ills of society, the state opened its first rural training school, the Lyman School for Boys, in 1847. The Lyman School was considered a step forward from the prevailing practice of housing juveniles with adult criminals. Its rural location was seen by the "child-savers" as a way of removing juveniles from what were commonly viewed as the crime-breeding ills of the society. At Lyman, youth learned a variety of farming skills which could serve them well in the predominantly agricultural job market of the day.

In 1952, a Division of Youth Services (DYS) was established within the Department of Education. This agency was responsible for the state's troubled youth. During its early years, DYS broadened its institutional base. Its first Commissioner, John Coughlan, was a proponent of diagnostic and other psychological services, and opened and upgraded three diagnostic centers for youths in Worcester, Roslindale, and Westfield. In subsequent years, training schools in Oakdale and Bridgewater were opened.

By the late 1960's, reports alleging scandalous behavior, mismanagement, and overcrowding in the training schools were common.¹

In early 1969, Francis Sargent took office as Governor and allied himself with the growing demand for a more humane approach in dealing with troubled youth. He stated: "Simply caging children is not the way of an enlightened society."² The Governor forced the Commissioner to resign, and

legislation was passed in August which created a cabinet level Department of Youth Services (DYS) with full authority over its institutions.

In October of 1969, Jerome Miller was appointed Commissioner of DYS. Miller was given a mandate by the Governor and the Legislature to replace the old system with new correctional methods, including modernization and humanization of treatment in the five large training schools. Initially, Miller attempted to train the institutional staff in new techniques to foster a broader understanding of the needs of the more than 850 youngsters in DYS's care. Dr. Miller's attempts to improve institutional settings were short lived, however. Upon visiting the Institute for Juvenile Guidance (the maximum security unit at Bridgewater State Hospital) with the Governor's wife, Miller was appalled by the staff's treatment of the youngsters. During this visit he witnessed staff assaulting some youngsters who had attempted to escape from the institution. The difficulties that followed in attempting to discipline the staff involved in this incident, along with the persistently punitive character of the Bridgewater unit, convinced Miller that the only appropriate action was to close it down completely. This was accomplished in September of 1970.

There was strong staff resistance to any degree of reform in the training schools. While coping with active staff opposition, Miller and his staff became increasingly convinced that there was no way to operate effective programs in institutional settings. By the time he had been in office a year, Miller was convinced that humanizing the institutions could be no more than a short-term solution. It also became clear that some of the more effective institutional programs could work in the community. As a result DYS reduced its institutional population to 465 by the end of 1971. Shortly thereafter, Miller became convinced that because of the abusive institutional

conditions he had exposed to the media, it was now politically feasible to move all the youths out of the four remaining training schools. He was certain that the best strategy for such a task would be a rapid approach, based on his earlier experiences in attempting to "reform" the system. In January 1972, therefore, The Lyman School, America's first juvenile training school, was closed. The other institutions were closed in subsequent months.

Closing the existing juvenile correctional institutions required the development of alternative programs and facilities. These alternatives included home supervision, tracking, non-residential day programs, foster care, group homes, the wilderness "Homeward Bound" program and, finally, secure detention and long-term secure residential care. It became DYS's goal to treat each youth in the least restrictive community setting possible.

Recognizing a need for secure care in 1975, a non-partisan Task Force on Secure Facilities was appointed to review the need for secure placement within DYS. The Task Force, concluded that "the vast majority of DYS youths can be effectively and appropriately placed in the broad and diverse range of non-secure community-based settings and alternatives without detriment to public protection."³ They further concluded that only 11.2%, or approximately 100 youths needed secure placement. Since the number of youths in secure care was 49, DYS began to expand its system to include three additional 12-bed units, the first of which was opened during the summer of 1978.

Finally, to complement the use of community based alternatives, DYS chose to increase the amount of services purchased from private groups instead of relying principally on state-run facilities. Miller and his staff

decided to use the purchase-of-service approach because they felt that private agencies could provide better care for youth at somewhat lower costs. In addition, the use of private groups could increase the state agency's capacity to develop or terminate programs. The value of purchase-of-service contracts was emphasized by Joseph Leavy, Miller's successor at DYS. He stated:

We have a termination clause (in each contract)...

We can go in and terminate a program that is not living up to its contract. If you want to close a state-run program, it takes a damn revolution, like we had in this state. But if you're talking about private agencies, it's much easier to go in and say, "Hey, we don't need you. You're not providing the services you said you would. Therefore, we're not renewing your contract." Or, if it's a tougher situation, we can go in there a little like gangbusters and close the place. That's happened to about four programs. (Corrections Magazine November/December 1978,

The final component of Miller's approach was the design of a regionalized service delivery system. Such a system, it was felt, would provide better monitoring of local services and improved relations with community groups and officials. Since the whole emphasis in DYS was directed toward developing treatment settings in cities and towns, the regional function became critical. The state was therefore divided into seven different areas, and regional offices were established within each area.

In sum, juvenile corrections in Massachusetts has changed significantly since the first training school opened in 1847. Adopting a more modern and humane approach to juvenile justice, Massachusetts became the first (and thus far the only) state to completely abandon its institutional system in favor of community based juvenile corrections.

Pennsylvania

Pennsylvania's Department of Public Welfare (DPW) has the primary operational responsibility for services to that state's delinquent population. Prior to 1975, DPW's Office of Children and Youth operated nine institutions for delinquent youths. Six of these, called the Youth Development Centers (YDC's), are large (100-250 beds) training school facilities operated on a "cottage" plan. This system of institutions is spread across the state. The facilities were established as a result of a series of scandals in private institutions in Pennsylvania in the 1950's and early 1960's.

The remaining three facilities operated by DPW are called Youth Forestry Camps (YFC's). These programs are somewhat smaller (40-70 beds) and generally used to house youngsters with less serious offenses and offense histories than their counterparts in the YDC's. The YFC's operate on a modified training school model, and place some emphasis on student involvement with work activities in the state parks in which the YFC's are located.

In addition to these state operated facilities, the Office of Children and Youth regulates and provides direct and indirect funding for 8 private institutions housing between 80 and 270 youngsters. In addition, the state contracted for approximately 161 community based placements from various private contractors.

Before the beginning of the decarceration movement in 1975, the State Correctional Institution at Camp Hill - a prison for adult offenders - was used as the "facility of last resort" for Pennsylvania's delinquent youngsters. This facility was operated by the Pennsylvania Bureau of Corrections - a division of the state's Justice Department. The Bureau of Corrections

housed the youngsters, and DPW had statutory responsibility for all delinquent youth.

With approximately 700 adult felons and 400 juveniles comprising its population, "Camp Hill" was characterized by violence, extortion, and threats attendant to large penal institutions. Its juvenile inmates were not only younger, but also smaller, more vulnerable and less sophisticated than the adults. It was evident that they were disproportionately victimized and exploited. By 1975, conditions of juvenile confinement at Camp Hill were well known throughout the juvenile justice system, and a number of fruitless remedial efforts had already been undertaken.

Indeed, no substantive effort at remedying the situation at Camp Hill was undertaken until the Pennsylvania General Assembly passed a new Juvenile Act in 1972. According to this act:

...a child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of adults convicted of a crime, unless there is no other appropriate facility available, in which case the child shall be kept separate and apart from such adults at all times. (P.L. No. 1464, Section 27).

The 1972 Act sought to eliminate contact between juveniles and adults in institutions, as this had been shown to be detrimental to effective rehabilitation, brutalizing for the juveniles, and fell below reasonable standards of custodial care.

The wording of the new law was ambiguous, however. Section 25 specifically allowed juvenile judges to place youngsters in "a special facility for children operated by the Department of Justice." Camp Hill was the only such facility. While expressly forbidding the housing of juveniles with adult criminals at all times, the law plainly permitted the commitment of juveniles to Camp Hill, where juveniles and adults were not separated at any time. This ambiguity set the stage for conflicts among the organizations and individuals in Pennsylvania responsible for the care of delinquent children.

In 1973, a lawsuit resulted in the prison having to keep the juveniles within its walls separate from the adults at all times. This separation did not lead to significant advantages for the juvenile population, however and it also caused innumerable administrative problems for the institution. Even though two separate educational, vocational, and recreational programs were operating in one facility, complete separation could not be achieved. The situation at Camp Hill deteriorated dramatically in 1974, when the state assumed the complete fiscal responsibility for all commitments to state prisons. Counties could now send juvenile inmates to Camp Hill without cost. Since the prison was unable to reject or transfer juvenile commitments, overcrowding was the inevitable result. Thus, by 1975, Camp Hill was unmanageable and overcrowded, and was becoming increasingly unsafe for both inmates and staff.

In January 1975, Dr. Jerome G. Miller was appointed to an advisory post in the Governor's office. A controversial figure in juvenile corrections, Miller was known primarily for his active opposition to the in-

stitutionalization of juvenile offenders. He had virtually abolished juvenile institutions in Massachusetts during his tenure as that state's Commissioner of Youth Services. It was not long before he identified Camp Hill as the focus for his efforts in Pennsylvania.

Using the media to publicize conditions in the prison, Miller and his associates succeeded in obtaining a measure of power in the inter-organizational arena. In the aftermath of a tragic suicide by a sixteen year old inmate at Camp Hill on April 1, Miller obtained a further legal opinion from the state's Attorney General. In an April 14 letter, the Attorney General directed the Superintendent of Camp Hill to refuse to admit any juvenile committed to Camp Hill after August 15, 1975. With this mandate the executive policy making apparatus in delinquency matters was placed solely in Miller's hands. Using state and Federal funds, Miller and his associates established a non-profit organization known alternately as the Center for Community Alternatives, Inc. (C.C.A.) and the Camp Hill Project. This organization was to sponsor and spearhead the change effort. It had two major tasks:

- 1) Removing the 400 juveniles housed at Camp Hill and placing them in small community based programs;
- 2) Developing a range of alternative programs in local communities that could be used for the Camp Hill youngsters and for those who would have been sent to Camp Hill after August 15, 1979.

In order to perform these tasks, the new organization was divided into five regional structural components in addition to its central administrative office. Four of these were regional offices. The regional offices were to develop working relationships with local judges. Juvenile judges have complete control over juvenile commitments in Pennsylvania, and were resentful and suspicious of the new organization. No juvenile could be released from Camp Hill without a court order from the committing judge. The regions were also charged with locating and developing a variety of alternative programs and facilities for "Camp Hill type" youngsters.

The fifth unit, initially called the Emergency Relief Team was later enhanced the Camp Hill Unit. At first, this 10 person unit - which worked inside the prison - was expected to ameliorate conditions there by providing recreational activities and arranging for community contacts. Eventually, the unit became responsible for coordinating C.C.A. efforts to move the incarcerated youngsters out of the prison.

Throughout the process, C.C.A.'s most strenuous opposition came from a small group of vociferous juvenile judges and was buttressed by their strong lobby group, the Juvenile Court Judges Commission. The judges utilized various procedural, media and political avenues to undermine the decarceration effort.

Despite these oppositional efforts, the effort to complete the removal of juveniles from Camp Hill was successful, and that institution is now used exclusively to house adult offenders.

Two 50 bed secure units on the grounds of the YDC's near Pittsburgh and Philadelphia were set up to replace the Camp Hill institution. Two privately operated 10-12 bed secure units were also established on the grounds of state hospitals in the less populated central and northeast sectors of the state.

C.C.A. was less successful in closing any other institutions. As a result of external political pressure and continuing fiscal problems the organization that had led Pennsylvania's effort at juvenile decarceration closed in September of 1976, 18 months after it came into existence. Its functions were assumed by DPW's regional offices of children.

At present, there are approximately 150 adjudicated youth in secure confinement in the Commonwealth of Pennsylvania. DPW has indicated a willingness to develop more secure beds, however, and is presently supplementing its security units on the grounds of state training schools. However, the Department has gone ahead with plans to close an older 125 bed training school used primarily for younger offenders.

Florida

The Arthur G. Dozier School, Florida's first public institution for juveniles, was built in 1900. It was a segregated institution, with a separate "colored" camp. There were trade programs for white inmates and shaved heads and work crews for black inmates. The first institution for girls, the Algee D. McPherson School was completed in 1914. A new wing was added to it in 1954. The Florida school for Boys opened in 1959, and, most recently the Lancaster Youth Development Center (YDC) was built in 1971. The Lancaster YDC, termed a "last resort" facility by the Department of Youth Services, was actually designed to be the "end-of-the-line" facility for youth deemed to be behavior and management problems in other institutions. In fact, prior to 1977, only 2 direct commitments had ever been made to the Lancaster institution, which houses over 200 inmates.

The four public juvenile institutions are operated by the Director of Youth Services, a branch of the Department of Health and Rehabilitation Services (HRS). Today, some 75 years later, the Arthur G. Dozier School is both integrated and coeducational, as are the state's 3 other juvenile institutions. In 1977, the institutions accounted for 2,184 youth, or 56.8% of the total number of youngsters committed to the Department of Youth Services. With an average stay of approximately six months, the average daily population of Florida's training school in 1977 was 1,111 youth.⁴

The Department of Health and Rehabilitation Services was formed in 1969 during a major reorganization of the Florida state government in which 356 agencies were reduced to 26. The Division of Youth Services, which had been formed in 1967, was transferred into HRS on July 1, 1969.

During this restructuring period, responsibilities for various youth services was divided, with the counties running detention centers, the state operating the training schools, and private vendors responsible for most community based services. On October 1, 1971, in an attempt to consolidate responsibilities, the state took control of all detention services, and literally "bought" the county in detention centers. (The counties subsequently claimed that the state did not adequately reimburse them for the buildings.) Immediately after detention became a state function, there was legislative initiative to build additional detention facilities. Not coincidentally one of the first new state-built detention facilities was built in Bay County, in the district of Senator Dempsey Barron, one of the most politically powerful figures in the Florida Senate.

Additionally, 1971 was also the year in which the Division of Youth Services started a major drive to establish a wide range of community based services for delinquent youth. Florida's first half-way house for juveniles had been built (in Tallahassee) in 1968. In 1971, however, each region within Florida was given funds for these community based programs. Between 1971 and 1972, the number of youth assigned to those programs went from 94 to 188.

The first Director of Youth Services was Mr. Ollie J. Keller. He served from 1967 until 1973, when he was nominated and confirmed as the Secretary of HRS. Under his leaderships, the Florida training schools became more humane places for youth. Beatings and paddlings were virtually eliminated, and therapeutic techniques were incorporated into the program plans for the inmates. This was accomplished directly under Keller's administrative authority and the result of a series of executive orders. The number of community based

programs increased dramatically during his term as Director of Youth Services. The community based network of placement has grown from a minimum of 35 youth in community based programs in 1969, to 501 in 1974, to 1156 in 1977. The increase from 1974 to present is not directly attributable to Mr. Keller but to the continuing influence of his policy. The increased number of community based programs did not serve as alternatives to the Florida's training schools system however. Rather, despite the widespread publicity about deinstitutionalization in that state, there was actually an increase in the overall number of youth in the system. In 1969, for example, there were 1153 inmates in the Florida Training Schools. In 1977, there were 1,111. This is a total reduction of 42 inmates in eight years. Meanwhile, as just mentioned, the community based placements grew from 35 to 1156 in the same period.

As a result, the development of the community based programs did not serve as an inducement to decarceration in Florida. Rather they served in addition to the institutional system and therefore cannot be called "alternatives." Florida's current efforts at decarceration center around a Pilot Deinstitutionalization Effort which has not been endorsed (it was submitted unsigned and therefore uncommitted) by the current Secretary of HRS. This effort is predicated on the assumption that a major planned decarceration effort can be viable. The text of this report speaks to that issue, and to the facility of "plans" of this type.

Ohio

The Ohio Youth Commission (OYC) is the agency charged with the responsibility for delinquent youth in that state. The stated goals of the OYC include:

- 1) the development of a classification system which will place youth in the least restrictive settings, consistent with rehabilitation needs and public safety; and
- 2) the provision of a system which will maximize the delivery of services needed by delinquents whether they are in institutional or community based programs; and
- 3) the encouragement of and assistance to courts and local communities through technical assistance and subsidies in the development of juvenile justice services, not only as alternatives to OYC commitments, but also as an aid in developing local prevention and correctional programs.⁵

In contrast, Ohio is actually a state heavily committed to institutionalizing juveniles, which gives very little priority to the "multi-service delivery system" mentioned in their literature. The OYC operates 11 institutions, with a combined total operating expenditure in excess of \$28 million. The total institutional population is upwards of 2,000 youth, while community based services are basically an aftercare and parole function.

The institutions run by the OYC claim to provide most of the therapeutic techniques advanced by juvenile justice practitioners, including milieu therapy, reality therapy, and I-level classification. Despite this, the reality is that these types of therapy are often useless in these extremely large institutional settings.

The history of juvenile corrections in Ohio has been one of developing and maintaining large institutions. Different categories of institutions have been developed for different types of "offenders". The OYC's description of their institutions is quite revealing, since there seems to be a reliance on pseudo-scientific categories to differentiate youth, thereby justifying their placement in a range of essentially equivalent institutions. To cite:

Buckeye Youth Center: Services youth who are not security risks and have been committed for minor offenses. Capacity: 144 males, 56 females.

Child Study Center: Provides diagnostic services for temporary commitments from local juvenile courts. Capacity: 100.

Cuyahoga Hills Boys School: Medium Security. Boys are considered security risks and may exhibit assaultive behavior. Capacity: 200.

Fairfield School for Boys: Fairly open campus. Serves youth who are less aggressive and somewhat unsophisticated delinquents. Capacity: 650.

Indian River School: Maximum security. Serves young men who are security risks and have long records of juvenile offenses. Capacity: 192.

Maumee Youth Camp: Residents mildly delinquent, not considered security risks. Capacity: 120.

Mohican Youth Camp: Open setting. Serves boys with wide range of delinquent backgrounds who are in need of a real treatment program. Capacity: 120.

Riverview School for Girls: Serves girls who lack sufficient inner controls and exhibit behavior that may be a threat to themselves or others. Capacity: 152.

Scioto Village Girls School: Open campus. Serves girls who are not security risks and do not exhibit assaultive behavior. Capacity: 227.

Training Center for Youth: Medium security. Serves youth who exhibit emotional problems and are security risks. Capacity: 104.

Training Institution for Central Ohio: Maximum security. Serves older, more sophisticated delinquents who lack controls and need treatment in a secure setting. Capacity: 192.

Section 44 of the budget authorization for the Ohio Youth Commission states:

Notwithstanding any provisions of law to the contrary, the total inmate or student population at Fairfield School for Boys in Lancaster, Ohio, shall not exceed five hundred or be reduced by an amount equal to not more than 40% of the maximum population. No state agency shall use any state or federal appropriations to remodel, redesign, or reconstruct the facilities at Fairfield School for Boys such that the school's student or inmate capacity will be less than five

hundred; and further that no state agency shall discontinue the operation of the Fairfield School for Boys except with the approval of, and in the manner directed by the General Assembly, as expressed by the enactment of a law.

In effect, this legislation mandates that at no time can the population at the Fairfield School for Boys drop below 300 youth. This legislation and its implications will be expanded upon throughout this monograph. It is important to read, however, in setting the tone and background for juvenile corrections in Ohio.

Any commitment to the use of community based services in Ohio is virtually non-existent, as their budget priorities indicate. As a result, the chances for juvenile decarceration in Ohio are small, as the state appears sealed off from national trends in this area, and its posture of self-insulation seems a matter of intention rather than default. In the words of Senator Mary Jean Valiquette, "There is no concern of the present administration other than maintaining the status quo and keeping things quiet."

Child Advocacy Groups reinforce this description of Ohio. Their limited resources are dissipated by the wider range of other less controversial issues such as the status offender.

The Juvenile Justice System in Ohio is part of an unyielding political system committed to maintaining institutions, with minimal opposition from disorganized and essentially moderate reformers. The OYC, which has the administrative authority to decarcerate, plays a passive role, thereby inherently legitimating the institutions by its inaction. The result is an

unchanging juvenile correctional system, marked by large institutions and the aberrant behaviors they engender in their charges.

FOOTNOTES - SECTION 1

- ¹Commonwealth of Massachusetts, Department of Youth Services Annual Report - 1977, pp. 7-9
- ²Andrew Rutherford. The Dissolution of Training Schools in Massachusetts. Academy for Contemporary Problems, Columbus, Ohio, 1974, p.5
- ³Commonwealth of Massachusetts, Department of Youth Services. Task Force on Secure Facilities, Final Report - 1978, p.6.
- ⁴Source: "Average Daily Population in Youth Services Commitment Programs" - Prepared by the Florida DHRS-YS-PDYS, March 14, 1978
- ⁵Ohio Youth Commission. Progress Report: 1975-76, p.4

Inter-Organizational Forces

To date, no theory or set of inter-related propositions grounded in experience has been offered that comprehensively explains the varieties or the mechanisms of change within interorganizational networks. The concept of planned change has been used rather narrowly to suggest methods for changing complex organizations by altering internal structures and patterns of communication. Indeed, some recent work indicates that such factors as patterns of cooperation and coordination, mutual exchange, the sharing of attitudes and opinions, and the relationship between consensus and cooperation are always secondary to issues of power and resource control. Benson notes:

"Interorganizational research and theory have been insufficiently concerned with issues of macrostructure... Attention has been directed to patterns of interagency cooperation and exchange, while problems of interorganizational and institutional dominance go unexamined. That the separate concerns are potentially connected, is a possibility largely neglected." (Benson, 1975: 217)

Further, Baker and O'Brien (1971:133) assert that organizations controlling the input resources for other organizations in their environments will exert greater influence on the goal selection and decision-making of the other organizations. Before attempting to analyze attempted change in existing inter-organizational relationships, therefore, some assessment must be made of the strengths of the various organizations as well as of their relative interest in the outcome

of the effort at system change. (For examples of this kind of analysis see Mott, 1968, and Perucci and Pilisuk, 1972). Among the questions which must be answered in order to determine the extent to which participant organizations may overtly or covertly resist or support decarceration efforts are: Do they have sufficient access to resources (clients, funds, status)? Are their goals (manifest and latent) compatible? What other organizations are they aligned with? How strong are their ties? Are the organizations likely to remain stable over time?

Private agencies can play a major role in implementing juvenile decarceration efforts, either as obstacles to the process, or as constructive participants in it. On one hand, private agencies can provide needed delinquency programs and services in a more effective and accountable way than do most public juvenile correctional systems. In other cases, private agencies have lobbied strongly against decarceration movements, and have refused to program for youth who have already been incarcerated in large institutions.

For a variety of reasons, juvenile court judges as a group have generally opposed decarceration movements. For example, The National Council of Juvenile Court Judges remains the only major national group which still opposes the de-institutionalization of status offenders (runaways, truants, disobedient children), and the removal of these non-offenders from the juvenile justice system.

The courts' objections to decarceration are built-in by-products of the juvenile justice system. To suggest that too many youngsters are in institutions is to obliquely criticize the juvenile court, which, for the most part, is responsible for the youngsters' placement in such facilities. It is a reflection on the screening processes, the clinical or diagnostic expertise, and the operating philosophy of the juvenile court itself. Therefore judges often oppose al-

ternative methods of handling the juveniles who have historically been institutionalized.

Therefore the attitudes, actions and political influence of the juvenile judiciary become important consideration in the implementation of decarceration efforts.

Moreover, if decarceration is to be a juvenile corrections executive's policy, it is essential that he or she have enough direct authority over his or her own programs to accomplish it. Commitment power - the ability to place institutionalized youngsters in the community or for the transfer of youngsters within the juvenile correctional system, is crucial to the change effort.

Thus, in order to understand change processes in juvenile corrections one must first look at the interorganizational context in which they occur. In the succeeding sections the juvenile correctional environment of the four states under study are examined. Special attention is devoted to a description of the inter-organizational network in each state, and an examination of significant intra-organizational concerns. Specifically these include:

- 1) The state juvenile correctional agency's commitment to decarceration and its capacity to act on that commitment; or status and power;
- 2) The interorganizational constraints on agency's operation posed by its operating environment;
- 3) The role of private agencies in the decarceration process; and
- 4) Actions of the judiciary in regard to decarceration goals.

MASSACHUSETTS

Commitment to Decarceration

When Dr. Jerome Miller became Commissioner of the Massachusetts Department of Youth Services in 1969, he did not originally plan to decarcerate the Massachusetts training school system. As various authors have attested (cf. Rutherford, 191 Bakal, 19, Behn, 1975). Miller's initial efforts were directed at achieving humane improvements and reforms within the training school system, and on developing community based programming in keeping with the new legislation.¹ His efforts in these areas were thwarted by resistance from the staff of the training schools, and by the lack of effective sanctions against staff that could be used by the Commissioner's Office.²

When Miller found that his initial attempts to achieve basic reforms yielded for substantive results, and actually increased staff rigidity to reform, he came to the conclusion that both real change and humane treatment could not occur in an institution-based system of juvenile corrections. He then resolved to establish a juvenile corrections system based on small facilities "street programs" and community-based supports, rather than on large institutions. Miller's commitment to decarceration goals must be described as very high. As Commissioner he took aggressive administrative action toward achieving this goal. He reallocated the resources allotted to the Department, placing a high priority on the development of community based programs and services.³ He used his executive authority to arrange large-scale transfer of youth out of institutions and into advocacy-type arrangements (cf. Ohlin, Coates & Miller, 1973). He also used his contacts with the news media to foster a public environment conducive to change goals,⁴ in effect "exposing" conditions extant in his own department which were ostensibly

his own responsibility. Miller's willingness to undertake these activities is indicative of a commitment to decarceration that superceded generally accepted tenets of conduct thought to be conducive to administrative survival.

Power and Authority

Miller's strong commitment to decarceration was assisted by the fact that his organization possessed the power and authority necessary and sufficient to achieving decarceration. The Massachusetts Department of Youth Services possessed the statutory authority to commit youth to the programs within its purview, and to transfer and release youth from these programs dependent on their individual needs. This power was not contingent upon judicial approval, although judges often indicated on their mittimus, or "commitment paper" the facility to which they wished to send a particular youth. Unlike juvenile justice executives in Florida and Ohio, however, Miller was willing to make use of his organization's authority to commit and transfer for the purpose of significantly reducing the populations of large institutions, and to ultimately close them. Thus, The Department of Youth Services had control over the fiscal resources of its institutional system (see Pennsylvania for a contrasting example), as well as the movement of youth within that system. This power and authority, coupled with the organization's strong administrative commitment to decarcerate seems to be highly significant to the success of change efforts in Massachusetts.

The Role of the Judiciary

The judiciary played a significant oppositional role in the effort to decarcerate in Massachusetts. Although they did not have statutory authority to com-

mit youngsters, prior to Miller's arrival, the Department of Youth Services had established a tradition of acquiescing to the wishes of the juvenile judiciary in most cases. Some politically powerful juvenile judges resented this (to them) apparent usurpation of their authority, and utilized their influence in the press and the legislature to hamper efforts by Miller and his associates in DYS.⁵ Given the long history of political appointments and patronage in the Massachusetts juvenile justice system, efforts that could be seen as resulting in a loss of jobs (and thus political influence) would easily engender such opposition. Some of the more vocal judicial opponents, most notably Judge Francis Poitras of the Boston Juvenile Court, attacked Miller's aims and efforts in the name of public safety.⁶ Indeed, as the decarceration process wore on, DYS developed a specific approach to dealing with judicial resistance, which was structurally incorporated as the "court liaison program". Personnel from each of DYS' six regions were assigned to local courts to establish working relationships between the state agency and the judiciary. In this way, judges' legitimate desires regarding the placement of juveniles could be met, while DYS maintained its commitment authority. According to two former DYS officials, this cooperative approach was effective in terms of minimizing judicial resistance to change particularly from the less vocal members of the judiciary. In all, judicial opposition was high but its effectiveness was limited by the lack of commitment power, and by the relatively effective technique used by the state agency to minimize resistance.⁷

Private Agencies

Private agencies in Massachusetts made significant and positive contributions to the decarceration efforts in that state. Among Miller's staunch supporters

there were The League of Women Voters, The National Council of Jewish Women, and the many local church and civic groups actively supported Miller's efforts, and he utilized these groups as a source of political support and lobbying power. Thus, these private agencies were important as sources of public support for change related activities.

Different kinds of private agencies were also crucial to the effort on another level. In the effort to create a range of community based alternative programming Miller utilized both and established new private service vendors. Close to 200 different programs and services resulted from these efforts, some of which were later to fold, and others of which were later to garner both success and fiscal reward.⁸

The decarceration effort in Massachusetts also received unique support from the large academic community in Massachusetts. In addition to nominal kinds of support, the University of Massachusetts participated actively in one strategy to deinstitutionalize a training school facility (cf. Ohlin, Miller & Coates). This level of active support; from interest groups, private service vendors and academia alike, was not present in the other states studied.

PENNSYLVANIA

Commitment to Decarceration

When Dr. Jerome Miller became Pennsylvania's Governor Milton Shapp's Special Assistant on Juvenile Corrections in February of 1975, his personal commitment to decarceration goals had not diminished. However, the context in which he sought to achieve these goals had changed, by virtue of the fact that his reputation for reform in Massachusetts and Illinois had preceded him to Pennsylvania, and engendered strong opposition. More importantly, the state agency of which Miller would soon become Commissioner was relatively powerless, and could not control either its semi-autonomous local operations or the movement of youngsters within its programs. Thus, commitment to decarceration in Massachusetts was muted considerably by the lack of the capacity to act on it. These issues are discussed more comprehensively below.

Power and Authority

Pennsylvania's primary juvenile justice service provider - the Department of Public Welfare - operated in a turbulent environment which was characterized by a history of inter-agency conflict, many centers of power and competitive relationships among the agencies who controlled that power. Conflict in the system most often resulted from the issue of control over juvenile commitments. Unlike Ohio, Florida and Massachusetts, Pennsylvania is one of only five states in which juvenile court judges have complete control over dispositions in all juvenile cases. (Levin and Sarri, 1974:)

Pennsylvania judges have claimed the prerogative of assigning youngsters to the individual facilities, operated or funded by DPW. Often judges assign youth to specific programs and/or cottages within the facilities. In effect, this sets limits on the movement of youngsters within the facility itself. Similarly, DPW officials acceded to the wishes of the judges by refraining from moving youngsters out of their facilities into community based programs without prior judicial approval. DPW officials and program staff who do not comply with judicial orders can be threatened with contempt of court.

There is some question however, as to whether this was the correct interpretation of the law. For example, in 1973, in order to correct some of its operational problems, DPW officials sought a legal opinion from the state's attorney general regarding whether it had the power to transfer juvenile offenders within its own system. The Attorney General's Office responded that the Department Center to another Youth Development Center or Forestry Camp without prior court approval, but that the transfer was subject to later review by the committing court. He qualified his opinion further by stating that DPW's transfer power was not an unrestricted right to determine placement, but would rather restrict it to reasons of health, security or morale. Placing the most conservative assessment on this phrase, he said that the Department had the authority on an ad hoc basis to transfer individual juveniles, but that this procedure could not supplant "normal judicial placement procedures". At the time that this opinion, the Governor's office requested an opinion regarding the authority of the Department of Public Welfare to close its institutions. Again, the Attorney General's office gave a conservative opinion summarized as follows:

"In my judgement a threat to enjoin the secretary of Welfare from closing a Youth Development Center should not be taken lightly. It is at least arguable that the closing of such an institution would violate the Secretary's statutory duty to operate the Youth Development Centers which were created by statute and to assure the availability of appropriate juvenile institutions."

Although the general thrust of these opinions was conservative, they reveal that there is at least some question as to whether the power existed or not. It is clear however that there is nothing in the juvenile law that directly grants this power to the judges. Adding to DPW's officials in charge of youth services had no direct "line authority" over their own operations. In the DPW organizational structure the Deputy Secretary for Social Services is responsible for all program goals, standards and resource allocations. He, in turn, is responsible to the head of the agency, the Secretary of Public Welfare. Under the Deputy Secretary are all program officers who like the Commissioner of Children and Youth, are responsible for carrying out agency policy in their particular area. However, agency operation at the local level is the responsibility of the Deputy Secretary for Social Services, however, but rather to the Deputy Secretary for Operation. The Operation's Deputy is completely autonomous of the social services wing and is responsible only to the head of the agency. As a result, the office of Children and Youth lacked not only the commitment power mentioned earlier, but also control over its own delinquency programs. In addition, the juvenile judges' interests were represented by a politically connected group. The Juvenile Court Judges Commission. This group effectively neutralized

all efforts to weaken the judges control over juvenile commitments.

As a result, although the Pennsylvania Department of Public Welfare is a primary provider of delinquency services and funds, it had not control over admission to or discharge and transfer from either state operated or state subsidized facilities. Conflicts between DPW and the Judiciary were usually precipitated by a crisis in the institutional system - overcrowding, and racial imbalance, for example - resulting from the complete separation of systemic authority (judges) from responsibility (DPW).

Prior to Miller's appointment as Commissioner, the Office of Children and Youth within DPW had a history of not planning its own policy. By avoiding potential areas of conflict the State Agency had abdicated its policy-making authority in the juvenile arena. Instead, policies were orchestrated by a relatively small number of powerful juvenile judges who controlled commitments to DPW facilities. DPW's unwillingness to adopt consistent policies and to take aggressive action ensured that these powerful members of Pennsylvania's delinquency network could dominate the administration of statewide delinquency services and could, in effect, dictate policy.

Thus, the Pennsylvania Department of Public Welfare is a reactive organization, the mercy of its interorganizational environment. DPW's involvement in the decarceration movement under study is perhaps best illustrated by its part in the development of the security units necessary for the success of the change effort in Pennsylvania. Early in his tenure as Commissioner, Miller requested that the existing staff within DPW play an active role in developing programs for these facilities. The following response to his request came from the Director of Treatment and Training in the Office of Children and Youth on July 1, 1975.

"This is to confirm the mandates given to me by you to create security beds at YDC Cornwells Heights and YDC Newcastle. With the expected Supreme Court decision on Capital Right to Treatment it was ill-advised, unprofessional and unconstitutional for us to place youngsters in newly created secure facilities without a viable treatment component. Therefore, I will be sending to you in draft form on or before August 15, 1975 I shall deliver to you a number of security beds and a trained staff, trained in treatment as well as custody, to operate security facilities at Cornwell Heights and Newcastle. This is a mandate given to me by you and if I am in error please advise. Unless I hear from you to the contrary I will proceed and will deliver security beds for you on or before August 15, 1975."

When August 15, 1975 arrived, this individual working with other Department of Public Welfare program staff, had failed to set up even one security program. Ultimately, private agencies in contracted staff were used to provide security options. This failure to act marked one of the few times that Miller requested the assistance of regular DPW staff. The general inability of this large organization to take positive action contributed greatly to the strategy for decarceration in Pennsylvania which called for the development of an autonomous, private non-profit agency to perform DPW functions.

The Role of the Judiciary

As indicated previously, Pennsylvania's juvenile court judges exercised virtually unchallenged control over vital input resources (clients) of the other organizational actors. As Baker and O'Brien assert, an organization that possesses such controls will exert great influence on the goal-selection and decision making of other organizations (1971). Through the power to make or withhold commitments of youth to public and private agencies, the courts in Pennsylvania dominated their interorganizational environment. In fact, there seems to be a relationship between the commitment rate of juvenile courts and their active involvement in all system activities. For example, the most active judicial opponents of decarceration in Pennsylvania were the judges from Allegheny County (Pittsburgh and vicinity). In 1975 this court made 50% of all commitments to the three largest state institutions for delinquents, which comprise 70% of the population of the state system. However only 13.5% of the state's children at-risk reside in Allegheny County.⁹

These judges used their commitment power in what has been called, a deliberate effort to undermine an alternative security unit, and thus the decarceration movement. For example, in September, 1974, the Camp Hill prison received seven juvenile commitments from Allegheny County. In September of 1975, one of the security units designed to replace the prison as an option for juvenile offenders received 17 youth from Allegheny County, more than the new facility could hope to handle effectively. Indeed, from January 1 to August 15, 1975 (almost 9 months) Allegheny county had made a total of only 25 commitments to the prison. C.C.A. was forced to spend a good proportion of its resources to ensure that the unit was secure. (it. Mattingly, 1977).

This attempt to undermine the decarceration effort was not the first evidence of opposition from the Allegheny County juvenile judges. In May, 1975, while testifying before the Pennsylvania House Subcommittee Corrections. Judge Patrick Tamilia stated:

" To the juvenile justice system, the tight security represented by Camp Hill is the firm back-up which permits the rest of this system to function."

At the same hearing, Judge Maurice Cohill from Allegheny County suggested three alternatives to Camp Hill:

- 1) Legislation which will again permit juveniles to be committed with adult prisons at Camp Hill;
- 2) The transfer of adults to places like the State Correctional Institution at Pittsburgh and leave the whole of Camp Hill as a juvenile institution. This, despite the fact that all of the adult state correctional institutions were already overcrowded; and
- 3) Construct or remodel institutions around the state to provide secure facilities for smaller numbers of juveniles closer to their home and leave Camp Hill as an adult institution.

Judicial opposition to change was in large measure successful in Pennsylvania. Since judges controlled all movement of youngsters within the juvenile justice system, they were able to withhold release from the youngsters in the prison, and overload new alternative secure facilities. In addition judges were able to mobilize political opposition to the decarceration effort¹⁰ as well as influence the public media, particularly in the western portion of the state. The fact that the decarceration movement proceeded no further than the prison is due in large part to judicial opposition.

The Role of Private Agencies

Private agencies yielded much less support for the decarceration movement in Pennsylvania than they had in Massachusetts. Miller was not able to build a base of support from the same agencies he had relied on in Massachusetts. A number of agencies, among them the Council of Jewish Women, the Juvenile Justice Center of Pennsylvania, utilized their connections with civic groups to influence the legislature. However, consistent, broad-based support for the decarceration movement is nowhere evidenced in Pennsylvania.

Moreover, few agencies were willing to either establish new programs for "hard core" delinquents, or to take these youngsters into their existing programs. Only one such agency - the House of Umoja - a gang-related program in Philadelphia, was consistently willing and able to provide high quality programming for youngsters being released from the Camp Hill prison. According to the supervisor of C.C.A.'s Camp Hill Unit, who was in charge of developing placements for the incarcerated youngsters.

"Most agencies we contacted seemed afraid of these kids. They were afraid the kids were too tough, too physical, too "heavy" for their programs. They felt that even if a kid did well, he would be too tough for the kids they had. Some of them weren't willing to buck the juvenile judges, who put one program out of business by refusing to commit kids there."¹¹

Thus, the fact that it was extremely difficult to utilize private service providers for "hard core" delinquent youth seems to have contributed to the slow pace

of the change effort, and the difficulty with which it had to proceed.

Ironically, since the state agency was unable to act on its own it in effect created a private agency (C.C.A.) to actively accomplish the activities necessary to achieve decarceration goals.

FLORIDA

Commitment to Decarceration

Mr. Ollie Keller, former Commissioner of Youth Services in Florida was highly committed to decarceration goals. He envisioned a youth correctional system centering around small, community based services, and moving away from the use of large delinquency institutions, particularly for status offenders and youngsters who had committed relatively minor crimes. Florida's Department of Youth Services had commissioned two independent studies of the population in its institutions, which revealed that only 6.7% of the youngsters committed to the Department had perpetrated violent crimes.¹² The remainder had been committed to the Department for property offenses as Children in need of supervision, or for other non-violent crimes. Thus, Mr. Keller felt that his Department could remove more status and minor offenders from the institutions in Florida, and felt strongly that there was a pressing need to do so. Given the premises of an "evolutionary", or gradual approach to decarceration, Keller took aggressive action to allocate funds for the development of an array of community based programs. While he succeeded in developing these programs for lesser offenders, there was no reduction in institutional population. In effect, the Florida Youth Services Department has expanded both budgetarily and in terms of the number of youngsters in residential placements.

Power and Authority

One reason why commitment to decarceration was not successful in achieving decarceration goals in Florida may be found in the question of organizational

power and authority. Unlike Pennsylvania, Florida's primary youth serving agency had the necessary resources¹³ and authority to become a dominant force in the juvenile justice network. During Keller's tenure, the Department received a continually increasing flow of funds¹⁴. In addition, it was within the agency's power to commit or transfer youth in its custody without prior judicial approval (cf. Levine and Sarri, 1974) much as was the case in Massachusetts. The Department had for years acquiesced to the wishes of juvenile judges in this matter, however, and rarely exercised its commitment power without judicial involvement and consent. Thus, although the state actually possessed the authority necessary to empty its institutions, that authority was never used. This option being perceived as closed, Keller used a cooperative approach which entailed judicial approval, and hoped that the judges would coalesce to his approach to deal differently with status offenders. Indeed, judges were willing to utilize less restrictive options for status offenders. However, since Florida spent a considerable portion of its resources on these new placement facilities, but did not opt to control intake to state-operated and state run facilities all of Florida's facilities were and still are filled to capacity. Thus, it can be stated that a commitment to decarceration goals must be coupled with the willingness to utilize existing commitment authority if those goals are to be achieved.

The Role of the Judiciary

Florida's Juvenile Judiciary was largely supportive of the effort to develop a range of community based programs, since they realized that far too few such placements existed in Florida prior to Keller's tenure. In addition, proponents

of the change effort did not attempt to restrict judicial commitment power (as was the case in Pennsylvania), or create any publicity that would reflect adversely on the judges prior activities. Indeed, not until Florida's proposed reorganization did judges become vociferous regarding DYS operations, and then only about specific facilities.¹⁵

In fact, in the interviews conducted for this study, Keller stated that he had established good working relationships with the judges, and that he attempted to involve judges in the process of change whenever feasible. Thus, Florida's Juvenile Judges were actually involved in the processes of change. It may be that involvement in this process contributed to a delution of the state agency's commitment to decarceration goals.

The Role of Private Agencies

Private agencies were actively involved with the process of change in Ohio, although much of their involvement was predicated on entre preneurial interests. The League of Women Voters in Florida devoted much of its efforts toward dealing with status offenders, as did other civic organizations in the state. One organization aggressively backed Keller's decarceration efforts. The Center for Children and Youth was consistently supportive of decarceration goals, and has presently built up a constituency of interested citizens. Consistent support from other interested groups was lacking, however.

On another level, private agencies benefitted greatly from the increase resource allotment for private agencies and programs. The number of youth in private community programs in Florida increased from 35 to 1150 from 1969 to 1975. Private

service providers were the primary beneficiaries of the new priority on developing community programs. These programs did not compete for either the funds or the clients of institutions, however. In consequence, the vested interests of the private agencies were not connected to a reduction in the amount of resources allocated for institutions. As a result, private service vendors were not strong advocates for reducing institutional populations.

OHIOCommitment to Decarceration

In Ohio, the Youth Commission is appointed by the Governor. As indicated by many of our informants,¹⁶ it is unusual for an individual to be appointed to, or even to work for the Ohio Youth Commission, if he/she is not a republican. Ostensibly, the Director of the Ohio Youth Commission is a person of authority, and controls an enormous budget with which to develop programs for youth. However, during the interviews conducted for this study, the Director seemed unable to respond to questions that dealt with substantive issues. Instead, his Deputy Director for each youth category responded for him. It appears that agency operations are actually controlled by civil service program staff. Other informants told us that the Director is always present at ribbon-cutting ceremonies, important social affairs, and ceremonial dinners, but that his capacity for action on issues within his agency is limited. As a result, commitment to decarceration goals is virtually non-existent.

Power and Authority

As a result, the Ohio Youth Commission maintains a placid non-controversial stand in its dealings with other organizations in this system and on most issues of importance. For example, Ohio is only presently beginning to enforce the 1974 Juvenile Act requirement that status offenders and non-delinquent youth not be held in jails and correctional facilities. At the same time, however, the Ohio Youth Commission gives the appearance of professionalism and is familiar with the current rhetoric surrounding juvenile justice issues. It was note worthy that the

stated concerns of OYC staff related to organizational and political problems personnel of that agency expressed little interest in programmatic or youth related concerns in the interviews conducted for this study.

The Role of the Judiciary

Judges in Ohio are the dominant force in the juvenile justice network, since the Ohio Youth Commission has never exercised its commitment powers. From our interviews, judges favored the use of institutions for status offenders and for more hard-core delinquents, and expressed little interest in community based programming for delinquents. In one interview, Judge Walter Whitlach of the Cleveland Juvenile Court (the largest committing court in the state) stated:

"If it weren't for status offender traits on characteristics we wouldn't commit many children. Status offenders and delinquents are frequently tweedle dum and tweedle dee. The whole idea of institutions as a bad place or jail or prisons as not fit for humanhabitation is misdirected. The only reason why this is true is that the people who ought to be interested who are raising a hue and cry about this, don't want to do anything to make the schools the kind of places they should be. They want to turn everybody out."¹⁷

This judge was a staunch advocate of construction of additional training schools¹⁸, and expressed a desire to increase the numbers of Ohio Youth in institutions.

Judge Whitlach and other judges in Ohio were not faced with a decarceration movement, and thus played no role in it. It is safe to assume however, that judicial control over the movement of youngsters, coupled with a strong emphasis on institutional placement, minimized any impetus for change that may have existed within the Ohio Youth Commission.

Private Agencies

The private lobby for decarceration, consisting largely of the League of Women Voters and the National Council of Jewish Women were not active supporters of the decarceration movement. The League did conduct an independent study of the populations of Ohio Youth institutions however, which revealed that 86% of institutionalized youngsters in Ohio had not committed violent crimes, and only 14% had ever been tried in community based programs.¹⁹ Very few private programs handle delinquent youngsters in the state, although the state does contract with private agencies for its dependent and neglected youth. No private agencies are supportive of decarceration goals in Ohio.

FOOTNOTES - SECTION 2

¹ Andrew Rutherford. The Dissolution of Training Schools in Massachusetts. Academy for Contemporary Problems: Columbus, Ohio, 1974, p. 7.

² Ibid. p.8

³ Ibid. p. 10

⁴ Robert D. Behn. "Closing the Massachusetts Public Training Schools" Police Sciences, Volume 7, 1976, p. 155.

⁵ This pattern was to be repeated in Illinois, and later in Pennsylvania, as subsequent sections of the matrix attest.

⁶ According to Miller, Judge Paitrast was engaged in an on-going effort to reopen the training schools even after they were effectively closed.

⁷ Interviews with Tom Jeffers, former Deputy Commissioner, on October 17, 1978 and Joseph Leavy, Miller's successor as DYS Commissioner, on October 19, 1978.

⁸ As is discussed in Chapter 5, one small service vendor now has contracts in excess of \$4 million.

* ⁹ Children in Pennsylvania, 1975.

¹⁰ See Decarceration Matrix Section 3 on political environment and Section 4 on Crisis and the Public Media.

¹¹ Interview with Harvey Lowell, former Supervisor of the Camp Hill Unit, on April 20, 1978

¹²See "Is Juvenile Justice Too Permissive?" by Larry Palioka, DHRS Evaluation Specialist, July 25, 1977.

¹³Budget Report for Florida, 1977.

¹⁴See, for example, St. Augustine Record, April 2, 1978.

¹⁵Specifically, judicial attention was focused upon, for example, the West Palm Beach Detention Center in January 1975; the Orlando Regional Juvenile Detention Center in March, 1978; Dade County Youth Hall in March, 1978; and the Alachua County Juvenile Detention Center in June, 1978.

¹⁶Among those acknowledging the presence of political appointments were the League of Women Voters in Ohio, the Academy for Contemporary Problems, and various staff at NYC.

¹⁷Interview with Honorable Walter Whitlach.

¹⁸Ibid.

¹⁹Interview with Donna Hanparian, staff member of the Academy for Contemporary Problems, which conducted a study of Ohio's delinquent population.

SECTION 3

Political Factors

It was necessary to examine the political environment of the states that we visited because change in juvenile justice is often highly dependent upon overall political conditions. Juvenile justice operation, change, and reform involve legislative, fiscal and budgetary matters, which may themselves depend completely upon considerations external to the juvenile justice network. Moreover, reform in criminal justice is often a political issue. The investigation of political alliances, conflicting budgetary pressures and legislative proposals is necessary for a complete understanding of the context in which change is attempted. Furthermore, it is necessary to make an assessment of legislative and executive fiscal policies, and the formal and informal limitations imposed on funding agency operations by significant actors in the political environment. These actors usually are not directly connected with juvenile justice operations or reform activities.

Since criminal justice is perennially in the forefront of social concern and public awareness, the process of systemic change is a public and political issue. The use of symbols and images, and the manipulation of those images by the media, are crucial to the outcome of any attempt of change. Those benefitting the most by manipulation of these concerns are not the media themselves, but political figures who must be conscious of public concerns. Thus, change in juvenile justice provides political figures and political groups with an opportunity to popularize themselves with the electorate. It is therefore incumbent upon anyone either attempting or analyzing reform to identify relevant and powerful political figures and to assess their ideological leanings, and

their potential for influencing juvenile justice reform. Particularly important to such an analysis are the connections that various political figures have with individuals and organizations active in the juvenile justice system. Some politicians may have ongoing political alliances with the judiciary, for example. Others may have stronger connections to the governor's office. Still others may have significant contacts and/or control patronage positions within the public welfare structure and all have some relative strength within the state legislature. Any and all of these factors provide politicians and elected officials with the capacity to hamper, hinder or foster reform efforts.

Also crucial to any analysis of juvenile justice reform and reform strategies are the historical patterns of legislative activity surrounding juvenile justice issues. An analysis of this activity facilitates an assessment of the appropriateness of the strategy employed to achieve change, and may help delineate possible avenues for future influence. Moreover, such an analysis will yield a clear picture of the thrust of juvenile justice programming in a given state over time. It may help provide a partial picture of legislative intent in the juvenile justice system on an on-going basis, and the direction the legislature has intended that funding be provided for in the juvenile justice activities. For these reasons, an examination of prior legislative activities in the juvenile justice area must be a crucial element of any assessment of change.

Thus, an analysis of the impact of political factors on decarceration process focuses on the following three areas:

- 1) A general assessment of the characteristics of the political environment of each state that are relevant to change in juvenile

justice;

- 2) An assessment of gubernatorial positions and actions in each state, as these appear to be significant to the success of reform efforts; and,
- 3) A description of the legislative trends regarding juvenile justice issues, as an indicator of the legislative position on reform activities.

MASSACHUSETTS

Political Environment

With its tradition of political involvement, Massachusetts provides an example of the political issues which undergird established patterns of institutionalization and confinement. For example, in this state virtually all of the staff in the Department of Youth Services had gained their employment through direct or indirect political referrals.¹ The DYS Commissioner immediately prior to Miller left files in his desk listing all departmental employees, along with their "patron", or sponsor in the legislature or local government. Such sponsorship was a prerequisite for employment with the agency. In 1969, therefore, fewer than 50 of the 800 DYS employees had taken a civil service exam.² The remainder were protected by a "grandfather clause" in the 1969 legislation³ which guaranteed all DYS employees civil service rights and protection.

The issue of civil service jobs emerged as a significant issue in Massachusetts. For example, following the exposure of brutal conditions of mistreatment in the county training schools,⁴ and the subsequent development of an "alternative school", one county training school lost all but one inmate of its entire inmate population.⁵ As a result, when the school's budget hearings were held by the Ways and Means Committee of the Massachusetts legislature, its per capita cost was more than \$250,000. The legislature approved this budget, however, because county training schools provided patronage to local legislators from rural areas. Indeed, two former commissioners of the Massachusetts Department of Youth Services informed us that they could anticipate legislative opposition from those legislators whose distrust depended on institutions to provide jobs.⁶ Although the issues of public

service jobs has been neglected in the deinstitutionalization literature, the pattern of legislative opposition has parallels in the other states studied.

Through a busy public speaking schedule, radio talk shows, TV appearances, etc., Miller and others in the reform administration were able to stimulate an appreciable amount of public support for the decarceration of juvenile offenders. The Commissioner and his immediate staff made hundreds of appearances to discuss problems in the training schools, the need for reform, and the inappropriateness of incarceration for the majority of juveniles. In addition, the juvenile offenders from the institutions were themselves involved in developing support for the reforms.

For example, a "Youth Services Legislative Day" was held, on which over 200 juvenile offenders from various institutions in the state were brought into the State Capital. An auditorium was used to show films of institutional life, alternative programs, etc. The juveniles were given name tags and the names of their legislators and were encouraged to "lobby" them for the changes needed in the system. The impact of legislators meeting face-to-face with "delinquents" from their legislative districts was striking, and served to moderate some of the law and order rhetoric characteristic of politicians speaking to and about stereotypes, rather than about children and adolescents who were not unlike their own sons and daughters in appearance.

Perhaps the strongest lobby in Massachusetts was the League of Women Voters. In addition, the Massachusetts Committee on Children and Youth, and Massadvocacy - a legal group - were consistent supporters of the decarceration of juvenile offenders.

House Speaker David Bartley remained supportive of Commissioner Miller through most of the reform administration. Although he appointed investigative committees to look into changes in the Department, with the exception of the "McGinn Committee", the membership was balanced and controlled in such a way as to avoid political "witch hunts" or similar strategies. Miller had developed a regular relationship with the Speaker and his chief legislative assistants which proved to be of immeasurable help during times of crisis. At one point the Speaker (a democrat) demanded that the Governor (a republican) reprimand Commissioner Miller for having publicly challenged a legislative committee during a hearing on the Department of Youth Services. At the same time, the Speaker's assistants, with his approval, were quietly informing Miller of the persons who were bringing pressure on the Speaker for Miller's removal. Interestingly, these persons were among those Miller had, until that time, considered as allies in the reform of the Department. The "intelligence" supplied by the Speaker's Office, at a time that the Speaker was publicly chastizing Miller, allowed him to adjust political strategies to ensure the survival of the reform and the continuance of the momentum for decarceration.

Representative McGlynn, Chairman of the House Committee on State Administration, remained a staunch ally of the reform of the Department. Although he expressed his concerns about the rapid pace of things, he was able, by virtue of his position and his closeness to the Speaker, to keep potentially hostile investigations by the legislature in hand. Probably the most characteristic of this was the committee appointed by the Speaker to investigate runaways from one of the training schools. The membership was made up of legislators who, for the most part, came from the districts surrounding the institution. As a result, many

of them had numerous close friends, relatives, and patronage positions at the institution. Representative McGlynn, who was not from the area, was appointed to chair the committee. Through personnel and staff contacts with the commissioner, he was able to shape and direct the investigation. In large measure he dealt with the issue of jobs at the institution, and reassured the others on the committee that no jobs would be lost in the reforms. As a result, what could have been a negative report (ostensibly concerned with runaways) turned out moderately positive (having dealt with the more important issues of jobs, and patronage). These issues are the undoing of most decarceration or deinstitutionalization efforts.

Similar quiet but effective political help was forthcoming from the Senate side, particularly from Senator James Kelly, the Chairman of the Senate Ways and Means Committee. The Senator told Miller in private meetings that he would not publicly support the decarceration (one of the institutions to be closed was in his legislative district). However, he maintained strong support for the budgets to purchase of care, etc. Without this sort of quiet support the decarceration efforts in Massachusetts would likely have floundered.

Miller was less successful in other quarters, however, and credits his most effective opposition in Massachusetts to members of the House Ways and Means Committee, which controlled budgetary allotments for new programs. In fact, the political opposition Miller engendered attempted to discredit his efforts by conducting an intensive investigation into the operations and practices of the Department of Youth Services. A "post-audit" committee of the Massachusetts Legislature conducted the investigation. Interestingly, more than half of this committee's membership included legislators whose districts

lost patronage jobs as a result of the largely successful decarceration efforts (the study was released 2 years after the last training school was closed).⁷ Miller's sources on the committee staff informed him that the committee sought to find illegalities which might have occurred inadvertently during the disorganized days when the decarceration process was under way. Rumors circulated among the press that the committee hoped to seek indictments against certain staff members, including Commissioner Miller. After months of examining budget documents, program outlines and memoranda, the Committee issued its report. While the report was highly critical of the decarceration efforts, the committee found no evidence of any illegalities.⁸ Subsequent to Miller's departure, however, the report was used to discredit DYS operations and to harass Miller's successor.⁹

Thus, the political environment in Massachusetts was characterized by a high degree of governmental involvement with the primary provider of juvenile justice services, and a legislature in which both strong support for and strong opposition to decarceration efforts could be found.

Gubernatorial Support

Miller's relationship with the Governor was perhaps more complex than generally described. The Governor remained supportive of Miller's efforts throughout the period of reform. The bottom line was that this support was never withdrawn, and Miller's dismissal or reassignment was never requested.

Though the Governor remained supportive for the most part, he remained silent as well. He later described his role as one of ducking down in a trench while Miller battled from one side and the legislators returned fire

from the other, while the Governor heard the shells fly over his head. At any time, the Governor could have withdrawn his support and the reforms would have died, but he did not do so. On occasions of greater pressure and crisis, the Governor proved to be strong in his support. When the state house was picketed by "old guard" youth service employees, or when the Governor was presented with the petition signed by hundreds of local citizens from the community surrounding a training school demanding the ouster of Miller, the Governor continued his support. On such occasions, he would meet privately with Miller, outline how he would have to chastize the Commissioner mildly in front of whatever protesting group, that Miller should not "take it seriously" and go on with his plans. Thus, unlike the other states studied, Miller's support from the Massachusetts Governor remained strong and consistent over time.

Legislative Trends

The major legislation which influenced decarceration in Massachusetts was Chapter 838 of 1969, which established a Department of Youth Services. Prior to this legislation Massachusetts had a "board" much like the Ohio Youth Commission with similar powers.¹⁰ Although the reform legislation allowed decarceration to take place, it did not mandate such reform. Generally it called for the establishment of treatment programs, community programs, and higher institutional standards. In fact, virtually all of the reforms associated with decarceration in Massachusetts could have occurred as well under the old "Youth Service Board" legislation, had there been the will and the determination to move in that direction.

There was no further reform legislation during the decarceration of

Massachusetts training schools, although many legislative proposals sought to stymie the reforms. These would have given judges power to assign youngsters to locked facilities, removed the Commissioner's discretionary transfer authority, allowed parole agents to carry guns, and so forth. These were regularly defeated in the legislative process.

During the decarceration effort, the legislature presented the Commissioner with approximately 5 million dollars in "capital outlay" for new institutional buildings, including one virtually totally new institution. The Commissioner refused to request or support these appropriations and did not spend any monies allocated.

PENNSYLVANIA

Political Environment

Pennsylvania's juvenile justice system had a history of scandal. In the 50's and 60's a series of scandals in the state private institutions led to the development of a system of training schools known as the Youth Development Center. In more recent years, the continuing controversy surrounding juvenile confinement in the State Correctional Institution at Camp Hill captured some public attention. In 1975 publicity surrounding the harsh conditions of confinement for juveniles at Camp Hill, and the suicide of a 16 year old status offender in that institution, brought the issue of juvenile justice and Pennsylvania's juvenile justice practices into public view. The highly visible, easily politicized issues of youth crime and juvenile corrections then became political concerns.

From the beginning of 1975, the political environment around juvenile justice issues became highly turbulent. Political and public figures became deeply interested in the controversy surrounding juvenile corrections.

The state legislature was to play a key role in the political implementation of the decarceration movement. The debates of the Pennsylvania House Sub-committee on Juvenile Corrections and Treatment, for example, were largely supportive of the decarceration effort. The two leaders of the Sub-committee - black democrats Joseph Rhodes and David Richardson, from Pittsburgh and Philadelphia respectively - actively supported Miller's efforts and Camp Hill Project activities generally.¹¹

Opponents of the decarceration movement in the State Legislature had strong political ties to juvenile judges who were working actively against the proposed changes.¹² The most prominent legislative opponent of decarceration was the powerful

Democratic Senate Majority Leader from Pittsburgh, where he was affiliated with the most vocal of the opposing juvenile judges. Senator Thomas Nolan would later use his chairmanship on the Senate Committee on Corrections to effectively hamper the decarceration effort.¹³

In addition, two state representatives from the Harrisburg area used the effort as an election issue, and actively opposed the development of a small isolated security program that was a departure from traditional types of institutions.

Also impinging on political developments in Pennsylvania was the fact that the state's Juvenile Court Judges Commission -- a lobby group representing the interests of the state's most powerful and conservative juvenile judges - had strong connections to the state legislature, as well as the ability to use influence that body on juvenile justice matters.¹⁴

The Department of Public Welfare, on the other hand, had such a tremendous overload of resources and a preoccupation with administrative problems that it was impossible for it to mobilize resources around an issue in other than a defensive way. In October of 1975 the House Subcommittee on Juvenile Corrections and Treatment held hearings on the alleged beatings of youngsters at the prison. These hearings were the impetus for a loosening of the constraints of the placements of youngsters in community based alternatives (cf. Lowell, 1979). As a result of the publicity accorded these hearings, Judges seemed to become more willing to accept release placement plans for the juveniles they had committed to Camp Hill. On the other hand, the Senate Select Committee to investigate the Administration's Juvenile Delinquency and Detention Policies worked in conjunction with the Judges from

Senator Nolan's district to undermine CCA programs and to dismember its administration. In Senator Nolan the outspoken judicial opponents of the deinstitutionalization effort had found a valuable ally. He was a democrat machine politician from Pittsburgh with enormous political power in the state senate. No friend of those he perceived to be liberals or radicals, he was a powerful opponent to the change effort.

"Dr. Jerome Miller ... will be the target of a new probe into the closing of Camp Hill ... to harden delinquents. To be very honest the whole point will be focused on Miller; his philosophy and practices pertaining to juvenile offenders", said Majority Leader Thomas N. Nolan.

"I think we are justified in doing this," he added. "It was only after he became Attorney General and Miller appeared in Pennsylvania that troubles erupted. My belief is that juveniles should be under control of the courts not the welfare department. We have too many ultra-liberals running corrections at Welfare."

In addition to the media blitz organized by the Allegheny County Juvenile Judges and Nolan's special investigations committee,¹⁵ the committee held two hearings in Newcastle in February and in March in Pittsburgh. Both the media campaign and the hearings focused on conditions at the Newcastle Security Unit. This unit had been set up as a temporary alternative to the placement of juvenile offenders in Camp Hill. In its initial operations, it was greatly hampered by overcrowding, due to Allegheny County Judges committing youngsters to the new

facility who never would have been committed to Camp Hill. These actions may have been taken to undermine project efforts.¹⁶ Although there were major problems with security and escapes at the Newcastle facility, the hearings were more an exercise in public relations than a substantive investigation. Testimony at the hearings often was unrelated to the actual facts and were designed to sensationalize the issue.¹⁷ Although the committee never took legislative action and no further hearings were held, committee staff continued to subpoena documents from CCA throughout the rest of that organization's existence. When coupled with its other reporting requirements, the committee requirements became a significant burden.

Gubernatorial Connections

One crucial political fact in this process was that Miller had the support and backing of Governor Milton Shapp. In early 1975, when Miller first came to Pennsylvania, Shapp seemed quite committed to rectifying the Camp Hill situation. Later, however, it seemed that the Governor grew more and more disassociated from the everyday operations of State Government and was only concerned peripherally with juvenile justice issues. Miller was able to accomplish a great deal while working in the Governor's office as a special assistant. However, when he left the Governor's office to become Commissioner of Children and Youth, the frequency of his contacts with the Governor diminished. Executive support for his efforts made it easier for Miller to obtain a closing date for juvenile admissions to Camp Hill and eased some of the red tape encountered in state bureaucracies.

However, it was not sufficient for him to gain line control over the operations of DPW's office of Children and Youth and his tenure in that position was notably hampered by a lack of such controls. Miller would later express regret that he had ever left the Governor's Office as he felt that more might have been accomplished had he had the Governor's ear and support as the process wore on.

Legislative Trends

Recent legislation in Pennsylvania evolved out of the state's desire to comply with the Juvenile Act of 1974 and followed the lead provided by the removal of juveniles in the Camp Hill Institution. In 1976 the state passed two laws which militated against the unwarranted placement of juvenile and status offenders in institutions. The most significant aspect of one of these - Public Law 41 - is that it was designed to remove status offenders from institutions and keep status offenders out of delinquency institutions. The law changed the old "deprived" category to a "dependent" category. This new name was significant only in that it included status offenders. The new law prohibited the housing of dependent youngsters in delinquency facilities, however. As a result, youngsters who had been adjudicated incorrigible could no longer be placed in institutions for delinquents. Moreover, dependent youth who ran away from their placements can no longer be charged with a delinquent offense and placed in delinquency institutions.

Public Law 41 projects a state-wide strategy from removing juveniles from detention in county jails and providing for the development of adequate shelter care and detention facilities on a state-wide basis. The law does allow detention in any suitable facility that has been approved by the Department of Public Welfare in Pennsylvania. It also states that no child shall be detained in a facility

with adults or where he/she is apt to be abused by other children. However, until December, 1979 a child can be detained in a facility with adults if there is no appropriate facility available within a reasonable distance or a contiguous county. Even in these cases however, children must be kept separate and apart from adults at all times. The law also sets a limit on such detention of no longer than five days. In brief, until that time a child can be held in jail only if:

- 1) there is no appropriate facility in the immediate vicinity; and
- 2) the jail has been inspected and approved by the Department of Public Welfare.

Moreover, dependent youngsters cannot be held in jail but rather only in DPW approved shelter care facilities: Allegedly delinquent children may also be held in these facilities. Thus, status offenders may now only be held in Shelter Care and not in county jails.

Since county jails were eliminated as detention facilities for delinquents and status offenders, something had to be done for those youngsters who for one reason or another needed to be detained. The law provided for the development of an adequate system of detention across the entire state in order that juveniles not be detained harshly and could be provided with needed services. It required each county to submit a plan describing its own detention needs and a future blueprint for meeting those needs. Additionally, the law set a time limit for prompt disposition of juvenile matters and sets limits on those juveniles who can be detained. Namely, it states that a child may not be detained unless it is necessary to protect the personal property of others or of the child or because

the child may be removed from the courts jurisdictions. Finally, section 25 of this law formally closed Camp Hill to juveniles, even though it had been closed in fact for some time.

The second law, Public Law 148, sought to operationalize the programmatic goals outlined in PL-41. Basically, this act changed the funding patterns for most delinquency programs services, and facilities in this state. It provided a financial incentive for counties to send delinquent youngsters and delinquent independent youngsters to community based programs and for the county to utilize support services on a local level to deal with the problems of children and youth. Specifically the act provided that the state would reimburse counties 75% for a formal adjustments procedure where there was no reimbursement prior to the act. The state would also pay 75% of child welfare staff costs, foster home care, and group home care, where 60% was all it was obligated to provide before the act. In addition, the state would now provide 75 to 90% of the cost of shelter care where it had paid 60% previously. Equally important, the act provided that the state would only pay 50% of the cost of placement of delinquent youth or youth development center facilities, including the secure units and in the youth forestry camp. Prior to Act 148, the state paid 100% of the cost of these placements.

The thrust of the law militated against institutional delinquent placement. One difficulty in implementing the new act was that through administrative maneuvering and record keeping it was relatively easy for some judges to keep youth detained longer than the law permitted. With the development of comprehensive detention plans and services of each county however, these practices would be minimized if coupled with an intensive monitoring program.

More important is the way in which the intent of the fiscal payment procedures mandated in Act 148 is being circumvented. The law provided that the counties would be reimbursed by the Department of Public Welfare for their expenditures. The reimbursement rates for various types of programs were readjusted so that a fiscal incentive was provided for the use of community-based programs, in-home services and other alternative treatment programs. It meant that in order to place a youngster in a Youth Development Center, to secure units on the grounds of Youth Development Centers or to a Youth Forestry Camp, counties would have to pay those facilities for the full cost and wait for their reimbursement from the Department of Public Welfare. As it stands in practice, DPW pays the facility directly and then is faced with the prospect of collecting from the counties. This works well for the county since DPW is notoriously slow in paying them and is usually in a position of owing them money. Thus, DPW can never collect its reimbursement. However, it effectively circumvents the intent of the law since, in effect, counties' payment practices for the Youth Development Center and Youth Forestry Camps have not changed. As a result, there is no fiscal disincentive to militate against placements in large delinquency institutions in Pennsylvania. It is unlikely that the intent of the law will be implemented in this case.

FLORIDA

Political Environment

The issue of juvenile decarceration never reached the political arena in Florida in those terms. Rather, even the mild decarceration proposals were politically diffused during the reorganization within Florida State Government and by the focus on status offenders. One major contributing factor to this was the unstable atmosphere surrounding the appointment of Ollie Keller. When Keller was Secretary of Human Resources, he appointed Mr. Joseph Rowan to head D.Y.S. In an appearance before the committee for H.R.S., Keller indicated that while he and Rowan generally agreed in the field of juvenile corrections, they disagreed on basic issues such as status offender detention.¹⁸

Despite their gradual approach to decarceration and their non-political stance in the overall decarceration effort, both H.R.S. and Keller remained targets for political interest groups. For example, Senate President Dempsey Barron hired a private investigator to do a background investigation of Keller in 1975.¹⁹ Keller had previously been confirmed and this 3 week investigation was to prevent his re-confirmation after Askew's victory. This investigation was unable to refute any of Keller's qualifications, however.

Despite this, Keller was subsequently not re-confirmed by the Senate, primarily because he opposed the legislative re-organization of H.R.S. His counter-reorganization, described by opponents as "building kingdoms"²⁰ and "a new bureaucracy",²¹ was defeated. Any legislative support he once wielded was lost when the Senate voted 36-3 and the House 96-2 to approve the legislative plan.

In sum, the political environment was volatile and active, but not over the issue of juvenile decarceration. The fact that this question never even reached public debate was indicative of the lack of movement in this direction.

Gubernatorial Support and Interest

The support and interest of Governor Reuben Askew in the Florida decarceration movement was mixed. While he obviously supported Keller by submitting Keller's name for re-confirmation as Secretary of Health and Rehabilitative Services in 1974, the amount of actual personal involvement on the Governor's part was limited. There is no question that the executive branch used its influence on the reorganization of Youth Services as well as Human Resources Services.²²

However, the executive office seemed to have an unclear understanding regarding juvenile offender issues, and there is limited data on the Governor's activity during the controversy surrounding Mr. Keller. The central issue with the Department of Youth Services and the Governor's office was the reorganization, with Governor Askew opposing the inclusion of D.Y.S. in the newly-created Department of Rehabilitation. Governor Askew's position was that the D.Y.S. should remain in the Department of Health and Rehabilitative Services. The support and interest was not necessarily tied to an ideological basis regarding youth institutions, but rather was due to the implications of the entire reorganization and its resultant impact on federal funding for Florida projects. There was concern that disruption within D.Y.S. and H.R.S. might jeopardize the current federal financial support in Florida.

The political power of the Governor was tested in his support for the re-confirmation of Keller. Keller's original appointment was confirmed by the Senate, but the Florida Supreme Court ruled that the appointed heads of government had to be reappointed and reconfirmed when Governor Askew began a new four-year term in January, 1975, following an unprecedented reelection. Keller was not subsequently reconfirmed, due primarily to the opposition of Senate President Dempsey Barron. The nomination became a contest between the Governor and Senator Barron. Senator Barron opposed Keller's concept of justice and rehabilitation for juvenile offenders, and was adamant in his desire to remove Keller from his leadership position. Keller's nomination was defeated and was an indication of the political powers of the Senate President.

OHIOPolitical Environment

The legislation cited in the foregoing social history of Ohio - which sets minimum limits on institutional populations - is indicative of Ohio's political environment. This environment is not conducive to the activities of decarceration advocates. For example, Senator ~~Mary Jean Valagnett~~ is the head of the Senate Judiciary Committee. She expresses the need for outside support for her views in order to effect change. She has personally witnessed the horrors of the Ohio training schools. During interviews, she cited incidents where she personally interviewed youth at institutions who were beaten up while she was there, who were too fearful to take showers, and who were constantly afraid of sexual attacks.²³ What she sees necessary is the development of "leverage points" to break through Ohio's institutional syndrome.²⁴ According to the Senator, the system is so entrenched at present that no such levers exist.

This is not to suggest that the political arena is unaware of juvenile corrections. For example, Representative Don Maddox of Fairfield pushed for passage of the 300 youth minimum at the O.Y.C. facility, thus ensuring jobs for his area and minimizing the possibility for reform. In Ohio, however, because of this, reform seems to be a bureaucratic problem. For example, in March of 1978, there was public debate on a youth-related issue. Representative Francine Panchal stated that no one in state government acts as an advocate for children and that the few children's programs provided by the state are by different agencies resulting in "duplication and disjointed efforts".

OYC's response to this criticism was to set up a "commission for youth", a bureaucratic reaction to practical and human problems of youth services in Ohio.

In sum, due to the lack of independent advocacy groups, the disinterest of the Governor, and the professional image and documents portrayed by the O.Y.C., the role of the legislature is limited. Issues such as decarceration are rarely more than transitional concerns. Change, if it occurs at all, can only be minimal.

Gubernatorial Support and Interest

Since there was no decarceration movement in Ohio, it is evident that there was little or no support from the executive branch for decarceration efforts. One of our interviewers indicated that when Gilligan was in office he at least looked into the situation.²⁵ However, since Rhodes has become the state's chief executive, he has expressed little interest in decarceration goals.

Legislative Trends

Given the political arena and lack of executive interest, it is not surprising that proposed juvenile justice legislation is at best only partially in compliance with the 1974 Juvenile Justice and Delinquency Prevention Act. In fact, in 1977, three years after the passage of that Act, the Ohio Juvenile Justice Advisory Board was still split on whether status offenders ought to be deinstitutionalized.²⁶

In September 1976, a complete overhaul of Ohio's system of juvenile correction was recommended by the Attorney General's Task Force on Juvenile Justice. The Task Force urged:²⁷

- 1) the creation of a new cabinet level Department of Youth Services, and the reorganization of all existing state services for children and youth into it, thereby abolishing the present Ohio Youth Commissioner;
- 2) closing and raising the state's largest juvenile correctional facility, the century-old Fairfield School for Boys, which was formally known as the Lancaster Industrial School. The report called the school "too old, too large, too expensive and it just doesn't work". Its population sometimes reaches 1,200;
- 3) Limiting the maximum population of any juvenile institution to 200;
- 4) Shifting the emphasis of state funds away from state institutions and toward local and regional programs such as the model Franklin County Program that diverts juveniles away from the court and keeps them out of institutions;
- 5) Reducing the number of institutional beds maintained for juveniles from 3,000 to 500, and that 500 would be reserved only for serious offenders;
- 6) Introduce an omnibus juvenile reform bill to the legislature to provide stronger safeguards for the rights of juveniles;
- 7) Including in the legislation a law to permit juvenile court judges to issue orders to parents in delinquency cases, and to set a penalty for failure to comply; and
- 8) Opening juvenile courts to media and public.

As a result of the Attorney General's report, legislation was introduced last session in Ohio which reputedly would implement these recommendations in the juvenile justice system. House Bill 460, according to most sources, may be a direct violation of the national mandate outlined in the 1974 Juvenile Justice and Delinquency Prevention Act.

FOOTNOTES - SECTION 3

- ¹Interview with Jerome G. Miller, August 16, 1978
- ²Ibid.
- ³Ibid.
- ⁴Report of Special Commissioner to Investigate County Training Schools (1971)
- ⁵Hampton
- ⁶Interview with Jerome G. Miller, August 16, 1978, and Joseph Leavy, October 19, 1978
- ⁷See Commonwealth of Massachusetts. Joint Committee on Post Audit. Management Audit of the Department of Youth Services, May, 1974. See also the Boston Globe, May 7, 1978.
- ⁸Ibid.
- ⁹Interview with Joseph Leavy, October 19, 1978.
- ¹⁰See pages 105-109.
- ¹¹At crucial points during the decarceratio process, the Subcommittee held hearings which bolstered the political positions of Miller and CCA.
- ¹²Democratic Senate Majority Leader Thomas Nolan had continuing contact with juvenile Judge Patrick Tamilla.
- ¹³During February, 1978, the Nolan Subcommittee held investigative hearings on the operation of the Camp Hill Project.
- ¹⁴See Chapter 4, pages

- ¹⁵See crisis and the Public Media, pages
- ¹⁶Although the Newcastle Facility was designed to gradually accomodate a maximum population of 48, it grew to more than 80 in the 6 months following its opening.
- ¹⁷See transcript of Senate Subcommittee Hearings
- ¹⁸Legis 50/The Center for Legislative Improvement. Legislative Policymaking in Juvenile Justice: Four Case Studies, June, 1976.
- ¹⁹See the Florida News Herald, April 3, 1975, and the Fort Myers News-Press, April 3, 1975, and the Florida News Chief, April 2, 1975.
- ²⁰See the Ocala Star-Banner, April 6, 1975.
- ²¹See the St. Augustine Record, April 2, 1975.
- ²²See the Miami Herald, June 15, 1978.
- ²³Interview with Marigene Valiquette.
- ²⁴Ibid.
- ²⁵Interview with Simon Dinitz
- ²⁶National Youth Alternative Project, Washington, D.C. Youth Alternatives, July, 1977.
- ²⁷See Attorney General Task Force Report.

SECTION 4

Crisis and the Public Media

Contingent as it is upon economic and social concerns relatively unrelated to juvenile justice issues, public opinion on juvenile justice change varies considerably over time. Indeed, public opinion may shift dramatically within very short periods of time. The influence of public opinion on any given decarceration effort is more variable, however.

Therefore, it is often difficult to obtain an accurate assessment of the public view of proposed changes. Such an assessment provides a useful analytical dimension, in that it is a product of other factors delineated in this matrix. In some cases, such as Massachusetts and Pennsylvania, public outcry served to provide impetus for desired changes. Public opinion may also be used to impede change efforts, as it did in the latter phases of the Pennsylvania decarceration movement. Whatever the case, an examination of the key public issues during reform processes is necessary for an understanding of those processes.

The media representation of juvenile justice issues can be one of the most important elements in achieving decarceration goals. The media in any locality receives input from many different sources. Indeed, if the media are to be fair and impartial, they must receive input from a variety of different individuals and organizations. In some cases, media representatives have influential political informants, and thus may receive the bulk of their information on juvenile justice issues from political figures opposed to social service officials or clients.

Media representation of juvenile justice issues may also be a key element

in the public reaction to proposed changes. Favorable media representation can create constituencies supportive of change efforts, and unfavorable representation can intensify opposition to them. In some cases, the media may sensationalize both favorable and unfavorable viewpoints at the same time. For the change strategist and analyst alike, therefore, it is important to determine who influences public opinion, in what direction public opinion is influenced, and to discern the sources of information from which most media accounts derive. In consequence, this study has examined how the media acts to encourage or impede reform efforts, and how they are used by proponents and opponents of such efforts.

In addition, symbols that become prominent during juvenile justice reform efforts are significant in that they probably do not represent anomalies. Most such incidents or conditions - suicide, institutional abuses, sensational crimes - are relatively commonplace occurrences in the system. The fact that a particular incident comes to media attention is less indicative of anything inherent in it but rather more dependent on how it is handled. If there is a political gain to be made from a particular incident, it may well be that the incident will be capitalized upon by those for whom it may have real benefits. Thus, for example, the administrative handling of institutional abuse is usually characterized by "cover-up", or minimally by underplaying the magnitude or the seriousness of a situation. It is therefore imperative to explore whether there were any significant incidents in the juvenile justice systems being considered and how those incidents impacted upon processes of change. Such impacts may have been made in various ways. Among these are:

- 1) Through legislative sensitivity to juvenile justice issues and concerns;
- 2) Through widespread public outcry over conditions either in the insti-

tution or on the streets;

- 3) Through related media representations of those incidents; and
- 4) Through the impact of highly publicized incidents on the political arena in the form of legislative action, bills, or committee hearings.

For each of the four states under study, assessment has been made as to the existence and importance of key catalysts in the processes of change. In two cases, critical incidents were highly significant; in two other cases, critical incidents, while they existed, were not used as a catalyst for change. Rather, they were left unattended, and handled with bureaucratic responses (i.e., non-responses).

MASSACHUSETTS

The relationship of the press to the decarceration process in Massachusetts was an interesting one. Early in his administration, Commissioner Miller made it a publicly stated policy that any member of the press could have access to any institution, room, annex, building, etc. at any hour of the day or night. Youngsters were encouraged to talk to the press, not only about satisfactory institutional programs but about mistreatment, isolation, escapes, discipline cottages, and the like. On those occasions where crises arose, the press were invited in to cover the story and were given free rein. For example, following a rash of escapes from the Boston detention center, (which were often provoked by staff) ¹ the press was invited to interview the escapees upon their return. In one case this procedure revealed that 7 boys had been placed by a staff member in one small locked room and had been handed a crow bar. After three or four had made their way out of a jimmied window, the staff member returned and asked the remaining boys in the room what they were still doing there. At this point the staff member left again and the remaining boys "escaped".

On another occasion, the Commissioner hired a Harvard student who appeared younger than his age, and had him "committed" to one of the institutions. In a period of four days the student had been hit, placed in isolation, observed a beating and other misuse of inmates by staff, etc. This material was given to the press.

Miller maintained a regular communication with the editorial staff of the Boston Globe. The Globe regularly assigned a reporter to cover the Department. He became sophisticated as to the issues, problems, plans and directions of the Department. He regularly visited all of the institutions

and a number of the "alternative" programs, and wrote a large number of articles on DYS issues.

Surprisingly, the other major newspapers throughout Massachusetts were also generally supportive of the decarceration. Though there were numerous "negative" articles, because of the openness of the Department to the press, the paranoia which often accompanies secrecy in bureaucracies never developed. As a result, the general trend in the press was supportive of reform efforts, questioning method and pace rather than direction or goals.

Thus, Miller was consistently able to use crises to generate public support for the change effort in Massachusetts. This "constructive" use of crisis grew out of Miller's willingness to involve the press in events which would normally have been covered up. Generally, favorable press coverage enabled Miller to build supports for his efforts in local communities, and was crucial to developing support for change.

PENNSYLVANIA

The public environment around juvenile justice issues was nowhere more important than in Pennsylvania, and was courted by both proponents and opponents of decarceration. Miller was instrumental in publicizing the deplorable conditions of juvenile confinement for juveniles at Camp Hill. While these initial efforts were under way, a 16 year old hanged himself in the Camp Hill prison. Miller brought this situation to the attention of the Governor, and he was appointed to head an investigation of the incident. The youngster had been committed to the prison for possession of a small amount of marijuana, and had apparently attempted suicide because of sexual pressure in the institution. Miller contacted both the local press and CBS "60 Minutes" which produced a segment entitled "Nobody Coddled Bobby" which exposed conditions in the prison by focusing on the suicide. The publicity surrounding this incident facilitated state and federal funding for the change effort, and enabled proponents of decarceration to gain a foothold in the interorganizational environment.

Miller also used crisis to create change six months later, when CCA was having difficulty placing youngsters in alternative placements. CCA staff working within the prison reported on the beating of 4 youngsters by prison guards, and Miller detailed one of his staff to investigate the incident. When sufficient information had been obtained, Miller released his information to members of the House Sub-Committee on Juvenile Corrections, and to the press. The House Sub-Committee immediately launched an investigation (which gathered much press coverage) and exposed the incidents at Camp Hill to a wide audience. Although the publicity surrounding this incident heightened insti-

tutional staff's resistance to change, it actually broke the logjam regarding juvenile releases from the prison.²

Opponents of the decarceration efforts also used their influence with the press and the media to achieve opposition to change. In Harrisburg, Pittsburgh and Allentown, unfavorable press coverage spurred resistance to the establishment of small community-based security units (those near Harrisburg and Allentown were eventually established - in Pittsburgh, the unit was closed). Unfavorable media coverage was most intense in Pittsburgh and the immediate area. This coverage was engendered largely by Judge Patrick Tamilia, an Allegheny County juvenile judge, and by his political ally, Senate Majority Leader Thomas Nolan. Most of the publicity dealt with conditions at the newly established secure unit, which Allegheny County judges had apparently overloaded in an attempt to undermine the change effort. The following is a listing of headlines from Western Region newspapers during this period (Mattingly, 1977: 271):

February 9 Pittsburgh Press (p. 1):
"Violence, a Way of Life at New Castle Youth Center"

February 10 Pittsburgh Press (p. 2):
"Getting No Place With Youth Plan --Tamilia"

February 22 Pittsburgh Press (p. 1):
"Escapes, Pot Plague Center at New Castle"

February 23 Pittsburgh Press (p. 1):
"Camp Hill Decision To Cost \$5 Million"

February 27 Pittsburgh Post-Gazette (p. 1):
"New Castle Chief Rips Mixing of Delinquents"

February 29 Pittsburgh Press (p. A2):
"New Castle Center A 'Minus' . . ."

March 8 Pittsburgh Press (p. 1):
"Tricked On His Own Delinquency Bill, Nolan Charges"

March 18 Pittsburgh Press (p. 2):
"Nolan Panel Probes New Castle Youth Unit Fire Safety"

March 18 Pittsburgh Press (p. 2):
"Criticism Health, Cohill Says"

March 15 Pittsburgh Press:
"Youth Judges Rip Changes, Proposals"

March 19 Pittsburgh Press:
"Youths Sent Away Cost \$51.75 Daily, Panel Told"

April 6 The Scranton Times:
"Judges Rap Alternate Juvenile Detention Program"

April 18 Pittsburgh Press:
"Juvenile Contract Flaws Charged"

April 29 Pittsburgh Press (p. 1):
"New Youth Care Cutback Near--Cohill"

May 2 Pittsburgh Press (p. A2):
"Correction Changes Rapped"

May 9 Pittsburgh Press (p. 1):
"5 State Youth Centers Overflow"

Thus, both sides of the issue used crisis to influence public opinion in order to gain political benefits for their efforts.

FLORIDA

The evidence thus far suggests that if the administrative and political responses to crises are properly handled and channelled, crises themselves can provide impetus for change.

In Florida, although crises existed, they were not used to create change or to further decarceration goals. Indeed, despite the non-movement towards decarceration of juveniles, Keller described managing H.R.S. as ". . . riding a wild horse, because there is literally a crisis a day."³ There is little

doubt that there were many problems, particularly in the juvenile training schools. A review of press clippings from May through July of 1975 gives a clear indication of the prevalence of these problems. The following is a small sampling of these headlines:

July 21 - Miami Herald
"Packed Reform Schools Face Tension Troubles"

July 21 - News Chief
"F S B O at Nearly Double Capacity"

January 25 - Tallahassee Democrat
"Reform Schools, Boiling"

January 25 - Tallahassee Democrat
"Okeechobee Superintendent Admits Drugs are 'Floating Around'"

Legis 50 Report
"Juvenile Facilities Overcrowded"

The central issue here is that there was a distinct media sympathy with the fact that the Florida juvenile training schools were overcrowded and full of turmoil. Immediately prior to this period, a report given from States Attorney Harry Morrison to Senate President Dempsey Barron stated that "It is entirely unreasonable to expect a juvenile in need of rehabilitation to become rehabilitated . . . by his participation in D.Y.S. training facilities"

The same report said that current D.Y.S. policies virtually insured that "vast numbers of young people are failing to obtain any sort of rehabilitation at the hands of the Division of Youth Services."

Based on this report, the Senate President called for a review of the D.Y.S. and its institutional policies.

Given these criticisms, and an independent statistical analysis published

by the Florida Department of Criminal Law Enforcement which said that in the three year period prior to 1975 the juvenile crime rate decreased, an administrative response attempting to discontinue use of the training schools would have been strategically advisable. Opposition to restriction could have been virtually negated. Even the Senate President had registered his complaint; therefore, any response could be appropriate. The Judges maintained a passive relationship with H.R.S., even on the matter of Court jurisdiction. The press would have welcomed any response.

What happened, however, was virtually nothing. Having been caught up in their own bureaucratic machinations, D.Y.S. in Florida was unable to seize upon this opportunity and to make efficient use of the system of community-based program it had developed. As a result, the legislature and the press were able to develop justifiable alliances around inaction and their "alternatives" to the crises would be defined by Senate President Dempsey Barron. Although other training schools were not built, the opportunity for change was lost.

OHIO

In 1971, the League of Women Voters in Ohio issued a report which documented that institutions such as the Fairfield School for Boys, Scioto Village for Girls, and the Diagnostic Center were overcrowded, community treatment programs were limited to a few urban counties, and foster care placements were below even minimum levels.⁴

In addition, the report condemned the fact that despite the abundance of juvenile institutions within the purview of the O.Y.C., the O.Y.C. still used the Ohio State Reformatory for some juveniles.⁵

Recommendations by the League of Women Voters included the development of financial incentives by the O.Y.C. for community-based treatment and the immediate return to the community of non-violent juvenile offenders.⁶

In 1976, three sociologists from Ohio published a book entitled, Juvenile Victimization: The Institutional Paradox (Bartollis, et al) which was an in-depth analysis of the horrors of one Ohio institution, the Training Institute of Central Ohio.⁷

The study found that:

. . . exploitation and victimization . . . are inherent aspects of institutional life. At least ninety percent of all the residents can be located at some point on the exploitation-victimization dimension. If anything, the internal environment and the organization at T.I.C.O. are less fair, less just, less humane, and less decent than the worst aspects of the criminal

justice system on the outside . . . No matter how pleasant the place may seem, very little correction, training, or adjustment occurs - or can, in fact, occur under present circumstances and social policies.⁸

These two separate but related indictments of the Ohio juvenile institutional system might have been utilized to create impetus for change. They did not, however, bring about any change or even agenda for change. Rather, they were published and ignored.

Given the reliance of the O.Y.C. on institutional care, the agency continually justifies those institutions and policies to the press and the public. The agency's public relations are largely products of multi-color brochures and pamphlets highlighting the advantages the O.Y.C. offers the delinquents in Ohio. Despite Ohio's large numbers of incarcerated children, the rhetoric of these brochures centers on "helping" youth. For example, this quote is from a "Foster Parents" brochure: "Many of the youngsters committed to the Ohio Youth Commission don't belong in an institution. They're basically good kids These youth don't need the disciplined routine of an institution so much as exposure to wholesome family living. And that's where foster parents come in."⁹

Despite this appealing brochure, complete with a picture of a woman and a "delinquent" girl cooperatively baking a cake, the O.Y.C. makes no effort to place youth in foster care arrangements as an alternative to institutional living.¹⁰

The point of all this is that the response of the O.Y.C. to crisis situations is to print brochures and further develop an entrenched insti-

tutional system by justifying the programs within these institutions.

"Changes" at the O.Y.C. policy level are non-existent and conflict situations with change potential are translated into media campaigns for the institutions.

FOOTNOTES - SECTION 4

- ¹ Interview with Jerome G. Miller, August 18, 1978.
- ² See Harvey Lowell's Dissertation, pp. 300-323.
- ³ See the Florida Herald News, April 4, 1975.
- ⁴ League of Women Voters of Ohio, Attention to the Treatment of Juvenile Offenders, September, 1971. See page 35.
- ⁵ Ibid, page 16.
- ⁶ Ibid
- ⁷ Bartollas, Clemens, Stuart J. Miller, and Simon Dinitz. Juvenile Victimization: The Institutional Paradox. Halstead Press: New York, 1976.
- ⁸ Ibid, p. 265.
- ⁹ Ohio Youth Commission. "Show a Troubled Youth How to Live . . . With Love." Foster Parents. No date.
- ¹⁰ cf. Ohio Youth Commission Budget Report, 1976.

SECTION 5

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CHANGE DIMENSIONS

The dimensions of change are usually taken to include such characteristics as direction (producing more or less of something), propriety (in relation to political or other external constraints), feasibility (given existing resources) and efficiency in achieving stated goals. There are also questions of tactics and sequencing of efforts in relationship to the change target or population. Each dimension of change is complex; taken together, problems of orchestration often prove enormous. Creating change, then, is no easy task. Ironically, however, it seems that:

People appear to think that implementation should be easy; they are, therefore, upset when expected events do not occur or turn out badly. We would consider our efforts a success, if more people began with the understanding that implementation under the best of circumstances, is exceedingly difficult. They would therefore be pleasantly surprised when a few good things really happen. (Pressman and Wildansky, 1974)

Making "good things happen" can be rewarding, but often requires great effort. The existing literature on planned change is of little utility to decarceration efforts, however. Most of this literature tends to be abstract. When it is not abstract, it provides approaches which can or implicitly ought to be used to improve organizational functioning. Such approaches work best in industry, where inputs and output are easily definable, where processes can be controlled, and any change measured with facility.

The literature does categorize change in terms of theme and approach. Change efforts can entail data and logic (the "rational/empirical" approach), friendly persuasion (the "normative/reeducative" approach) or simple

force (the "power/coercive" approach).

Environmental change can be categorized in terms of competition or conflict, bargaining, co-optation, or coalition (Thompson and McKewen, 1958). The heuristic value of such classifications is beyond dispute, and we will have occasion to use them in our analysis. In general, however, the conservative thrust of this literature may be explained as a consequence of the links between the planned change literature and the social work profession (cf. Rein, 1965). It may be that many professionals think of change in terms which endorse their methods and which produce policies in line with existing centers of power and influence.

Breaking away from current policies and practices requires a sharp sense of the multiple forces which form the context of change and a willingness to view change as the process of eliminating dysfunctional aspects of the system such as training schools (cf. Behn, 1975). Perhaps the most crucial part of any change strategy is awareness of what resources are available or can be obtained in the attempt to accomplish radical reform. It is equally essential to understand the power of those forces opposing change. Moreover, to analyze the resources involved in change, it is necessary to have an accurate knowledge of all relevant actors in the system and the extent of their influence on significant activities. Once an assessment is made of the actors, including individuals, organizations, and their relative strengths, it is then possible to apply the knowledge thus gained in the development of a change strategy. Included in such an assessment is an analysis of the resources of those persons or organizations opposing change in relation to those supporting it (cf. Section 2, 3). By resources, we refer to all funds, alliances, legislative, political, public

and media impacts on the system that could realistically be made by reformers. In other words, this constitutes a map of the field of forces sustaining current policy and pressing for or against modification of the status quo. (Lewin, 1966)

The context of change is an arena in which efforts to eliminate policies or programs can occur. Behn (1975) has suggested a classification scheme for the motivation of change agents seeking to eliminate some feature of public policy. The first category includes those who seek to eliminate a set of policy alternatives because they feel it is wholly inappropriate. Ideally, subsequent to their change efforts, all vestiges of the original program would be eliminated. The second category consists of reform oriented interventions; here, the existing policy must be supplanted before a new policy can be put in its place. The third category of reform motivation comprises instances in which the goal is that of achieving efficient management of an existing program through internal reform. Reformers who are concerned with efficient management are hampered by the fact that it is impossible to build anything other than a pure bureaucratic constituency, which virtually forecloses the possibility of meaningful change. It is not, after all, easy to find humane prisons.

Thus, radical change -- which, in the first analysis, requires the elimination of a program or service -- almost by definition requires conflict.

The functions and dysfunctions of conflict have been outlined in a number of studies, such as Coser, (1964), Darendorf (1959), Assael, (1969), and Simmil (1955). The distinction between functional or realistic con-

flict, and dysfunctional or unrealistic conflict is based primarily on whether both parties to a conflict recognize the other's legitimate interest in the struggle. If the conflict is bounded, if the objectives of those involved are limited and known to be so, and if no member to the conflict is or perceived to be attempting to overwhelm and destroy the interest of other members, the conflict may well lead to positive results for the entire interorganizational network. Mattingly (1977) and Warren (1975) have hypothesized that a direct relationship exists between innovation and interorganizational systems and conflict within those systems.

One of the dilemmas of change is that the more one tries to plan the less one gets around to changing. This paradox exists because the systems of control over resource and authority in the public sector are so diffusely distributed that highly visible, politically controversial, conflict-inducing social programs must either focus their total efforts on planning to survive in a turbulent environment or seek to achieve their goals. Most often they cannot do both.

In consequence, this section of the matrix deals with characteristics of change processes in the states under study that have pragmatic relevance to the success of decarceration efforts. Among the relevant variables are the targets of the effort, the tactics used to accomplish it, and the pace at which it occurred.

MASSACHUSETTS

As indicated in the social history section of this matrix, the target for decarceration efforts in Massachusetts was not a particular category of youngster, but rather the state system of juvenile institutions. After futile attempts to reform conditions and practices within the system - and thus engender more humane programs - Miller decided that an institutional system could not be made humane. As a result, he focused his efforts on closing existing institutions, rather than on providing alternative types of programs for incarcerated youngsters. This approach was feasible largely because Miller had complete control over the movement of juveniles within the system.

In order to accomplish decarceration goals, Miller employed a strategy that utilized conflict with the opponents of change, and entailed the development of political power bases. This "power-coercive" strategy utilized the public media to expose existing conditions within the system and required extensive lobbying efforts in the state legislature. According to Miller, he perceived the process of closing institutions as a "no-holds-barred" political process. He also perceived that he had sufficient organizational statutory authority and legislative, gubernatorial and interest group support to accomplish it.

As a result, the pace of change in Massachusetts was extremely rapid. Once the decision was made to decarcerate, events moved very swiftly. For example, within 3 weeks after deciding to close the "Institute for Juvenile Guidance" at Bridgewater, the institution was closed. Institutional staff were told that none would lose their jobs, but that they would have to accept assignments to other community-based or institutional facilities.

No protests were made by the employees' union, or by community groups. The closing was accomplished merely by transferring the juveniles out, using legal authority. Since it was done swiftly and authoritatively, it resulted in no objections from the staff, politicians, community groups or the press.

PENNSYLVANIA

In this state, the target of decarceration efforts was the state's defined population of "hard core" delinquent offenders, those confined to the State Correctional Institution at Camp Hill. The institution itself was not a target, since it was primarily an adult institution and would continue to be used as such after juveniles were removed from it. The focus on "hard core" offenders was made possible by the fact that the conditions of juvenile confinement in Camp Hill were known to be inadequate and the prison was an easily visible symbol and a focus for public attention. Moreover, Miller was aware that it was unlikely that the juveniles incarcerated in Camp Hill were in any way more "dangerous" than youth confined in other delinquency facilities in Pennsylvania. In fact, according to information gathered from Bureau of Corrections statistics, only 40.2% of the juveniles in the prison had been committed there for crimes against people. By contrast, 41.9% were committed for property crimes, including 23.2% who were committed to the prison for having committed burglary. The remainder, 9.4%, were status offenders, and 9.2% had committed a variety of miscellaneous offenses (See chart on following page from Lowell, 1979: 113).

The proposed strategy presented a number of problems, among them that alternative placements would have to be developed, and that the release of such youngsters of community-based programs would potentially unleash a backlash if there was an increase in the crime rate. Miller's experience in Massachusetts had convinced him of the utility of the "deep-end" approach, since it undermined the logic of the institutional system and showed that its most hardened inmates could easily be handled in community programs.

During the year following the Camp Hill Project, the crime rate actually decreased. Miller did not have sufficient power or authority to continue his activities after the juveniles were placed out of Camp Hill, however.

Strategic issues in Pennsylvania required a dual-pronged approach combining elements of conflict and cooperation. In order to facilitate obtaining control over delinquency policy-making procedures, Miller was forced to attack the system at its most vulnerable point - the prison housing juveniles. Blame for conditions extant there could readily be placed on the judges, who were responsible for all movement of juveniles within the system. In order to move juveniles out of the prison, however, a court order was required in each individual case. As a result, the reformer's organization needed to obtain judicial cooperation in a case-by-case basis. The inherent paradox here is that actions required to achieve change at one level may be counter-productive at another (cf. Mattingly 1977; Lowell, 1979). Judges who were responsible for committing many juveniles to the prison may have been made more defensive about releasing them owing to the direct attacks on their practices. Despite this dilemma, however, all juveniles were removed from the prison, which now exclusively houses adults.

As a result of judicial controls over the movement of juveniles out of the prison, the change process did not proceed as swiftly as Miller and his associates wished, or as had occurred in Massachusetts. However, the pace of change was relatively rapid, and only a few juveniles remained in the prison 18 months after the effort began.

Table 1.
Offenses of Juveniles
Committed to the State Correctional Institution at Camp Hill
as of December 31, 1974

<u>Property Offenses</u>	#	%
Burglary	106	23.2
Simple theft	45	9.8
Auto Theft	20	4.4
Receiving stolen property	7	1.5
Arson	4	.9
Unauthorized use of a motor vehicle	3	.7
Possession of burglary tools	1	.2
Larceny by trick	1	.2
Forgery	1	.2
	<u>187</u>	<u>41.9</u>
<u>Crimes Against People</u>		
Armed Robbery with accomplice by violence	48	10.5
Unarmed robbery	40	8.7
Aggravated assault and battery	28	6.1
Rape	23	5.0
Attempted murder	16	3.5
Assault and Battery	6	1.3
Statutory rape	5	1.1
Assault with intent to rape	4	.9
Sale and use of narcotics/1st offense	2	.4
Indecent assault	2	.4
Kidnapping for extortion	2	.4
Assault with intent to maim	1	.2
Criminal homicide*	1	.2
Burglary with intent to rape	1	.2
Detention of Prostitutes for debt	1	.2
Other sex offenses	1	.2
	<u>184</u>	<u>40..</u>
<u>Juvenile Delinquency</u>		
Escape or runaway from prior institution or authority	35	7.7
Incorrigibility	6	1.3
Failure to adjust at prior institution	1	.2
General delinquency	1	.2
	<u>43</u>	<u>9.7</u>
<u>Other</u>		
Possession and use of narcotics/1st offense	11	2.4
Prison breach	8	1.7
Consensual sodomy	5	1.1
County jail break	4	.9
Violations of firearms act (misc.)	4	.9
Disorderly conduct	2	.4
Conspiracy to commit unlawful act	2	.4
Non-payment of fines or costs	1	.2
Delinquent Sexual overture	1	.2
Carrying concealed deadly weapon	1	.2
Reckless driving/speeding	1	.2
Malicious mischief to gravestones	1	.2
Cruelty to animals	1	.2
	<u>42</u>	<u>9.2</u>
Source: Bureau of Corrections Computer Printout, 12/31/74		
Note: juveniles = 393. Multiple offenses were noted separately	457	100.0

FLORIDA

In Florida, the target of change efforts were the state's institutional population of lesser and status offenders. Keller's approach was based on the fact that Florida's institutional population was primarily composed of youngsters who had not committed actual crimes, or who had committed minor, non-violent offenses. At the same time, Keller perceived that there were no existing community-based programs for these youngsters. As a result, the decarceration effort in Florida centered on removing status offenders from the existing institutions creating smaller programs in local communities.

Keller employed a gradual, evolutionary approach, and attempted to involve all sectors of the system in the planning process. His relationship with the juvenile judiciary was very close, and his plan to open alternative programs received virtually no political opposition. At present, however, Florida's institutional population has remained constant, while the number of youth in community placement has increased by approximately 1,000. Decarceration has thus not occurred in Florida.

The cooperative effort that took place in Florida seemed to preclude rapid movement, as all members of the system were involved in the process of planning delinquency services. It may well be that there was no reduction in institutional population precisely because those who had vested interests in institutional maintenance were aware of all change-related activities far in advance. The cooperative approach involved in the change process those who were responsible for the status quo, and their presence influenced not only the slow pace of change, but also its direction.

CONTINUED

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OHIO

Since there was no move to decarcerate juveniles or to close institutions in Ohio, descriptions of any dimensions of change are functional.

SECTION 6 (OUTCOMES)

Measuring Decarceration: The Human Dimension

The Center for Criminal Justice at Harvard Law School has recently completed a seven-year study concerning the decarceration process in Massachusetts. Its findings strongly support the community based approach as a viable alternative to the training school model. When comparisons were made between youths confined in training schools and those placed in community based programs, it became evident that youths in the community based system were more likely to believe that they were exposed to humane care. Further, linkages between the youths and the community were also found to be greatly expanded as a result of the community based system.

Similar findings emerged when we administered a social climate survey to 159 youth placed in various end-of-the-line training schools and in community based secure settings in the four states.

The survey questionnaire represented a revision and expansion of the instrument used in the Harvard study. The closed-ended portion of the instrument contained sets of items bearing on the social climate of the setting, the programs offered and the extent of community linkages and their bearing on life chances after release. The social climate portion of the questionnaire was further subdivided in terms of five (5) social climate dimensions: communication, decision making, control, fairness and safety.

Three open-ended questions were also included in the questionnaire. These questions related to key adaptional requirements of correctional settings, generally valued aspects of life, and factors bearing on success or failure subsequent to release from the correctional setting.

There were a number of significant findings, some of which can be highlighted here. Asked to comment on the statement, "The staff is more concerned with maintaining discipline and keeping students in line than with helping them with their problems, 89.17% of the community based sample "disagreed", indicating that the vast majority of the sample perceived the staff's role as one of "helping" rather than "custody". This can be compared to 52% in the training schools, which perceived the staff's role as one of discipline and maintenance.

In regard to community linkages, when asked to comment on the statement, "The students in this program feel they know a lot about what's happening in their home community. They are still in touch with the outside world", 74.5% of the community based sample "agreed", indicating that the vast majority of youth still were in touch with their communities, in comparison to only 46.1% of the training school sample.

Finally, on the whole, youths in the community based programs felt physically "safer" and more in control of their lives than those confined in the training schools. Asked to comment on the statement, "Students will threaten or beat a student up to get what they want, only 23.1% "agreed" in contrast to 63.7% of the training school sample.

Based on the training school sample, our findings indicate that, regardless of intent institutionalization and meaningful treatment cannot - and probably will not - exist within the same setting. Not even a dedicated staff, a low resident-staff ratio, and diversified programming are sufficient to offset the general anti-therapeutic effects of a "total institution" and less stimulating training schools.

New treatment modalities (e.g. reality therapy and I-level classification systems) have been employed at various training schools in the sample, yet they do not remove the debilitating effects of institutionalization. The I-level system was initiated to prevent exploitation by grouping residents according to levels of maturity. Yet, instead of preventing exploitation, the categorization of youth in one training school actually strengthened delinquent subcultures and fueled problems of violence and outgrouping.

Ultimately, the cottage systems at the various training schools were simply euphemistic titles given to institutional dormitories, and are far removed from the family-styled units envisioned by the child savers in the 1880's. In addition to their prison like appearance, the social environments of the cottages consisted of informal staff labelling and dominant delinquent subcultures, both of which contributed to exploitation.

Finally, one of the most significant findings of the survey was not obtained by the youth's perceptions of his social climate, but rather by the seriousness of his offense. Although end-of-the-line correctional settings were studied, only 32 out of 159 youth had even been committed for a violent crime. In addition, and as can be seen by Table I, 70 youth had a less or non-serious offense as their most serious offense, while 57 youth had a serious property offense as their most serious offense.

These findings bring into question the concept of "serious" or "dangerous" offenders and "end of the line" placement settings. It would seem clear from these findings that the end-of-the-line settings described here do not contain the majority of "dangerous" offenders.

TABLE I
MOST SERIOUS OFFENSE

OFFENSE	TRAINING SCHOOLS			COMMUNITY-BASED PROGRAMS		TOTAL
	TICO	DOZIER	CORNWALL HEIGHTS	ELMERTON HOUSE WEAVERSVILLE	MASS. COMMUNITY-BASED	
<u>Less or non-serious</u>	17	19	11	6	17	70
- Status offenses						
- Procedural violation						
- Escape						
- Narcotic Laws						
- Weapon Poss.						
- Simple assault						
- Petty Larceny						
<u>Serious (Property)</u>	10	14	11	7	15	57
- Grand Theft (includes car theft)						
- B & E						
<u>Violent (Personal)</u>	13	3	4	2	10	32
- Kidnapping						
- Armed Robbery						
- Aggravated Assault						
- Rape						
- Murder						
						159

In regard to the Harvard study cited above, the question of recidivism proved to be a complex indicator of the success of decarceration. In comparing training schools and community-based programs, this study actually showed a slight increase in recidivism for those youth placed in community-based programs. While numerous possible explanations of this finding are available - including the older age of the community based sample, broader social trends in youth crime, changing attitudes toward females, and change in police and court resources during the years in which the study was conducted, the Harvard researchers still believed that the new system did not produce the desired decreases in recidivism.

Their findings showed that for those youth who did recidivate, the Department of Youth Services (DYS) has been unable to penetrate the interpersonal and community networks to which the youngsters would return. However,

the researchers found that a closer look at the figures on a region-by-region basis showed that where a broad spectrum of programs (from home care to secure placement) was well in place and where the regional administration was strong, the recidivism rate declined to a point lower than the training school sample. Where placements were all of one type, e.g., group homes only, or where youths received no placement at all, the rates went up. (Coates, Miller and Ohlin, 1978)

The Harvard study concluded that DYS had moved in the right direction in providing humane and personalized services through community-based programs, but did "not move far enough away" from the training school model, and thus relied too heavily on the group home concept. The study hit hardest at programs that tended to isolate youths from the community. The researchers found that programs that sought to build up a youth's self-esteem and leadership inside a tightly-knit program, such as so-called "therapeutic communities", seemed to have a poor effect on recidivism rates after release. Youths in such programs, the researchers concluded, may develop an unrealistic view of what to expect when they return to their respective communities, and thus tend to fall harder when faced with real world pressures and setbacks. The Harvard researchers recommended that more programs be developed which work with youth in their homes and deal with problems which normally confront them.

Our findings supplement the Harvard findings, regarding comparisons between training school and community-based institutional climate. These findings clearly show that respondents from a broad range of community-based programs feel they are less stigmatized and alienated, than those respondents in training schools, and are probably receiving more humane care.

Measuring Decarceration: The Statistical Dimension

Decarceration should be measurable in simple terms; few youths should populate the ranks of the confined, and this drop in institutional population should produce a corresponding drop in the overall population of the correctional system. At a minimum, the population of the correctional system should remain the same, with the decarcerated youths adding only to the population of the community correctional component of the larger system. Under either scenario, funds should follow the youths with increased budgets for community placement.

Things rarely work out with such implicitness or equity. Often, decarcerated youth swell the populations of existing community correctional programs which must operate with shoestring budgets, while institutions retain handsome budgetary allotments in the face of declining population. More serious problems result when community based programs are created or expanded to accommodate hypothetical groups of decarcerated youngsters who somehow never materialize. To fill the new programs, correctional doors are thrown open to youths who were formerly left alone. Parallel systems of social control thus emerge - one made up of prisons and the other of community programs - and is developed independently into hungry catch basins for errant youth. The spirit of decarceration can, in this manner, spawn a network of community corrections programs that supplements rather than supplants, penal institutions and adds to the number of children under state control.

Measures of decarceration must therefore reflect real drops in institutional population which, in turn, do not result in the octopus-like growth of community corrections programs. This requires that we analyze population

patterns over time, both for institutions and community based programs. The process involves measuring overall system management of clients; the goal is to determine the degree to which changes in institutional population indicates decarceration and not a widening of correctional nets.

Massachusetts

In 1960, 80% of the youth committed to the Massachusetts Department of Youth Services were institutionalized. In 1977 approximately 90% of DYS's 2,000 youth were placed in community based programs.¹ 600 of these youths remained at home receiving case work and monitoring services. For the most part, these youth had been through other DYS programs, were somewhat stabilized, and were working toward final release from DYS. 550 youths received residential care, of which foster care comprised the largest part. Foster care represented the most viable of the alternatives used by the "post-decarceration" DYS, and was divided into two types - "normal" foster care (one or two youths per family) and "intensive" foster care (foster care plus intensive day services). Also under the aegis of residential care fell half-way houses, which are now referred to as group homes, and boarding schools. 35 youths attended a 28 day forestry program which was modelled after the "Homeward Bound" model of wilderness and survival training. 300 youth were in detention, 92 in locked settings and the rest in foster care or shelter care. Youths confined in locked detention were detained for up to 45 days. Approximately 49 youths were in long term (6 to 12 months) secure care with an additional 20 in Department of Mental Health locked settings. In recent years, DYS has undergone a partial retrenchment in its security beds and presently houses less than 100 youths in security. It is too early to tell however, what long term effects this retrenchment may have.

Pennsylvania

During 1974 the maximum population of the State Correctional Institution at Camp Hill for juveniles was 425. Camp Hill was the only secure placement unit in Pennsylvania for juvenile offenders. It was however, impossible to assess how many juveniles were held in detention awaiting placement or who had been adjudicated and sentenced to terms in county jails. A subsequent study conducted by the Office of Children and Youth on detention practices indicates that this number may have been quite substantial. It is similarly difficult to assess accurately how many youth were institutionalized for offenses that would not be considered criminal if committed by an adult.

However, prior to the advent of the decarceration movement in Pennsylvania in 1974, there were approximately 1,500 adjudicated youth in locked public facilities. Of these, 425 were incarcerated in a medium security adult facility (Camp Hill) and approximately 1,100 were in state operated and regulated training schools (Youth Development Centers).

In addition, there were numerous private facilities housing both dependent and neglected youth, and countless youth held in county jails and detention centers.

Despite this, only 152 public community based beds were available for dispositional alternatives. There were, of course, privately operated programs available, but these programs in Pennsylvania (as in Florida) concentrated on the less serious offender, which made them additions rather than alternatives to institutions.

As detailed in the text, the decarceration movement in Pennsylvania initially focused on the Camp Hill prison. In August of 1975 all intake to the facility was closed and within 18 months all of the juvenile offenders were moved out and assigned to a range of both secure and non-secure community based facilities. (There have been no juveniles committed to the Camp Hill Prison since the decarceration project was completed and such committing is specifically precluded under the new Juvenile Act.)

Since only one existing program was willing to admit the "Camp Hill" youngsters, it was necessary to develop other non-profit agencies to provide the necessary alternatives. Thus, a range of community based alternatives were established. The following alternative programs were established for placement of the decarcerated youth:

- 1 Statewide Supervised Living Program (100 youth)
- 5 Community Residential Centers (55 beds total)
- 1 Statewide Community Advocate Programs (120 youth)
- 4 Regional Secure Treatment Units (48 beds total)
- 1 Statewide Outward Bound (capacity 20 youth per six week session)

As of this report, 90% of the community placements for serious offenders developed during the decarceration movement in Pennsylvania are still operating.

As a further result of the closing of Camp Hill, other institutional populations were effected. There are presently less than 800 juveniles in the state operated training schools, a reduction of almost 30% in those facilities.

According to state authorities, this is the lowest institutional population of juveniles since the network of state institutions opened.

Florida

Florida provides a portrait of a decarceration movement producing a widening of correctional nets. A decade of aggressive decarceration has produced two full-bodied correctional systems, one deploying institutions and the other made up of community placements. As can be seen in Table 2 below, there was never really a decarceration movement in Florida. Instead efforts there may amount to an effective movement to establish a robust system of community placement for youngsters who were ineligible for placement in training schools. Since the institutional population has remained stable over the period of apparent decarceration, it is reasonable to assume that Florida's community based system supplements its institutional system.

<u>Number of Youth in Institutions</u>				<u>Number of Youth in Community-Based Programs</u>			
<u>1969</u>	<u>1972</u>	<u>1974</u>	<u>1977</u>	<u>1969</u>	<u>1972</u>	<u>1974</u>	<u>1977</u>
1153	1383	1128	1111	35	188	501	1150

Statistical reports of the Florida Department of Youth Services show recidivism rates to be a function of degree to which services are institutionalized. The more institutionalized the program the higher the recidivism rate. The less institutionalized (more community based) the program, the lower the recidivism rate. Costs also vary with the nature of the program; institutional programs are notably more expensive than community based efforts. The specifics of program-cost/effectiveness, as revealed in youth services reports, are as follows: Counselling programs which cost \$7.50 per day have

a recidivism rate of over 29%: Try Centers, which provide intensive care for serious offenders in a group home context have a daily per diem cost of \$19.40 and a yearly recidivism rate of 26%: Family Group Homes operated at a cost of \$10.70 per diem with a recidivism rate of 33%: Group Treatment Facilities, which operate as small training schools, yielded a recidivism rate of 47% and finally, Florida's Training Schools produce a 53% recidivism rate at a cost of \$25.00 per day. Given this continuum service and recidivism, it is tragic to note that during the fiscal year 1975-1976, 65% of all juveniles committed to the Florida Training Schools by the Department of Youth Services had never been exposed to less restrictive treatment programs. Low cost, high effectiveness options appear to have been systematically by-passed, presumably to provide the institutional population required by the system.

Ohio

The statistics on decarceration for Ohio reveals no movement toward decarceration. Ohio has maintained its institutional population at approximately 2,400 inmates during this decade.² A record high of 2,600 juveniles in training schools occurred in June 1975. There have also been additional groups of youngsters remanded to community correctional centers under the auspices of the Direct Community Placement program for which the Ohio Youth Commission (OYC) "diverts" referrals back to their home communities. (This program numbers approximately 300 youth). It is noteworthy that none of these youth were serious offenders. It is therefore arguable that if it were not for the advent of correctional reform in Ohio, the beneficiary of Direct Community Placement would have received probation or other less restrictive disposition.

Our research indicates that Ohio has not and perhaps never will get out of the training school business. Part of the problem is that reform in Ohio has historically been more a matter of rhetoric than of substantive change. The OYC, for example, has been "reorganized" many times. These changes involve more formality than actual substance. For instance, in 1974, the superintendent of the Indian River School became the Ohio Youth Commission's first full time security director; the superintendent at TICO became the superintendent of the Buckeye Youth Center; the superintendent of the Mohican Youth Camp became the superintendent at TICO; the superintendent at Zanesville Youth Camp became superintendent at Cuyahoga Hills Boys School, the OYC Equal Opportunity Employment Director became superintendent of the Riverview School for Girls and the

superintendent of the Buckeye Youth Center assumed a new position on an OYC team to develop organizational procedures. This reorganization was described by the (then) Director of the Ohio Youth Commission as an attempt to obtain "a fresh and healthy perspective" for the OYC. Two weeks after this "top level shakeup", the Director resigned.

The program and policy priorities of the OYC reflect a similar aversion to committing substantial resources to alternative programs. In 1975, for example, the OYC took 3 to 5 million dollars away from "low priority programs" to enable "high priority programs" to get through the fiscal year. As it turned out, delinquency prevention was on the bottom of the priority list and the programs terminated were the neighborhood youth worker programs. The "high priority program" for Ohio was the institutionalization of children sent to the OYC by the juvenile courts. Just prior to that expenditure cut, one third of the entire community services budget at the OYC was cut in order to provide "improved education programs" within the institutions. As a result, one hundred of the two hundred twenty six jobs in the community services division of the OYC were subsequently terminated.

FOOTNOTES - SECTION 6

¹Massachusetts Department of Youth Services Annual Report, 1978.

²Ohio Youth Commission Progress Report, 1975-76.

SECTION 7

Conclusions

The preceding sections of the matrix have outlined a series of comparative dimensions along which the decarceration efforts in the four target states have been analyzed. Based on the foregoing analysis, a number of key variables have emerged which may be said to have a clear and significant impact on the success of decarceration movements. The conclusions that follow are based on the comparative analysis of these variables.

Inter-Organizational FactorsCommitment to Decarceration

The commitment of state agency leadership to decarceration goals was found to be highly significant to the success of such efforts, although clearly such commitment in and of itself is not sufficient for success. In Massachusetts, Pennsylvania and Florida, leadership around decarceration issues was present, but each state's efforts met with markedly varying success. More relevant to the ability of an agency administrator to effect change is the issue of power and authority: does the state agency which is primarily responsible for delinquency programs and services have the capacity and willingness to control its own intake? In Massachusetts, for example, the Department of Youth Services had the statutory right to commit and/or transfer youth committed to it by the state's juvenile judges. With this ability, Miller was able to transfer youth out of institutions and into alternative placements without prior court consent or approval. In effect, this constituted the legal authority which would be used to close

institutions. In Pennsylvania, although Miller's personal commitment was the same, he did not have the ability to control the intake into or discharge from the institutions within the purview of his agency. The inability to control intake made it difficult if not impossible to empty institutions, since judicial operation was required for each and every case. Furthermore, Pennsylvania's juvenile judges stymied operations to alternative programs by sending more youth to these facilities than was feasible, and by refusing to send youth to small, community based facilities.

In Ohio, where commitment to decarceration was and is almost totally absent, the state Youth Authority has the statutory ability to place youngsters, but has abdicated this responsibility to the judges. As a result of this lack of commitment, control over intake was not as significant an issue in Ohio. Similarly, in Florida, although the state agency possesses the primary responsibility for intake and discharge of adjudicated delinquents from its state run training schools, the Department of Youth Services does not really exercise this power. Rather, there is an unwritten agreement between the DYS in Florida and the juvenile court judges that a youth will spend a minimum of six months in training schools. This abdication of responsibility in effect gives judges discretion over intake and discharge from programs.

Ultimately, the research indicates that, for decarceration to be effective, change agents must have control over intake and discharge. Equally important is the commitment of the state juvenile services administrators to maximize the use of that control to effect change.

Power and Authority

Further, the administrators of organizations with primary responsibility for delinquency programs and services must be able to control their agency operations at the local level. In a regional organizational structure, which was present in all four states under study, the issue is doubly important. In Pennsylvania, for example, the fact that the Commissioner could not monitor or control his own programs posed great difficulties in the development of alternative programming. In Massachusetts "line control" was not an issue nor an obstacle to decarceration efforts. (In Ohio, the state with the least interest in decarceration goals also had the most centralized structure and all planning and accountability were part of the same office.) In Florida, line control was not a primary problem for Commissioner Keller, despite the fact that it was never exercised.

Thus, although line control is a valuable tool for those seeking to create alternatives to institutions, its mere presence or absence cannot be assessed without consideration of commitment to change goals. Thus, where in Massachusetts and Ohio both commitment agencies had line authority, little use was made of it in Ohio and much use was made of it in Massachusetts. In order for organizational power to be a relevant variable, change goals and consistent commitment must be evaluated concurrently.

Role of the Judiciary

The judiciary has played a key role in the outcome of the decarceration efforts in all of the states studied. Judicial opposition to such efforts may be expected as a given, since judicial courts traditionally have a history

of institutional use and overuse in most states. Thus, the crucial variable here seems to be the degree of organization of judicial opposition, and how much power and authority that judges wield in the interorganizational environment. There is no way to characterize judicial opposition to change, apart from the ability of judges to mobilize resources, so that effective opposition is therefore an appropriate focus of future study.

In Massachusetts, judicial opposition was strong and fairly well organized, spearheaded by the chief judge of Boston Juvenile Court. Although some judges were able to mobilize legislative and media support, the clear legislative mandate for DYS authority and the strong liberal community in the Massachusetts legislation precluded much of that support.

In Pennsylvania, whose judges had far more programmatic and interorganizational power than in Massachusetts, judges were far more successful at creating political alliances and mobilizing opposition to decarceration movements. The powerful judges impeded the progress of the effort, through their alliances with powerful state legislators and public media representatives. Judicial opposition may have been caused in part by the attacks on their commitment practices and procedures which had resulted in conditions of racial imbalance and what were seen as inappropriate commitments. Since judges controlled input to this system, they could clearly be seen as being responsible for existing conditions in the system, as well as for the conditions of confinement for the juveniles at the state prison. Indeed, the stiffest opposition came from Allegheny County Judge Patrick Tamilia, who had the highest commitment rate of any judge in the system. He had personally committed more than 9% of the youngsters incarcerated at the prison as of the end of 1974. In consequence,

judicial opposition can be seen in part as a defense of judicial responsibility for conditions existing in the juvenile justice system.

Florida's juvenile judges are interested in maintaining the array of institutional options. Since the administrators of this state's youth authority are content to allow the courts to pass or transfer and/or replacement of youth within their systems, despite the fact that the agency has a clear authority to commit, transfer, or discharge any youth within their care to any type of program. As a result, in Florida more placement options have been developed for judges but almost no institutional beds have been abandoned. In Ohio, since no changes were actually proposed, judicial opposition did not exist. However, the strength and political power wielded by the judges and their dominance of the inter-organizational structure plays a key role in maintenance of existing arrangements.

Thus, the study indicates that judicial opposition can be expected to the degree that judges perceive that the threat of change can be actualized. The effectiveness of this opposition is largely determined by the actual inter-organizational authority of the juvenile judges in terms of commitment power and political alliances.

Private Agencies

Private agencies can also be a significant factor in the change process. There are, however, varying types and roles for privately operated agencies. However, the research indicates that actual support from private agencies and interest groups can be helpful in achieving change in juvenile justice systems. In Massachusetts, private agencies and interest groups made an active and effective role in lobbying for Miller's goals, in developing alternative programs,

and in acting as a base of political support for change. In Pennsylvania, to a lesser extent, private agencies and interest groups actively lobbied for change goals and were willing to experiment with alternative programs. In Florida, private agency contractors were numerous, but were not ideologically connected with change goals, although quite a few private agencies now have lucrative contracts as a result of Commissioner Keller's efforts. Further, because Florida's private agencies do not threaten the existing institutional structure, private agencies generally are not an active force for change in Florida institutional policies.

In Ohio there is virtually no active private agency involvement either as state contractors or as pressure groups for reform. This study also suggests that similar affiliated agencies do not adopt the same posture toward decarceration efforts in different localities. For example, while the Massachusetts branch of the National Association of Social Workers supported Miller's efforts in that state, the Illinois branch censored him for the same type of effort in that state. As another example, ideologically oriented interest groups such as The League of Women Voters and Council of Jewish Women were very supportive of decarceration efforts in Massachusetts. In Pennsylvania, these agencies afforded only transitory support, and in Ohio they were caught up in other "safer" issues such as alternatives for status offenders.

Thus, it can be seen that active involvement or private agencies seems to be a characteristic of decarceration efforts although it may well be that such organizations are not ideological proponents of community-based alternatives. Rather, they may be supportive in expectation of entrepreneurial rewards and may offer only nominal support if their own interests appear to be threatened.

Crisis and the Public Media

The use of crisis as an impetus for change is closely related to the executive style of the administrators seeking decarceration. Most juvenile corrections administrators (and most other public administrators) are reluctant to utilize crises, apparently on the assumption that such crisis reflects on their own administrative abilities. In Massachusetts and Pennsylvania crises were used by the proponents of the decarceration movement to mobilize public support for their efforts. In Massachusetts, Miller opened the institutions operated by his agency to the scrutiny of the press, thereby exposing existing conditions to public view. The response to the media portrayal of these conditions created an atmosphere favorable to his change goals and was a key element in obtaining the support of influential private agencies and interest groups for the decarceration goals. In Pennsylvania, exposure of conditions existing in the adult state prison incarcerating juveniles was the initial element in Miller's strategy. A suicide of a 16 year old minor offender at that facility was the major impetus for both closing the juvenile intake and for establishing a new organization in order to remove the juvenile from the prison. From the other side, the major judicial opponents of the decarceration effort in Pennsylvania were instrumental in creating a crisis in the newly established secure units which was then exposed to the press and used as a crisis to mobilize opposition to the decarceration effort.

In Florida, crises existed at the state training schools in the form of overcrowding, staff problems, and extremely high costs. However, the Juvenile Services Administration has consistently chosen not to use those crises to affect change.

In Ohio, juvenile corrections administrators are solely concerned, as one interviewee put it, with "maintaining the status quo: there are no other concerns." Ohio Youth Authority minimizes incidents of abuse - suicide and disruption, and much of the public image of the agency is derived from a series of high-quality brochures describing agency activities.

Thus, the research tentatively indicates that crises can be a valuable tool in both mobilizing public opinion and in achieving conditions in this system that are conducive to change. The study also suggests that it is the administrative response to crises or potential crises - the willingness of correctional administrators to identify crises within their own system and expose them, rather than ignore or suppress them - which is highly relevant to the success of decarceration efforts.

In addition, the study also indicates that alliances between a change - seeking correctional administrator and the media can be invaluable in achieving public support for change goals. Miller's friendly relations with the press in Massachusetts provided him with the means to challenge his legislative and intra-system opponents, as well as a way to publicize the deplorable conditions within the delinquency institutions, and his own efforts to correct them. In Pennsylvania, where his alliances were not as strong, Miller received a mixed reception from the press. This was due partly to the fact that opponents to the decarceration effort had strong ties to the media in the Western portion of the state. Thus, although press coverage of the decarceration efforts was generally favorable in its initial stages, it deteriorated as the effort progressed.

As the research indicated, the press in Florida was more interested in departmental reorganization than to decarceration. This is due in part to the

fact that the agency itself made no firm commitment to decarceration. Paradoxically, however, although change was not a priority in Ohio, that agency also enjoyed in, if not favorable, at least neutral relations with the press. In a system in which organizational "quiet" was valued, non-relations with the press was a desirable and easily achievable goal.

Thus, it may be said that the media can help to foster an atmosphere that may be favorable or may hinder decarceration efforts.

Change Dimensions

One of the most firm conclusions in this study can be drawn from the data regarding change dimensions. In terms of the strategy direction and actions taken in each state, they were a bit difficult to compare because they were presumably based on an assessment of existing conditions at the time decarceration was planned for, or supposedly in the planning stages. In addition, there has been no change strategy in Ohio simply because there has been no change. Given that, conclusions regarding the other three states as to the best target or the most appropriate direction for change are based on historical accounts and therefore subject to many interpretations. However, the data indicates that a rapid approach to change is of more utility in achieving decarceration goals than more conventional gradual, "planned change" efforts. In addition, the pace of speed with which efforts are undertaken has a significant bearing on the success of the decarceration efforts.

In Massachusetts, opponents to change complain that there was nothing written down to indicate DYS plans to close institutions, although they could find nothing illegal or unethical about the activities of the state agency. This relatively rapid, undocumented approach was successful.

In Pennsylvania, a relatively "planned" approach had been undertaken previously which had met with no success and resulted in the immediate firing of the Commissioner who initiated it. The closing of the prison under Dr. Miller's direction was quickly executed and uncompromising. This prison was closed to juvenile intake and all of the offenders moved out within 14 months after the decision was made. Subsequent efforts to close the training schools, which were not under Dr. Miller's immediate control (see other sections) had plans developed for them and thereafter only one other institution was closed.

Florida's gradual approach to closing its training schools enabled supporters of institutions to plan their tactics in opposing any reduction in the institutional population. Although there are now many more community-based facilities for youngsters in Florida, these facilities are filled with youth who probably would have remained at home before these programs were developed and there was no subsequent reduction in institutional populations.

Given this, the study indicates that successful change in juvenile de-carceration requires the elimination of existing programs or services (in this case the institutions) before the change process can be completed. The development of alternative services is crucial, but only in the context of the actual closing down of the institutions will these alternative services be provided to the proper population.

THE POLITICS OF DECARCERATION

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Closing Juvenile Jails
A Primer on Decarceration

Introduction

The 1974 Juvenile Justice and Delinquency Prevention Act as amended on October 3, 1977, stressed the need for deinstitutionalization or decarceration. The law mandated the states to use grants and contracts with public or private agencies "for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide community-based alternatives to juvenile detention and correctional facilities, to encourage a diversity of alternatives within the juvenile justice system and to establish and adopt juvenile justice standards."

Among the advanced techniques suggested were those to:

- a) "Reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the state juvenile population;
- b) Increase the use of non-secure community based facilities as a percentage of total commitments to juvenile facilities; and
- c) Discourage the use of secure incarceration and detention." (Juvenile Justice Act, 1974; 15).

The original President's Commission on Law Enforcement and Administration of Justice pointed to the need for the development of major alternatives,

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CHAPTER IV

A "PRIMER" ON DECARCERATION

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We are presenting here a particular view of decarceration. We refer specifically to the closing down of state training schools and detention centers and the return of the inmates either to their own homes or to placement in a variety of "alternative" living arrangements. The viewpoints represented are based upon an analysis of successful and failed decarceration strategies in a number of states.

What is decarceration? In their massive study of juvenile corrections and deinstitutionalization - Vinter et. al say "we and most others use the term deinstitutionalization to mean the development and use of community based correctional programs as alternatives to institutions. We use deinstitutionalization to denote concretely the proportion of adjudicated delinquents handled within a state juvenile corrections residential services who are assigned to community based programs." (Vinter 1975; 49).

"Deinstitutionalization" in juvenile connections usually refers to the process of moving juveniles out of large institutional settings and returning them to their homes with services, or placing them in a variety of residential or non-residential alternative programs. One could also make a case for the inclusion of another condition for deinstitutionalization; i.e. the closing down of the institutions and the termination of the institutional budget as the clientele are "deinstitutionalized". This is the crux of successful decarceration. "Decarceration" is a term which is, in a sense, synonymous with "deinstitutionalization." It connotes however, the involuntary status of the institutionalized or incarcerated clients.

There are a few things which decarceration is not. Decarceration is not simply the development of community based programs. It is by now almost a cliché, that the development of community based programs has little or no effect on institutional populations. It therefore may have nothing to do

with decarceration. This is because programs touted as being "alternatives" to institutions, are in most cases additions to institutional programs. This is due to such vagaries as the peculiarities of intake processes, the social consequences which follow from labelling deviants, political arrangements, which underly the juvenile courts (the major source of input into the system), and a variety of other factors. Therefore, a community based program in juvenile corrections is not part of a decarcerative program unless it has as its clientele formerly incarcerated juveniles. One cannot even allow the inclusion of those youngsters "likely to be institutionalized" in the definition. Labels are too easily escalated to meet political or bureaucratic needs. It is at this point that most decarcerative programs fall short of their goals and administrators fall flat on their faces, (though there is little evidence that such failure embarrasses the career corrections bureaucrat).

Unless one understands the intake process and the vested interests which undergird the creation of new "services", community-based alternatives" simply extend the inappropriate and often ineffective influence of the juvenile justice system. This process is commonly called "widening the net".

Just as decarceration should not be confused with the development of community based programs, so deinstitutionalization should not be confused with "dumping" clientele. This phenomenon, more common to the mental health field, can also be seen from time to time in adult corrections and in juvenile justice arenas. It means essentially that one simply moves people out of the institution. No funding follows them to alternative programs or is made available to help them in making their adjustments to the community. As inappropriate and potentially destructive as this is, in some cases

of particularly brutal juvenile facilities, even "dumping" might be preferable to the institutional status quo.

However, if the monies, which were formerly spent on institutionalization, were made available to the client as stipends, the whole process might be more productive and successful. Most incarcerated juveniles would thereby receive \$22,000 to \$35,000 per year. However, for political and philosophical reasons, particularly when dealing with those who have been defined as offenders and law breakers, it seems an impossibility to consider an idea that reasonable. As a result, one is forced to talk about alternative "services" to the client in the community with its potential for feeding another lobby - the "service givers". In many cases, such services are crucial. In addition, there is the danger of creating new vested interests in opposition to the institutional interests. Either can misuse finite resources and limited tax revenues. As we shall see later, it may be a necessary phase in successful decarceration that such vested interests be encouraged as counter-lobbies. The danger is that community-based lobbies themselves become as manipulative of clientele as were the institutional vested interests, in their pursuit of permanence and bureaucratic stability.

The dumping phenomenon has been less common in juvenile corrections than in mental health. In mental health one often sees the pattern of "dumping" patients and then having little or nothing more to do with them either in terms of adequate care, financial aid, health, support in adjustment to the community, etc. In looking at the budgets of the average state mental health or juvenile correctional system - particularly the salaries of the

administrators, professionals, psychiatrists, psychologists and social workers, as well as the numbers of contracts involved (construction, food services, etc.) - the dumping mechanism becomes understandable though inexcusable. It allows the politically aware but timorous administrator to "deinstitutionalize", while hardly affecting existing institutional budgets, union agreements, etc. although the number of institutionalized persons goes down dramatically. Unless "new" sources of funding can be found to fund the "alternatives" for the patients who live in the community, they are simply "dumped". Even if the "alternative" is adequately funded, unless the institutional budget is transferred, the community alternative will probably be time-limited, insuring its demise in ways which the state institutions would not recognize.

This can be seen in one of its more sublime forms in Pennsylvania where, as the number of patients in mental hospitals dropped dramatically, the number of staff increased dramatically. The Secretary of Welfare would point to his "X-Graph" - the logical end-point of which was that at some future date, 50,000 + state employees would be caring for one patient. In this kind of situation, though one can point to dramatic drops in institutional populations, one cannot thereby predict similar decreases in, or transfer of, institutional budgets. Therefore, unless other means of revenue are found, there will not be adequate community-based options.

Scarcity of resources has been less common in juvenile corrections than in mental health, probably for political reasons as much as anything. For although there has been the rhetoric of deinstitutionalization and decarceration in juvenile corrections, it has usually been little more than rhetoric, while institutio

generally stabilize, increase populations, or rename themselves non-institutional "alternatives". Given current demands for tax cuts, the cries of state employees, correctional officers unions, etc. for more staff, and the demand for buildings has kept institutions going at a remarkably fast, at times hysterical pace.

Decarceration is an art, not a science - though as such it should be and must be based in objective fact. Insofar as it is an art, however, it will not always be totally logical. As drama students learn early on "logic is the death of art". That perhaps overstates the situation when applied to the art of decarceration or deinstitutionalization, but an essential truth is contained in those words. This is not to suggest unreasonableness, irrationality, know-nothingism, or anything of that sort.. However, at the same time it is clear that if one is committed to a strategy of decarceration, actions will often be taken because they seem right when measured against the goal, and more importantly, because a particular action alleviates immediate, palpable suffering. Such actions cannot wait on a great scheme or a "right moment".

Parenthetically, many of the most important steps in decarceration in Massachusetts and Pennsylvania were made on the upswing from a major crisis or near-disaster. When all other means of solving the problem had been exhausted or collapsed, it was often out of this dire situation that a new synthesis, a new structure for viewing the problem, a new approach developed, which had not been previously considered. Robert Theobald, the futurist, has put it another way, noting that what is needed today in planning for basic change

is not so much a map as a compass (Theobald, 1973). With reference to decarceration - particularly in the early 1970's - a compass is needed which will keep us on course toward a clear goal: the goal of enhancing human freedom. In the early 1970's there was no way to adequately map out in advance where one was headed since no one had been there previously. Now it is possible to map out that terrain a bit - though the map may be seen as slightly irrational by those who would chart where they are going before they have been there. That is the characteristic manner in which decarceration is planned - though seldom accomplished.

LESSON 1

A PHILOSOPHY OF DECARCERATION

Although most professionals espouse "utopian" goals and see the need to plan methodically for those goals, neither liberal impulse nor professional training (in social work and community organization) had contributed much. More often, they have endangered decarceration efforts. Epstein notes this as follows:

"In an area closely tied to social work, Downs conducted a national study of juvenile correctional institution administrators and found no relationship between staff professionalization and measure of deinstitutionalization - a program innovation. He reports the results of test of the relationship as follows:

"Executives were asked the number of professional associations to which they belonged and the number of professional conferences they had attended in the past year. The relationship of agency directors to their profession, at least as measured by these two variables, appears to have little to do with how deinstitutionalized their agencies are. It turns out that this relationship is not due to correctional executives having no impact on agency innovation . . . but to the fact that their professional ties are poor indicators of their ideologies and priorities." (Epstein and Conrad, 1979: 175)

The rationality of what Carl Popper (Popper, 1950: 154) refers to as "utopian engineering" is unassailable, though in action it may be irrelevant. When one reads the voluminous studies done on the deinstitutionalization efforts in Massachusetts (written in five books and some thirty articles by the Center for Criminal Justice at Harvard University) or when one reads the summary of that

effort as outlined in articles and books by academics and practitioners in Government and political science one is easily seduced by the rationality of the structures, the logic of the process, etc. into believing it actually happened that way. With the screening of hindsight, the structures imposed by academics become reality. However, when these structures are applied to decarceration experiences in other states, many of them do not seem as relevant or valid as previously. In some cases they mislead. A notable example can be found in some of the studies on decarceration emanating from the Pennsylvania State University, College of Human Development. As interesting as the articles are, they reflect an inadequate grasp of the more important political and personal factors which shape serious decarceration efforts.

In examining the deinstitutionalization efforts in two major industrial states, Massachusetts and Pennsylvania, one is torn between the two approaches outlined by Karl Popper, and seen by him to be for the most part to be mutually exclusive. Popper makes a distinction between "utopian engineering" and "piece-meal engineering".

"The utopian approach may be described as follows. Any rational action must have a certain aim. It is rational in the same degree as it pursues its aim consciously and consistently and as it determines its means according to this end. To choose the end is therefore the first thing we have to do if we have to act rationally; and we must be careful to determine our real or ultimate ends, from which we must distinguish clearly those intermediate or partial ends which actually are only means, or steps on the way, to the ultimate end. If we neglect this distinction, then we must also neglect to ask whether these partial ends are likely to promote the ultimate end, and accordingly, we must fail to action rationally."

These principles if applied to the realm of political activity, demand that we must determine our ultimate political aim, or the ideal state, before taking any practical action. Only when this ultimate aim is determined in rough outlines at least, only when we are in possession of something like a blueprint of the society at which we aim, only then can we begin to consider the best ways and means of its realization, and to draw up a plan for practical action. These are the necessary preliminaries to any practical political move that can be called rational and especially of social engineering." (Popper, 1950:)

Popper notes that this description of utopian engineering is convincing and attractive. However, he views it as dangerous. For example, it is the kind of planning which characterizes much of the "dumping" in the deinstitutionalization of mental patients.

Popper outlines the other approach to social engineering, that of "piecemeal engineering" which may be perhaps an unfortunate choice of words.

It is an approach which I think to be methodologically sound. The politician who adopts this method may or may not have a blueprint of society before his mind, he may or may not hope that mankind will one day realize an ideal state, and achieve happiness and perfection on earth. But he will be aware that perfection, if at all attainable, is far distant, and that every generation of men, and therefore also the living, have a claim; perhaps not so much as claim to be made happy, for there are no institutional means of making a man happy, but a claim not to be made unhappy where it can be avoided. They have a claim to be given all possible help if they suffer. The piecemeal engineer, will accordingly, adopt the method of searching

for, and fighting for, its greatest ultimate good. This difference is far from being merely verbal. In fact, it is most important. It is the difference between a reasonable method of improving the lot of man, and a method which, if really tried, may easily lead to an intolerable increase of human suffering. It is the difference between a method which can be applied at any moment, and a method whose advocacy may easily become a means of continually postponing action until a later date, when conditions are more favourable. And it is also the difference between the only method of improving matters which have so far been really successful, at any time, and in any place, and a method which, wherever it has been tried, has led only to the use of violence in place of reason, and if not to its own abandonment, at any rate to that of its original blueprint." (Popper, 1950: 154-55)

James Cameron speaks of the inhibition of experimentation in public policy. He says, "The most significant handicap that results from the failure to view policy from an experimental perspective is that policy is ultimately treated as a final solution. The image of policy as a solution rather than a working hypothesis usually reflects an implicit conception of the larger "theory" underpinning the policy as "true". That is, policy is regarded as the practical application of a holistic and universal theory." (Cameron, 1977: 5) In this sense, decarceration is itself a working hypothesis. If it does not enhance freedom, it must be replaced.

It is clear that most successful decarceration has been a matter of "piecemeal engineering". It is not attained through application of a

blueprint. During the first stages of reform in Massachusetts for example, it was the hope of the administration to make the institutions themselves better and more effective. They held the utopian view that they could turn repressive, brutal and unresponsive juvenile training schools into "therapeutic communities" or little "utopian" worlds. In a sense, this approach was not unlike that of those 19th century child-savers, who originally designed the juvenile justice system and youthful offender institutions. Their intentions were good. The results however, provide confirmation of Popper's view that utopian planning leads to lessening of freedom.

During the process of trying to reform the institutions and to make them more responsive and humane, it became clear that most reform administrators were involved in a full time task just to maintain a semblance of dignity and decency in those closed institutions with youthful captives as inmates. The moment administrators turned away from the task, the institutions regressed and became more repressive. In this sense institutions have little place in Rogerian-like theories which stress concepts of innate tendencies toward health or self-correction. Rather institutions with captive populations, when handled non-directively, tend to deteriorate. At best, they become bureaucratic. At worst, they turn brutal and repressive.

It was the style and interest of the Commissioner in Massachusetts to visit institutions unannounced and to become personally acquainted with numbers of youngsters committed to them. It is clear that the decision to

"deinstitutionalize" was made in response to specific personalized incidents of mistreatment within those institutions, incidents which the Commissioner knew had affected specific youngsters. In a sense, many of the decisions relevant to decarceration were, in a sense, impulsive, and were a way of responding to the needs of this or that youngster. It was clear that it was impossible to remedy such problems in any effective way within existing institutional structures. Though one might achieve some short respite from mistreatment, it repeated itself as soon as one turned aside to other matters.

The goal of deinstitutionalization in both Massachusetts and Pennsylvania was chosen not as a utopian ideal - that whatever community-based alternatives might be created would be in themselves dramatically better than the institution - but rather as a means of dealing with a present series of individual problems which seemed insoluble within the institutional setting. It was hoped that change would alleviate day-to-day dehumanization. In this sense, it was what Popper would describe as "piecemeal." Administrators did not wait for the right moment before acting. Action at times seemed to create the moment. What beforehand seemed reckless, seemed less so when done.

There can be little doubt that had the Department of Youth Services called for a state referendum on whether or not to close the state training schools in Massachusetts, it would have lost by a large majority. However, once the act was done and there was no increase in incidents, crime, mistreatment, etc. - the change became, for the most part, socially and politically acceptable. It was interesting to note, however, that no major politician in Massachusetts ran on a platform of reopening those training schools. Some, such as the current Governor, have toyed with the idea. However, if the training schools were to be re-opened, it would probably come as the old ideology cloaked in professionalism e.g. "The need to create structured environments for needful children who act out."

In this discussion of "utopian" and "piecemeal" engineering, Popper says "I do not suggest that piecemeal engineering cannot be bold, or that it must be confined to 'smallish' problems. But I think that the degree of complication which we can tackle is governed by the degree of our experience gained in conscious and systematic piecemeal engineering." (Popper 1950; 571). In that sense, "smallish" problems were avoided in the deinstitutionalization efforts in Massachusetts and Pennsylvania. The goal grew to be that of decarceration, along with a general conception of what an "ideal" community-based alternative system might look like.

The alternative model was not specific at first, but developed as experience was gathered in moving delinquent youngsters out of institutions. The initial plans provided only vague outlines which were filled in as things moved along. Efforts were directed toward mitigating the harmful effects of the existing institutional system. For example, as the Harvard studies subsequently proved, the reform administration depended much too heavily on group homes. Ultimately they proved not that much more successful than the institutions themselves either in terms of recidivism or decent care. This later evaluation simply confirmed what many at the time intuitively knew when speaking to youngsters in group home settings - they were very frequently as manipulated, threatened, and controlled in those so-called community based settings as they had been in the more obviously repressive institutions. Much as Popper would doubtless conclude, the Department of Youth Services should have moved out of many of those group homes long before the final recidivism results were in from the Harvard studies - in order to obviate the day-to-day manipulation and maltreatment of youngsters in

group homes. Perhaps that approach would be closer to what Hayek recommends when he calls for "Planning for freedom". (Popper 1950; 571).

The move to better the conditions of the institutionalized youth in the Massachusetts, led first to attempts to "reform" the institutions. Only later did it culminate in decarceration.

Ultimately, this points to the need for consumerism and freedom of choice, to whatever degree possible, within the limits of our ability to educate the public to that need for heretofore captive clientele, within the bounds of public safety. If one were to speak in terms of a goal - and not a utopian blueprint - one would speak in terms of freedom and the democratic ideal. If one can move juvenile corrections deftly, even slightly in that direction, it will be less totalitarian and therefore less dehumanizing.

However, even in dealing with the day to day mitigation of evil, or the relief of immediate human suffering, one must choose the arena well. It is necessary to understand the meaning of symbols and gestures. Some simple acts of relief of suffering have greater moment than other acts less well chosen. It was for this reason that the deinstitutionalization efforts in Massachusetts and Pennsylvania relied heavily upon the theoretical work of Neil Smelser, particularly as outlined in his theory of collective behavior. (Smelser, 1962). Though actions might be taken to alleviate suffering very personal and individual, every attempt was made to lift those acts to symbolic levels, thereby penetrating something deeper in the society. For example, a change in "role behavior" does not necessarily effect: the definition of "roles", "norms", or the "values" of the social group within which that "role behavior" occurs. If one can change the norms or the roles

themselves however, role-behavior will automatically change. In efforts to mitigate the bad effects of institutionalization issues were deliberately chosen which would to a degree, reverberate symbolically to wider levels of roles and norms, if not to the underlying values themselves.

In institutions, many of the actions of staff and inmates which might seem simple bureaucratic procedures, are in fact, symbolic of society's response to social deviance - haircuts become castration rights, admission procedures become degradation rituals, staff conferences become confirmation liturgies, etc. When there are a host of such institutional behaviors which are destructive of the inmate, and when there is limited executive authority or time, one must choose well, the specific behaviors to be confronted. The goal is to take whatever action which has the potential to shake the foundations of the institution itself - while at the same time giving specific respite and relief to the inmate.

An example of an approach which flies in the face of common administrative practice and "utopian" planning, was the manner in which institutional runaways were handled early on in the reform of the Massachusetts juvenile correctional system. During the reform efforts, despite daily attempts to humanize the institutions, they remained for the most part a repressive, irrational, and often brutal means of controlling adolescent offenders. The so-called discipline cottages continued to exist at both Shirley and Lyman Schools. Efforts to reform them, to make them more humane, were for the most part negligible. In such a system, it was not uncommon for youngsters to "run away".

Now runaways from juvenile correctional institutions have always been handled by returning the youngster to a "discipline cottage" an "annex" or

similar arrangement where he is subjected to a new series of punishments. In Massachusetts, this consisted of silence, make work labor, short hair cuts, odd uniforms, laced here and there with beatings, etc. (Indeed, there were records in Massachusetts of training schools in the past breaking youngster fingers when they returned from runaway, as well as being subjected to the "bastado" or beating on the soles of the feet as a means of controlling runaways). In those years there were very few runaways - a few broken fingers will stop most. When this overt brutality stopped, institutional rules came into play, demanding that for the good of the institution, every runaway had to spend a given period of time in a "discipline" cottage upon his return to the facility.

During the "reform" period in Massachusetts, word got out to some of the youngsters in the institutions that a new administration in Boston might view the matter in another light and might even react differently to their right.

One day a youngster ran away from one of the boys' industrial school and showed up within a few hours in the Department of Youth Services central office in Boston, complaining of his treatment at the institution and refusing to go back. The Commissioner did not send him back. The boy was paroled. That decision was anathema to the institution. In handling the matter that way, the administration committed itself to a certain course. In fact, the Commissioner had undermined institutional discipline and potentially subjected himself and his administration to "manipulation" by whatever youngster wished to leave an institution and seek some other alternative to the training school. No doubt, it stimulated other

runaways, many of them calling, or coming to the central office. Cases were handled individually. In some instances the Juveniles were convinced to return to the institutions, others were paroled and some were assigned to alternative programs in the community. The institution's need for order was a low priority when measured against individual needs. In fact, in many cases the decision to run away was rational, though perhaps imprudent. This individualization of policy no doubt hurried the demise of the state training schools. It also led to some lack of discipline within the schools. The attitude of the administration was "So be it". The moral issue was whether the youngsters involved were being justly handled. In most cases, they were not. That bit of "piecemeal" engineering perhaps more than anything, is an example of the kinds of "risk" responses which administrators will have to take if they are to undo ineffective or harmful systems. The example also provides one reason why reformers subscribing to these approaches limit their later career opportunities.

The philosophy underlying successful decarceration has been for the most part, personalist rather than institutional. It must therefore be judged accordingly. The institutional approach closely tied to utopian planning is best described in these words from Plato.:

"The greatest principle of all, is that nobody, whether male or female, should be without a leader - and even in the smallest matter he should stand up under leadership. For example, he should get up, or move, or wash, or take his meals -- only if he has been told to do so. In a word, he should teach his soul, by a long habit, never to dream of acting independently, and to become utterly incapable of it."

This stands in opposition to "planning for freedom" which will arise in any authentic impulse to alleviate suffering. Piecemeal engineering is basically a consumerist approach and must be judged in those terms. Consumerism with captives, however, has up to now been a contradiction in terms.

The "Proper" Way to Decarcerate, or Decarceration Without Tears

Decarceration has been a catchword not only in corrections but as "deinstitutionalization" in mental health, developmental disabilities, and work with the handicapped. The Mental Health practitioners who have "deinstitutionalized" state hospitals in the most irresponsible manner, have also developed a fair amount of literature which, on the face of it, seems natural in that the literature gives validity to the frequently disastrous deinstitutionalization practice. It indicates that mental hospitals were often precipitous in their deinstitutionalization of large numbers of patients. Though few could quarrel with this assessment, most critiques from within the professions miss the point. They focus primarily upon such issues as inadequate preparation of the community, the dearth of community resources, poor diagnostic workups, "dumping", poor coordination between mental hospitals and the community agencies, etc.

In a monograph typical of this genre, prepared for the National Institute of Mental Health, Bachrach (1976), a sociologist outlines the major issues related to deinstitutionalization as follows:

- 1) Issues related to the selection of patients for community care
 - a) Chronically ill patients
 - b) Patients inadequately prepared for life in the community
 - c) Disadvantaged and minority groups
- 2) Issues related to the treatment course of patients in the community
 - a) Inadequate range of treatment services
 - b) Fragmentation and lack of coordination in community treatment services

- c) Inaccessability of treatment services
 - d) Questionable quality of care in community services
- 3) Issues related to the quality of life of patients in the community.
 - a) Inadequate community support systems
 - b) Residential facilities and living arrangements
- 4) Issues related to the greater community
 - a) Community resistance and opposition to mentally ill individuals
 - b) Effects on communities to which patients are released
 - c) Ecological impacts on economy of hospital community and on hospital staff
 - d) Effects on patients family
- 5) Financial and fiscal issues.
(The author simply makes note that "the deinstitutionalization movement is encountering substantial fiscal problems". She points to some of the hidden and indirect costs in the community and the fact that mental health patients are very often simply transferred from Mental Hospital budgets to welfare department budgets.)
- 6) Legal and Quasi-Legal issues
- 7) Informational Issues and Accountability
 - a) Necessity for Evaluation Studies
 - b) Difficulties in locating and following patients in the community
 - c) Inadequacy of the existing follow up studies
- 8) Additional issues resulting from the process of deinstitutionalization itself.
 - a) Timing: Precipitate implementation of new programs
 - b) Inadequate attention of patients' desires
 - c) Problems related to providing adequate services in hospitals

- during phase out
- d) Failure to establish liaison between hospitals and community based facilities
 - e) Role blurring
 - f) Disenchantment with the deinstitutionalization movement: resistance to other change

Professor Bachrach synthesizes these issues accordingly: One of the ironies that strikes the student of deinstitutionalization is that the issues discussed here are not necessarily newly reviewed - thus it is not as if some of the questions that needed to be asked before the deinstitutional movement took on momentum were never raised. They were raised; but, in practice they were not acknowledged. The movement went forward on its own momentum too often impervious to attempts to steer it onto a course consistent with clinically derived principles and theoretically derived expectations". (Bachrach; 1976;15)

All of the abovementioned issues exist, with minor differences in decarceration efforts effecting adult or juvenile corrections. They are real issues which confront any deinstitutionalization or decarceration movement. What is most interesting about this array however, is what it does not include. The list of "issues" reflects the professional and academic naivete which underlies the implementation of most deinstitutionalization programs in the United States. The author virtually ignores the political forces which undergird and sustain institutions and which structurally militate against responsible deinstitutionalization. If all of the "issues" enumerated by Bachrach were confronted and dealt with. There would still be a significant chance that the deinstitutionalization would fail. This is because

institutionalization, de-institutionalization and decarceration are basically political and fiscal processes. Until that fact is confronted, no amount of theorizing or concern for proper clinical or correctional practice will have much meaning or many measurable results.

Though Bachrach touches upon fiscal issues, she misses the point. It is not a matter of the "cost benefits" of community care over hospital care or of "indirect costs incurred by other community agencies that are called upon to deal upon with patients". nor is it even a matter of the transfer of major fiscal responsibility from mental health facilities to the public welfare enterprise. The basic fiscal issue in deinstitutionalization or decarceration has to do with the transfer of monies from where they are institutions - to where they are not community-based programs. Thus, its course, has not happened often, either in correctional or in mental health deinstitutionalization practice.

Most mental health efforts to deinstitutionalize have shown little decrease in institutional budgets or staff. There are instances in which it has been done as a cost-saving mechanism whereby patients are simply dumped out of the institution. The number of staff may on occasion be allowed to wind down somewhat through attrition. However, there is usually little or no evidence of transfer of those resources of personnel and monies to the alternative or community based facilities.

This brings us to the other issue that Bachrach and others who deal with the issue of deinstitutionalization virtually neglect, the issue of the politics of deinstitutionalization. We started with the premise that

institutions continue to exist as an anomaly, not because they are effective, or even because they provide what Bachrach refers to as "custodial care" for public safety, (the removal of individuals who exhibit certain kinds of socially disruptive behavior.) There are other ways, even in some "alternatives" that these sorts of functions could be served. "Custodial care" is hardly an apologia for institutionalization. Institutions serve other, less noble purposes.

In an interesting twist on a theory of functionalism, Bachrach refers to the manifest and latent functions mentioned by Robert Merton in his classic study. She suggests that state mental hospitals are fulfilling certain latent functions - custodial care or public safety. One could make the same suggestion with reference to prisons - though one might be disposed to suggest that the latent functions in corrections have less to do with public safety or exile, than they have to do with creating a certain number of criminals to reinforce social norms. Be that as it may, the latent functions of institutions are closely tied to political issues.

Institutions do a number of things other than provide "custodial care" or public safety. They provide employment in remote areas, contracts for vendors or services in those areas, architectural fees, and political patronage. They motivate political groups (state employees, labor unions), and engender political lobbies. They are the stuff of law and order speeches, and provide a place to exile and punish while maintaining a veneer of concern and care, to mention but a few.

Indirectly, institutions provide for a certain amount of disenfranchisement of their clientele and consequent political impotence, etc. Finally, in the words of Michael Novak, institutions exist not to be effective but to provide

reassurance. (Novak, 1963). Even though that reassurance may be false, it is reassurance never the less. The only way politically to bring about a successful deinstitutionalization or decarceration is to create counter-political forces for the community-based alternatives. One must, at least for a while, create vested interests from among the community-based alternative programs.

SOME PRACTICAL POINTERS

The "Crisis" of Incarceration

Comment was made in the matrix section of this paper on the use of crises and its effect on successful decarceration. It was noted that a number of times a particular unintended or unanticipated "crisis" provided the stimulus for rethinking problems and placing them in new context. On other occasions, crises which could have been the occasion for movement forward, in fact inhibited decarceration efforts.

Crisis as a means to new solutions is well known in the literature. Certainly Thomas Kuhn, in his book on scientific revolution speaks of paradigms which, in the face of crisis, reconstitute themselves. He notes that the introduction of new insights come about as paradigms break down and that those who stimulate such changes can expect insulation from their peers. (Kuhn, 1962).

A different view of the same issue - an approach which has relevance to decarceration - is that stance taken by the sociologist Herbert Blumer. He notes that social problems have their being in a process of collective definition and that sociologists have erred in locating them alone in objective conditions. The process of collective definition determines whether social problems will arise, whether they will become legitimated, how they are shaped in discussion, how they can be addressed in official policy, and how they are reconstituted in putting planned action into effect.

Blumer's analysis of social problems as collective behavior has great import in understanding the role of crisis in decarceration. The movement from

institutions to community-based programs does not simply happen because of "objective" conditions. If it were such a simple matter, the institutions would have closed long ago. If not closed, they certainly would have been seen as inappropriate for the bulk of incarcerated youth - who, by any objective measure, are fit clientele for a variety of alternative programs in lieu of institutionalization. "Objectivity" is not the issue. Collective definition, on the other hand, is.

If the overuse of institutions must first be defined as a "social problem", Blumer's analysis of how social problems come to be is of great importance. His thesis is that social problems are fundamentally products of a process of collective definition, instead of existing independently as a set of objective social arrangements with intrinsic characteristics. He goes so far as to state that most "social problems" analyzed by sociologists are defined as social problems by virtue of things other than "objective" factors. Blumer notes that in identifying social problems, sociologists have consistently taken their cue from what happens to be in the focus of public concern. It is therefore extremely important to know how things come to be recognized as "social problems". His conclusions are critical of most sociological theory. "It is assumed that the reduction of a social problem into objective elements captures the problem in its central character and constitutes its scientific analysis. In my judgment this assumption is erroneous." (Blumer; 1971: 300)

Blumer defines a social problem in this way:

A social problem exists primarily in terms of how it is defined and conceived in a society instead of being an objective condition with a definitive objective

makeup. The societal definition, and not the objective makeup of a given social condition, determines whether the condition exists as a social problem. The societal definition gives the social problems its nature, lays out how it is to be approached, and shapes what is done about it. Alongside these decisive influences, the so-called objective existences or makeup of the social problem is very secondary indeed. A sociologist may note what he believes to be a malignant condition on a society, but the society may ignore completely its presence in which even the condition will not exist as a social problem for the society regardless of its assertive objective being -- a social problem is always a focal point for the operation of divergent and conflicting interests, intentions, and objectives. It is the interplay of these interests and objectives that constitutes the way in which a society deals with any one of its social problems. (Blumer; 1971: 301)

If the overuse of institutions and of incarceration is to be seen as a "social problem" and if decarceration is to be seen as a response to that problem, it is crucial that one understand the definition of process. Unless incarceration is seen as such a problem, nothing will be done about it. Clearly, for quite some time we have been in an era in which reform rhetoric has focused upon the overuse of incarceration as a "social problem". However, the ways in which conflicting interests, professional associations, political groups, etc., have played out their divergent objectives has not resulted in defining the overuse of incarceration as a real and palpable social problem. It is

the job of the administrator interested in decarceration to influence the definitional process in such a way as to ensure that incarceration itself becomes a social problem, and decarceration is seen as a response to that problem.

In this context, crisis can aid the definitional process. A crisis provides the potential for creating a "social problem" - by bringing existing conditions to public awareness. It is therefore subject to the same sorts of influences, definitions, and interplay which underlies any other "social problem" defined by collective behavior. Such defining is the result of a highly selective process. The correctional administrator, by virtue of his position and authority can influence that process, however. For a decarceration strategy to be possible, incarceration has to become a legitimate social problem. Paradoxically, if incarceration is to be a social problem, it must carry with it, a certain "social endorsement" - "the social problem must acquire a necessary degree of respectability which entitles it to consideration in the recognized arenas of public discussion." Blumer notes that such arenas are the press, other media of communication, the church, the school, civic organizations, legislative chambers, and the assembly places of officialdom" (Blumer, 1971; 303) He states clearly that if a "social problem does not carry the credential of respectability necessary for entrance into these arenas, it is doomed". Incarceration must be given a respectability, albeit negative, before it becomes a social problem worthy of decarceration.

Once the social problem has passed through the stages of societal recognition and social legitimation, it enters the "new stage in its career". It is at this point that the problem can become the object of discussion, controversy, differing depictions, and diverse claims.

The administrator who wishes to implement a decarceration strategy must understand the process which goes into the definition and legitimation of incarceration as a "social problem". One way in which he alone can aid this process is to expose his own system. The average correctional administrator has at hand, enough information, incidents, and a variety of other potential definitional tools to ensure that his agency's use of incarceration becomes a social problem. Additionally, he can also determine that the social problem is of such magnitude as to demand immediate and radical change. He must thereby create the climate - the crisis which will lead to that effective action. In so doing, his very change strategy will necessitate some administrative and managerial problems. This is an unfortunate byproduct of successful decarceration. But it can be kept in balance and in bounds. The political scientist, Robert Behn, has commented on this strategy as it relates to termination of public policy - in this case, decarceration. He says:

How can a public manager terminate a government policy, program, project or agency? If a government activity is obsolete, ineffective, inefficient, duplicative or positively bad, how can it be eliminated?

. . . Constituencies are the dominant force in policy politics. No government program is without an organized constituency to protect and nurture it. Those programs that some believe can be easily eliminated without much loss (and perhaps with some gain) are precisely those programs that other believe are absolutely essential.

Moreover, people care much more deeply about the continuation of the program from which they directly benefit than about the termination of those programs that they feel are unimportant or wasteful. Those who benefit from a policy may be few, but they understand clearly the personal costs of its termination. They will quickly mobilize to resist any such threat.

Those who would benefit from a policy's termination, however, many not even recognize that such benefits could exist. Or, if they do, they also recognize that those potential benefits are too small to warrant much effort to realize them. Thus, no organized constituency exists to support termination. . .

Only by recognizing that it is the constituency of beneficiaries that makes termination so difficult will the public manager understand what must be done to eliminate any public policy. Organize a counterconstituency . . .

Of course, mobilizing a dedicated and effective termination coalition will not be easy. Most people will have little incentive to devote any real effort to the cause. Identifying a direct, personal reason why some group should favor termination is essential.

If a public manager can demonstrate that a policy is actually harmful (and this is not always the case) he can arouse specific, organized interests that will work for termination.

For example, before the Massachusetts Commissioner of Youth Services attempted to close that state's reform schools in the early 1970's, he focused public attention on their evils. To create scandal, he actually invited the press to observe the institutions. He changed the political question from "What do we do with these bad kids?" to "What do we do with these bad institutions?"

In the process, he mobilized a coalition of reformers concerned about the state's treatment of juveniles. And this new constituency was able to defeat the group of state legislators, county officials and institutional employees that, in the past, had quietly controlled the reform schools.

As this suggests, the ideal strategy is to publicize widely the policy's harm before termination itself is even suggested. This way, a manager can identify and mobilize those who will support termination without giving the policy's beneficiaries a specific threat with which to rally sympathy and support.

Bad policies continue not so much because public managers lack the will to undertake the thankless chore of termination as because they do not understand how to achieve the objective. In politics, after all, intelligence is as important as courage. And no public policy will be eliminated unless political leaders understand the central role of constituencies and how to create a coalition to support - directly and actively - the goal of termination. . .

The successful administrator must balance his goals against the extent of dysfunction the bureaucracy can tolerate without collapse. Not surprisingly, traditional correctional bureaucracies are unbelievably resilient in their capacity to resist and survive through periods of change. Therefore, the average administrator who seeks decarceration need not worry much about the collapse of the traditional institutional system. More likely he should attempt to forestall his own demise at least until some small basic steps are taken towards decarceration. A variation on this theme is the "crisis" which arrives unexpectedly on the scene. Here again, the crisis can be defined as part of the social problem demanding change of a radical and definitive nature.

Crises during Decarceration

Although it is clear that the administrator who is committed to decarceration can bring the crisis associated with incarceration to public attention, there are crises during decarceration as well. They are of a different order. The crises which underlay incarceration are related to such issues as maltreatment, injustice, disproportionality of sentence, depersonalization, etc. For the most part, the crises which occur during decarceration will relate to administrative error, fear of bureaucratic risk or political attacks. Admittedly, administrative ineptitude during decarceration can lead to maltreatment of clientele. However, all other things being equal, the crises of incarceration which have to be stimulated as a "social problem", are qualitatively different than those crises which inevitably arise during decarceration.

It is a common perception that a crisis during decarceration can destroy or substantially hinder a decarceration movement. The goal is to avoid as much as possible incidents, problems, etc. which might lead to crisis. This is of course, natural and reasonable. However, much of the

major progress toward effective decarceration in Massachusetts and Pennsylvania was made during recovery from crises. This is not to suggest that one should seek crisis, but rather to point out that when the alternatives were fewer and the system was on the verge of a collapse, that critical period often forced reconsideration, rethinking, bringing in new definitions and frameworks, which allowed for considerable progress.

The same was true of mistakes. Mistakes are easily made in decarceration efforts - but it is in the retrieval of those mistakes that great progress can be made. For example, a crisis arose about two months after the closing of the last boys' training school in Massachusetts. Although the decision to close that training school was made in a methodical manner, the decision was executed quickly. Indeed, the institution was emptied on one day - sending approximately 100 remaining juveniles to the University of Massachusetts with "student advocates". It was their task to arrange an alternative program for each youngster. The inmates were moved to the University of Massachusetts to avoid other kinds of crises within the institution, - riots, escapes, etc. - which seemed to accompany any move towards decarceration. The administration had learned by then that it is impossible to phase down an institution slowly without major incidents.

In the case of the last boys training school, although there were adequate alternatives for the juveniles coming out, there was an unanticipated rise in commitments to the department in March of that year. The training school was closed in January of 1972. There were enough alternative group homes, advocates in the community, etc. during January and

February. However, with a surge of commitments in March, the administration found itself in a situation where it did not have enough alternatives. It was at that point that crisis developed. The Department was receiving more juveniles into system than it had alternatives prepared.

The major treatment modality up to that time had been the so-called "group homes". The group homes had been the primary alternative since the beginning. It was based upon an earlier term used a great deal by Robert Kennedy - the so-called "halfway house" - which was much in vogue as a correctional alternative in the late 60's and early 70's. It was clear, however, that the reform administration did not have enough halfway houses or group homes for the numbers of youngsters coming into the department. Not incidentally, those involved in decarceration can expect, if not actually predict, that commitments by the juvenile courts will rise dramatically when decarceration is announced. The rise will occur in both phases. Before the institution can be closed (particularly if the closure is slow and phased) the numbers of juveniles sent to it by courts will rise. After the closure, the number of juveniles placed in "alternatives" will likewise rise dramatically. The reasons for this phenomenon are varied, but are for the most part not reflective of support for decarceration.

During the crisis in March of 1972 in Massachusetts, it was proposed that the Department of Youth Services reopen one cottage on the grounds of the training school as a "temporary" expedient to handle the overflow of commitments. That crisis could have taken the department back into the training school. Any "temporary" cottages on the grounds of a training school are similar to "temporary" taxes or a "temporary" toll roads - they have a way of becoming

permanent fixtures. The difficult decision was made that juveniles would be returned directly home the day after they were committed, if necessary, rather than be placed back on the grounds of a training school - if that was the only alternative available. This was not seen as a threat to public safety. The research at that school had shown that the longer a youngster was kept there the more likely he was to get in further trouble.

Once that decision was made, the Department did in fact, send a number of juveniles directly home within a day or a week of their commitment. This upset some judges greatly. Clearly, it could not go on for long as a policy. The staff was asked to move more quickly in developing alternative and to think about options other than group homes. The rule of thumb given was to "pretend" that one had the same amount of money per child that the training school at that time cost - in the range of 15,000 per year. The staff were asked to design the types of programs that 15,000 might buy for an individual youngster. The department would guarantee the amount - if the programs could be created.

During that time, DYS did have discretionary LEAA monies; it was also rather effectively transferring institutional budgets into the so-called "purchase of care" accounts of the department. Although there was always a shortage of monies, the Department of Youth Services tried to hold to the principle that every dollar attached to a juvenile in an institution must ultimately follow that juvenile to the community for the same amount of time he or she would have been in the institution.

What came of this "crisis", in brief, was the development of a wider range of alternatives. In particular, specialized foster care - the

placing of youngsters with individuals who were paid a full salary to watch after one juvenile. Because of difficulties in developing more group homes on such short notice, there was an increasing reliance upon the foster home alternative - with the setting up of private non-profit groups to screen and develop new foster home alternatives. The administration could not depend upon the traditional child welfare agencies in that they did not know how to set up the kinds of alternative living arrangements which were needed for juvenile offenders. From March through September of 1972, there was a tremendous increase in specialized foster care. The "crisis" engendered by the unanticipated higher commitment rate caused the development of this new approach - an approach new to juvenile justice and certainly new in terms of being used on such a wide scale.

Most interesting in all of this, however, was the fact that the Harvard studies have consistently shown that the most useful and helpful programs were the two programs which were developed out of the crisis situation - specialized foster care, and community advocacy programs. The group homes were planned, replanned, subject to community meetings, lawsuits, etc. After all the efforts taken, group homes were not shown to be that much more effective than institutions. Indeed, some were more effective - but the majority ultimately became as manipulative of youngsters as were the institutions - often simply redoing institutional ideology in the community and calling it "community-based". (Coates, 1974)

The crisis creates an urgency, and out of this can come collapse or creativity. Crucial to using such crisis creatively, however, is the ability of the executive to move more quickly and decisively. That authority was within

the law in Massachusetts. It did not exist in Pennsylvania, however. As a result, a crisis in Pennsylvania was always less productive and often set things back. Even in that case, though, crises were not so destructive as to stop decarceration efforts. The lack of "line control" did, however, slow those efforts in Pennsylvania. For a while, the administrator could "bluff" his decisions through the bureaurcarcy, but that eventually wore thin.

The Uses of Crises

In 1973, there was the threat of a strike of state employees in Pennsylvania. A planning document for the department at that time suggested that if a strike occurred it would not affect the Youth Development Centers (state training schools). They could continue on for the most part with full population, through use of supervisors, reassignment to cottages, etc. The memo in preparation for that potential strike concluded, "the delinquency institutions can sum it all up in two words: 'what strike?'" There was no consideration of any strike contingency plan which might change the system itself. Rather, the "crisis" of a strike was seen as a situation to be minimized, and if possible, ignored, as per this excerpt from the above mentioned memorandum.

TO: Deputy Secretary for
Social Services

FROM: Director,
Bureau of Youth Services

Initial reports from the directors of Youth Development Centers and Forestry Camps indicate that the institutions can survive a walk-out of counselor staff by utilizing houseparents, supervisory staff, and, in some cases, schools teachers for coverage. The overall

feeling of most of the directors is that they have things under control, the strike will not be a lengthy one, their substitute staff are ready to go, and the regional offices are communicating closely with them offering assistance and direction.

In July, 1975, there was a statewide employee's strike in Pennsylvania. It drastically reduced the labor force at the state's juvenile training schools. As the strike approached, however, numerous discussions were held with the Secretary of Welfare regarding how the opportunity might be used to lower population dramatically in the state training schools - and if the strike were extended - to devise alternative methods for keeping the youngsters in the community. There appeared to be no reason to return juveniles back to the institutions if, in fact, they were doing well in the community. In such a situation, the major rationale for return would be to satisfy the needs of state employment. The "crisis" caused by the strike could have been used in Pennsylvania as a means to decarceration most of the state schools. If the Commissioner had "line authority" as he had in Massachusetts - he would have gone ahead with such a plan. However, the Secretary of Welfare and his regional directors could not bring themselves to implement a decarceration strategy. Although the exigencies of the strike situation led to the virtual emptying of the state schools - and although the majority of the youngsters did quite well while out - they were all returned to the state schools at the end of the strike. At the one institution where the strike had its greatest effect - the employees tried to stop the buses of youngsters as they left the school. The rumor had gotten around that the Commissioner might close down the training schools during the strike - though this was not possible since that office did not have the "line authority" to do so.

The crisis created by the strike in Pennsylvania could have been the moment of a great advance in decarceration. A plan was outlined as follows:

PLANNING PAPERS

Proposed Response to a Strike at the Youth Development Centers

- I. A Summary of the Situation
- II. Proposed Response
- III. Short-term Consequences
- IV. Long-term Consequences
- V. Legal Basis for Prepared Response
- VI. Timetable

I. A Summary of the Situation

We are as yet uncertain about the impact to be expected from a strike of the AFSCME employees at the Youth Development Centers and Youth Forestry Camps. Nor do we know at the present time whether our PSSU employees will go out on strike themselves or refuse to cross AFSCME picket lines.

However, we are now in the process of developing background reports on the impact of such a strike on the health and well-being of the youngsters currently at these facilities. It is our best judgment at present that an AFSCME strike would pose a real threat to the well-being of YDC and YFC youngsters. Without proper dietary and maintenance services, and without sufficient supervision by houseparents, our youngsters cannot be adequately

provided for by our institutions.

II. Proposed Response

One response to the upcoming strike might be to simply mobilize all available supervisory staff and try as best we can to "hold on". Such an approach provides some short-term benefits, in that it allows the Department to maintain operations and services at the YDC's (albeit on a managerial level), at least in the short-run.

However, the Office of Children and Youth believes that the strike offers the Department a unique opportunity to achieve some more long-term goals as well. We believe that the population of the YDC's and YFC's can be cut by as much as 75% because of the strike. And we further believe that the strike offers us the opportunity to open community program for these 75% that can preclude the opening up of these beds again back in the institutions.

Toward this end we are proposing the following response to an AFSCME strike at these facilities:

1. A determination of those (c. 75%) YDC and YFC youngsters who are already furlough-eligible.
2. Furlough of these youngsters to their homes, because of the lack of services at the institution, at least through the July 4 holiday.
3. Training and deploying those remaining staff members who are willing to work with the furloughed youngsters in the community. Such a project would utilize the Community Advocate and/or Home Detention models described in documents attached.
4. Placement on July 7 of the furloughed youngsters under the supervision of a CAP or Home Detention Program operated as a part of the YDC or YFC

program: thus the effective deployment of 75% of these facilities' services.

5. The official closing down by the Secretary of the empty 75% of bed capacities at each YDC and YFC.
6. An ongoing and intensive development of residential and nonresidential community services by our deployed staff - for the furloughed youngsters and for future cases committed to the YDC's or YFC's.
7. The intensive development of remaining institutional services as short-term diagnostic needs assessment, or reassessment centers - for determining the needs of youngsters newly committed to us, or for reassessing youths who temporarily fail in our new community programs.
8. The development of ad hoc legal and CAP teams to supervise the entire furlough - deployment process, and to handle the programmatic or legal problems that arise. These teams will include DPW Central Office staff, Camp Hill Project members and the legal resources of the Project, DPW, and the Attorney General's staff.

III. Short-term Consequences

- A. 75% of the YDC and YFC populations will be in their homes in the community once again. Approximately 60-80% of these youngsters will need immediate supervision, advocacy, (e.g. to get back in school), special services, or new living arrangements.
- B. Many juvenile courts may push very soon (before or after the strike is over) to have furloughed youngsters returned to the institution. Only if effective programs have been developed, under CAP or Home Detention auspices, in the interim, will the Department be on firm ground in not returning furloughed youngsters by the strike's end.

- C. Many returning AFSCME and some other employees may be underutilized in the YDC's or YFC's after the facilities are operating at 25% levels.
- D. Intense political pressure will be brought to return furloughed youngsters.
- E. New, short-term, intensive services will need to be initiated for those 25% of the YDC youth who are not furloughed home. If they do not see some hopes of community placement, they may react angrily - quickly.
- F. Jobs of all YDC and YFC employees must be guaranteed - with best hopes for future advancement seen to lie in community employment. If such guarantees are not forthcoming immediately, the furloughs and deployment may well become a strike issue itself.

IV. Long-term Consequences

- A. Efforts can be expected, on the juvenile courts' part, to simply refill the beds of the furloughed youngsters. The official closing of these beds is, therefore, essential.
- B. However, should our prepared response be successful, the Department will have (quickly and efficiently) deployed 75% of its YDC and YFC services into community-based programs - and into the least institutional and most effective types of community programs (i.e., CAP and Home Detention models).
- C. The Department will have established its legal right (under The Public Welfare Code) to transfer youngsters into deployed community programs that are legally part of the YDC's or YFC's.

There was another time in which a crisis could have stimulated decarceration. During the energy crisis in 1977, Miller proposed to the Secretary of Welfare that he use that opportunity (crisis) to lower institutional populations substantially, and to move juveniles into the community. He outlined briefly what could be done and offered to submit detailed executive plans. However, once more lacking "line authority" he could not implement the plan, and the Secretary of Welfare refused to do so.

Despite the problems, the institutional population in Pennsylvania did fall rather dramatically. The juvenile population in the prison was lowered by over 400 and the population in the state training schools dropped to a 15 year low. There is no evidence that the number sent into the adult prisons increased.

The Politics of Decarceration

If an administrator implements a decarceration strategy in a particular state, he can anticipate a plethora - of legislative and/or judicial investigations. This is because, in moving to terminate an ingrained and institutional system he affects a whole series of relationships between and among vested interests, staff, vendors, politicians etc. which is bound to cause them concern, if not panic. However, it would be a mistake to think that these are the only motivating forces behind the controversy which inevitably emanates from meaningful decarceration.

More basic than this are the public's perceptions of deviance, which is shared the larger society and their representatives (the legislators). They have been socialized and conditioned to institutional systems as the appropriate means of handling such problems. Not only do their concerns touch upon such issues as how deviance is "properly" handled - through institutionalization - but in an even deeper sense, these concerns reverberate to personal self-concepts, feelings of self worth, etc.

Sadly, to a large degree in contemporary American society, self-concept is as much wedded to who we are not as to who we are. We are not those we identify and label, and those we inevitably scapegoat through institutional exile. Decarceration, therefore, is not simply a technical problem. It is a cultural problem. It will therefore result in a great deal of political activity.

Because much of the political activity surrounding decarceration has these deeper roots, it is a mistake to respond to criticisms and demands

from political figures as though the agenda resembles only the questions asked or the criticisms made. It is important, of course, to answer requests for specific and factual data, e.g. what are recidivism rates? What are costs? Why do you allow permissive programs? Won't this undermine respect for the law? Why are you not expanding this or that institutional project?

The latent questions, however, will seldom be asked - How will this affect the power-base in my legislative district? How much patronage will I lose? How will it affect unemployment? etc., - and at a deeper level, why should people "like that" be treated better than my constituents? How can I build them around scapegoating the "evil" or inadequate? and at its deepest level, how can we treat delinquents non-punitively when we control our own impulses through vicarious punishment of others?

Whatever testimony one gives before legislative committees must in a sense, relate to all these levels. The following are excerpts from testimony given by the Commissioner of Youth before an investigative committee in Massachusetts in 1972.

"In speaking of substantive reform in corrections, there are serious problems in dealing with the realities of the situation since people often prefer to hear myths -- and the truth in this area reflects so deeply in ourselves. There is no such thing as objectivity in talking of "treatment" of the offender -- since any such treatment rebounds immediately to one's own personal self-concept -- and ultimately affects the fabric of cohesion in the society.

"As an administrator looking at this system, one is caught up in a dilemma which is quite probably the essence of the system. As has been stated earlier, this is because one assumes responsibility for a system that is only remotely engaged in its stated purpose (correction or rehabilitation) and is primarily fulfilling other social or moralistic functions for the society. To keep one's equilibrium, one might wish to step aside or away from the correctional system as often as possible -- but to do so is to lose touch with it. Conversely, to be of it is to claim it, and that is self-destructive. How does one claim a Bridgewater or an Attica?

"A judge, no friend, has told me he sees the problem of correctional reform as administrative -- the need to administer a system well. I must rather agree with Adlai Stevenson, who noted that although poor administration can destroy good policy, good administration cannot save bad policy.

"Then one finds that playing political games becomes all-consuming. Why should one have to convince a member of Ways and Means committee of a reform program on the basis of a "favor," a job, a promise--to have to parlay for what should be seen as decent and, hopefully, rational?

"The attack will be upon such matters as "poor administration," the "critical incident" of the client in a new program, the lack of cleanliness in a group home, etc.-- when the goal is to preserve a series of arrangements which transcend the correctional system. To fight naively is perhaps the best after all--if one can survive--it is taxing to be wise as a serpent and meek as a lamb--to be one or the other is so much simpler.

The frustration of attempting change of the correctional system leaves one in a state of disharmony. The question then is whether to write a speech or a diary, to write a scientific paper or speak out in anger.

"There are a number of bars to substantive change and reform in the juvenile correctional system. Many of these lie in the system itself, which is designed to endure despite failure in its manifest task, i.e., the rehabilitation of offenders. Others lie in the contradictory roles which the correctional administrator must play.

"It seems to me that the knowledgeable correctional administrator finds himself torn asunder by his own agency. The common escape procedure for the administrator is to avoid knowing well his own agency. One can survive in perpetuum by avoiding contact with the "stuff" of his agency, i.e., the inmates, the residents. One can relate easily to the mechanisms of the bureaucracy and keep it smooth running with virtually no feeling of moral dissonance provided one keeps ignorant of his population. Diagnosis and classification in that system feeds and fortifies the studied ignorance and selective inattention of the administrator by validating his withdrawal to bureaucratic tasks. He can ensure thereby that his contact with his clientele fit well whatever diagnostic, moral, or legal categories are provided to justify the apathy and ultimate violence of the system. Historically, the law, the church, the "helping professions" vie with one another in providing those in authority with the rationale for any conceivable mistreatment -- thereby aiding the administrator in his avoidance of moral dissonance. It is therefore a narrow and difficult path which the

administrator must walk toward reform of the system.

"To look closely at the present juvenile correctional system in most states is to see need for reform from all sides. If the administrator looks too closely, he is caught in a personal dilemma--emotions righteous in intent, more complex in motivation, lead to actions which tend to immobilize progress in reform. On the other hand, if one overlooks the system, the basic contradictions within it are never confronted and therefore the reform becomes confused at its source, and the reformer becomes a hypocrite. The solution obviously is to react quickly and firmly to the patent injustices within the system. However, those arrangements upon which the correctional system rests--civil service protections, political patronage, institutional bureaucracy--insure that in practice there can be no quick or meaningful reaction relevant to a specific inequity. By the time one works through the bureaucratic, self-protective system, the reason for the reaction has been lost. The 'reform' which follows is made without confronting the issues--and therefore in many ways is less a substantive change than an absorption of contradiction. This is some progress, but it may easily lead to more basic and deeper injustice of the captive "deviants" if those with the defining power are not impelled to question their own stances and definitional categories.

"The problem of reform therefore is not one entirely of how to define and treat the deviant. It is also one of how to define and treat the definers. The issue lies somewhere between in the interactional process. One must allow for change in the definer as well as the defined if there is to be a progressive evolution in the correctional

process. This points to ethical problems with therapies of control-- as necessary as they may appear to be.

"One gets an uneasy feeling looking at the banal and mediocre level of juvenile corrections, to observe administrators and staff rushing to embrace classification centers, simplistic behavioral diagnostic models, operant conditioning and aversive therapies. The embrace is a solution and an escape--a solution to the problem of controlling difficult behavior of the deviant--and an escape for the society from confronting or understanding the "rationality" of a delinquent or criminal act. It is this kind of answer to delinquency offering short term solutions which could bode ill for progress. It is in this context that Edmund Leach defines a "cure" as "the imposition of discipline by force; it is the maintenance of the values of the existing order against threats which arise from its own internal contradictions."

"Much "reform" in corrections therefore is more a semblance than a reality. Many recent innovations in corrections are not new at all. The question one must ask is whether "new programs" are "new" or simply unfamiliar to a correctional context. One can easily become a sham reformer in corrections--garnering credit from the friendly uninformed and scorn from the unfriendly uninformed--neither of which are much help personally--but both of which can be a help or hinderance politically.

The problem is that of keeping one's integrity and not believing or internalizing the roles one is forced to play--not that these roles are

dishonest--rather they are incomplete or partially informed and therefore make the actor dishonest unless he keeps them in perspective. One has to have a sense of process and a capacity for informed loneliness. Otherwise, in constant interaction with staff, bureaucrats and politicians, one begins slowly to be socialized to a system which at its core cannot tolerate the ends for which one must strive.

" In changing an entrenched system, one becomes aware of a process wherein there is a subjective feeling of movement leading to an illusion of change and reform. I get the impression that the system wears you down-- the successive skirmishes and battles which were so clearcut in human terms, e.g., sadistic punishments vs. humane treatment--after awhile become less clear and more elusive. The successes are so hard to come by that one becomes elated with minor and petty results which appear to indicate progress. Then one day you stand back alone and view the results and realize you have come full circle and are beginning to allow the same things you originally condemned, in order to keep peace. The outcome is much the same treatment for the "delinquents" (with minor adjustments) only with this difference--you are respected by staff--a respect which, if gained, ensures survival of the system and maltreatment of your charges. The system in this sense transcends the people in it. The staff are as surely caught up in its apathy and violence as are the inmates. The ways in which the system defines survival for both groups ensures violence."

The purpose of this statement was to respond to the concerns of the legislative committee, while at the same time confronting some of the sources of the conflict which inevitably accompanies decarceration. While it is

important to respond factually and objectively to questions asked, and to supply materials requested by investigative committees, it would be the unusual legislative committee where such is in itself responsible.

Another strategy regarding hostile legislative investigations, is to encourage counter-investigations. If some legislative committees can ask "why decarcerate"? in the ways mentioned above, it is incumbent upon the correctional administrator to stimulate other committees to ask "why not"? For every legislative investigation of efforts in Massachusetts and Pennsylvania, there was a counter-legislative investigation related to the overuse of incarceration, mistreatment of juveniles, etc. These investigations did not simply happen. They were stimulated and encouraged by the administrator. The average juvenile correctional administrator who wishes to decarcerate his system has available to him a large number of facts, figures, and incidents, plus the resources to seek out more, all of which, will place in high relief the bankruptcy of the institutional system. Unfortunately, it is usually the case that juvenile corrections administrators keep these "in house". It is important and crucial that such information get out and that others be encouraged to bring them to public attention.

Before the Camp Hill prison in Pennsylvania was closed to juveniles, and before any decarceration had begun, the political forces were already clearly aligned. The following excerpts are from a UPI story of May 18, 1976:

Shapp Aide Wants to Set Up Treatment Center for Juveniles

PLAN TO 'DEINSTITUTIONALIZE' DELINQUENTS

RUNS INTO OPPOSITION

Jerry Miller hates big prisons for juvenile delinquents. In fact, he'd like to turn a bulldozer loose on them.

But his plan to "deinstitutionalize" juvenile offenders in Pennsylvania is running into stiff opposition.

His enemies can't wait for him to fail and move on to some other state. That is how his enemies felt in Massachusetts and Illinois, too. They have built up a fat file of unfavorable publicity that follows him everywhere.

Dr. Jerome G. Miller is Gov. Milton J. Shapp's director of community-based programs - a title that gives him a lot of power in a controversial area.

He began his \$31,000 a year job in January and is the most likely prospect to head a new commission for youth Shapp wants to set up.

He has only been on the job a short time, but already has set up a proposal to eliminate the juvenile section at the Camp Hill State Correctional Institution.

Miller wants to replace big prisons for juveniles with treatment centers in communities across the state, an idea opposed by many police officials and local leaders who fear an influx of delinquents

. . . He faces a tidal wave of opposition from politicians and labor unions - particularly unions for state employees.

They have started what will become a large-scale campaign against Miller and his policies.

Miller says his enemies fear him because they will lose power and political pull if institutions are eliminated.

Sources in Pennsylvania's Republican caucus say they are afraid of Miller because he has not established community programs to take care of juvenile delinquents when the prison system is eliminated.

They also say his record as an administrator has been rotten.

State Republican Committee Chairman Sen. Richard Frame, R-Venango, already has started his party's battle against Miller.

"This looks like a hot issue," Frame wrote Sen. Richard Snyder, R-Chester. He told Snyder he would be sending staff members to Illinois to interview Republican senators to gather information to use against Miller.

And the American Federation of State, County and Municipal Employees (AFSCME) also has its anti-Miller campaign moving. They have printed a booklet assailing Miller's programs in Illinois and Massachusetts.

There's only one problem with this information. Much of it is not true.

Miller is considering legal action against AFSCME for its booklet, which he says is filled with inaccuracies and

blatant errors. He has asked the union for a complete retraction.

And much of the information gathered against him by Republicans in Illinois came from his most bitter enemies in Massachusetts. Miller claims most of it is "a meaningless bunch of half-truths, misstatements and innuendoes."

. . . He claims press and television reporters did not do their homework for stories about his department. He said they jumped on the scare stories about deaths and run-aways, but rarely hit on his accomplishments.

"There were problems under Miller but they concerned his lack of administrative finesse or his impatience with dealing with those working to preserve the old system," said one observer.

And that lack of administrative ability will be the chief issue when Miller's opponents surface here.

"Look, we are saying that, at the very least, this guy is controversial," said one Republican source. "We want to hold up on his plans until the community programs are developed."

Miller has asked for a \$3.6 million program to set up community services for juvenile delinquents, and has obtained an opinion from Atty. Gen. Robert P. Kane forbidding the jailing of juveniles in state prisons.

Miller said his goal in Pennsylvania is to provide a system of care for delinquents that offers more than prison.

"The problem with this field is that the more you do, the more limited your career options are," he said.

During the decarceration process in Pennsylvania, two Pittsburgh judges approached the then majority leader of the Senate, seeking his aid in stopping it. As a result, a Senate resolution was passed, and a committee appointed to investigate the "management" of the Department, though the intent had little to do with management. The resolution was as follows:

SENATE RESOLUTION NO. 68

Introduced by Senators Nolan and Murray

Reported as Committed from Rules and Executive Nominations, February 3, 1976

In the Senate,
January 20, 1976

It has been brought to the attention of the Senate by members of the Judiciary of the Commonwealth of Pennsylvania that the administration of Juvenile Detention Centers throughout the State has been severely mismanaged; therefore be it

RESOLVED, That the President pro tempore of the Senate appoint a five member bipartisan Senate committee, three from the majority party, one of whom shall be chairman, and two from the minority party, to investigate all aspects of the administration of juvenile detention as administered by the Commonwealth and its agencies; and be it further

RESOLVED, That the committee may hold public hearings, take testimony, and make its study at such places as it deems necessary within this Commonwealth. It may provide itself with a competent staff drawing on such outside expertise as it deems necessary. It may issue subpoenas under the hand and seal of its chairman commanding any person to appear before it and answer questions touching matters properly being inquired into by the committee and to produce such books, papers, records and documents as the committee deems necessary. Such subpoenas may be served upon any person and shall have the force and effect of subpoenas issued out of the courts of this Commonwealth. Any person who wilfully neglects or refuses to testify before the committee or to produce any books, papers, records or documents, shall be subject to the penalties provided by the laws of the Commonwealth in such case. Each member of the committee shall have the power to administer oaths and affirmations to witnesses appearing before the committee.

The Associated Press summarized the situation well:

JUVENILE POLICIES CHECK SET

The Senate voted yesterday to begin an investigation into the state's policies of handling juvenile offenders.

According to Sen. Thomas Nolan, the Democratic leader, the inquiry is aimed at Dr. Jerome Miller, state commissioner of youth and children.

Miller has led an assault on the old system of incarcerating juveniles in the state prison at Camp Hill. Instead, the state,

under Miller's direction, is putting juvenile offenders in community-based centers. Under orders of Atty. Gen. Robert Kane, Camp Hill is no longer admitting juveniles.

However, Miller has upset a number of juvenile court judges with his policies.

Nolan introduced the resolution calling for the investigation after a small fire was set at the Youth Development Center at New Castle, which now houses a number of youths who once would have gone to Camp Hill. The center has minimum security.

Nolan has said he's responding to demands by some juvenile judges, particularly Patrick R. Tamila and Maurice B. Cahill of Allegheny County, that juveniles be committed to more secure facilities.

Nolan demanded last month that Camp Hill be reopened, but Kane refused.

The Commissioner at this point worked closely with a House Investigative Committee interested in bettering conditions in the prison system - helping the committee identify records, inmates, etc. in furthering their investigation of the Camp Hill Prison. As a result, it became politically difficult for those opposing the decarceration of juveniles from Camp Hill, to support the Camp Hill prison itself as an appropriate place for juveniles:

GRIM CAMP HILL REPORT EXPECTED

A State House panel has demanded numerous records it thinks will prove - even if they understate conditions - that Camp Hill prison is an inhumane place to lock up even the most hardened juveniles.

A subpoena, issued last week by the subcommittee on corrections, gives Camp Hill Supt. Ernest S. Patton until April 19 to produce the documents.

They are expected to show if, as has been charged, it was common for juvenile inmates to engage in homosexual behavior - often raping unwilling youths.

Beatings of some prisoners by other inmates allegedly were routine.

The records also may shed light on suspected illicit inmate smuggling and trade in drugs, food, clothing, cigarettes and other contraband.

Inmate extortion plots involving the same items have been alleged.

The documents are expected to show a pattern of harsh punishment of unruly young prisoners, particularly in the Behavioral Adjustment Unit, or solitary confinement, commonly called "Mohawk."

Finally, the panel hopes this data will demonstrate why two juvenile inmates committed suicide and 29 others attempted it during the six-year period beginning in 1970.

The decision by the subcommittee, headed by Rep. Charles P. Hammock, D-Philadelphia, to seek such records comes amid mounting criticism of:

- * The timing and legal rationale behind State Attorney General Robert P. Kane's decision last April to close the prison to juveniles because adult offenders, although separated from younger inmates, also are incarcerated there.

- * Substitute facilities being developed throughout Pennsylvania under the auspices of Dr. Jerome G. Miller, the State Welfare Department's controversial commissioner of children and youth.

Both the Camp Hill decision and alternative placements are being investigated by an openly hostile State Senate committee headed by Majority Leader Thomas M. Nolan, D-Wilkins Twp.

The House panel, on the other hand, has strongly endorsed the attorney general's directive and generally favors the less restrictive philosophy inherent in the Camp Hill alternatives.

Contacted about the house subcommittee's demand for Camp Hill records, Nolan said:

"Anything that would shed light on the corrections system - either partially or totally, particularly with regard to mismanagement - should be welcomed."

Nolan said he already planned to give his counterparts in the house the testimony which his committee has taken, and would welcome their swapping information with him.

Miller, whom Nolan picked early last month as the principal target in the Senate probe, said at that time he would welcome an even-handed investigation.

But he feared his alternatives to Camp Hill would be judged more harshly than the Camp Hill situation.

Miller contended Camp Hill, which is run by the Corrections Bureau, historically has not been held publicly accountable for homosexual rapes and other incidents.

"If we stick to issues and facts of whether kids are being dealt with more decently and whether we're able to cut into the awful recidivism rate among young offenders, I think on that basis we'll be okay," he said last month.

Asked his reaction to the House panel's new demand for Camp Hill records, Miller said he would "stick by that" earlier statement.

"I think they'll get a lot of material and that our options will look considerably better than Camp Hill," he added. "Even New Castle in its worst days was better."

Miller referred to the hastily conceived new secure unit at the New Castle Youth Development Center (YDC) in Lawrence County.

Camp Hill prison, near Harrisburg, housed 468 juveniles and several hundred young adult inmates last March.

Of the 105 juveniles still there, awaiting the end of their terms or transfer to other facilities, 51 are from Philadelphia, 33 from Allegheny County and 17 from Dauphin County.

The Camp Hill records are strikingly similar to those subpoenaed earlier by the Senate committee for the troubled new secure unit at the New Castle YDC.

That facility and a similar one at the Cornwells Heights YDC, Buck County, now hold about 100 youths who either were transferred there from Camp Hill or would have been committed to Camp Hill had it not been closed to them.

January 13, 1976

FEDERAL INTERVENTION SOUGHT IN CAMP HILL CASE BY REP. HAMMOCK

Disturbed over the failure of the Justice Department and the Bureau of Corrections to reprimand or take punitive action against prison guards allegedly guilty of abusing juvenile inmates at the Camp Hill institution, State Representative Charles Hammock said yesterday (Monday) he may seek Federal intervention in the case for the violation of the youths' civil rights.

Representative Hammock, chairperson of the House Subcommittee on Corrections and Rehabilitation, had led the investigation into incidents which allegedly occurred October, 1975, when five youths claimed they were beaten by security guards at Camp Hill, situated just outside Harrisburg, Pa.

Other youths were called as witnesses, and the subcommittee turned its findings over to the Justice Department, which subsequently, decided not to take any punitive action against the institution or its authorities.

Yesterday at a Harrisburg press conference, Hammock made public four recommendations to the Department of Justice and the Bureau of Corrections, urging them to reply no later than January 19.

The recommendations included a request for the Bureau to reopen the investigation; for the Justice Department to "re-refer" the matter to the local District Attorney with specific recommendations; for the Bureau to begin "immediately"

to review the rules and regulations regarding administrative sanctions to be imposed on the correctional officers involved in the Camp Hill situation.

"We also plan to have an additional hearing, and we want top staff in Corrections as well as the Attorney General and the head of the Bureau of Corrections present," Hammock said.

It was the subpoena method which the subcommittee had to use during the previous hearings to get guards and youth free to testify. All of the youth, about ten in all, were subsequently transferred to other institutions to alleviate the possibility of retaliation if they were returned to Camp Hill. Representative Dave Richardson headed the task force which supervised the hearings.

The Camp Hill site is presently being phased out as a juvenile institution, but some 160 youths remain incarcerated there, Hammock said.

As part of the strategy for developing a political constituency for reform, the Massachusetts Department of Youth Services very deliberately developed contracts with major religious and professional groups for some of the community-based alternatives, in addition to contracting with less traditional, less well organized non-profit groups. This strategy ensured the interest of important persons and Board members, the Cardinal, Bank Presidents, media personalities, etc. This approach presents some dangers. Further, it does not address the basic problem which underlies repressive institutions and ineffective alternative programs - the problem of inadequate consumerism - catering to the

interests and needs of clientele rather than the service givers or custodians. However, as the first step toward neutralizing the political power of the institutional lobby, non-profit lobbies as counter-lobbies are crucial. This is the major justification for creating alternatives before moving out of the institutions. It creates a counter lobby to the institutional lobbyists.

It is our conviction that movement out of institutions must be simultaneous with the creation of alternatives. To create the alternatives too far in advance of decarceration will simply ensure (in corrections at least) that the "alternatives" are filled with persons who were previously left in the community. Now that an acceptable community "alternative" is available - it will be filled with probationers and others who could normally continue to function at home. The difference is that the judge need not feel guilty in making such a placement. One must, therefore, be careful in the timing of alternatives. However, it is a basic premise that the political forces created to support community based alternatives, must be as vocal and powerful as the institutional lobbies. In a few years, of course, someone will have to come along and break up the community based lobby as well, since it can become as manipulative and destructive as the institutional lobby, if not kept under close regulation. Finally, alternatives must be accountable to consumers, their clientele. Witness the profit making nursing home scandals if alternatives are to be effective replacements to the useless hospitalization of the good in large state warehouses. Neither is sufficient nor appropriate.

The Pace of Decarceration

Before her untimely death, Margaret Mead was fond of saying that

in contemporary industrial society, massive change is more easily brought about than slow phased change. That has certainly been true with reference to successful decarceration. To announce a five-year "phase-down" of an adult or juvenile correctional institution and the setting up of an alternative system, is to invite failure. On the one hand the phase-down will be sabotaged, slowed and eventually stopped. On the other, whatever alternatives are created to replace the institutions will be so restricted by budget or program constraints that they will be viewed either as improper for presently institutionalized persons, or the "alternatives" will be quickly filled with other clientele normally not placed in a residential setting. Now that a more "humane" residential setting is available people will be removed from their living arrangements and placed in the "alternative" which was originally justified for institutionalized persons. Although much of his research is poorly done and his conclusions are questionable, Andrew Scull's view that some deinstitutionalization is merely another way of expanding social control beyond institutional walls - is to a degree true. That is certainly the result in many so called deinstitutionalization or decarceration efforts. Decarceration in corrections usually amounts to an expansion of social control under a banner of creating alternatives.

In contrast, the very first institution closed in the Massachusetts Department of Youth Services was the so-called "institute for Juvenile Guidance" at Bridgewater, Mass. The Commissioner visited it one evening along with the Governor's wife accompanied by a plainclothes patrolman and staff aides, institutional administrators and staff had not been told of the visit, nor informed that the governor's wife was coming. The facility was built in the late 1800's and had all of the accoutrements of an ill-conceived maximum security institution for juveniles. Previous to its becoming

the "Institute for Juvenile Guidance", it had been an institution for "defective delinquent" women. One youngster in that institution, who had been kept in the same isolation cell his mother had occupied in years previous subsequently hanged himself. That, in itself, was something of a commentary on the resiliency of the institution - changing labels, clientele, and populations to fit the vicissitudes or political needs of the time. Our brief stay of 2 or 3 hours in the institution must have been an unusual one for a Governor's wife. She was able to witness an attempted escape over the wall, the beginning of a riot, forcible restraint of a youngster by staff, etc. - as things got out of hand this particular evening. As the group left the institution, it was clear that the tour had been a moving and difficult experience for Mrs. Sargent. She left the institution in her own car - along with her staff aide and the plain-clothes police escort. On the way back to Boston that evening, the Commissioner remarked to his assistant that Mrs. Sargent doubtless would have something to say to the Governor about her visit to the institution. She had asked at the institution how "staff like that could be of any help to these kids". She probably would not be supportive of the institution in her remarks to the Governor. It was decided on the way back to Boston that now would be the time to close this institution. The decision was discussed the following morning with a few executive staff and the institution was closed approximately 3 weeks after that visit. The administrator sent some of the more experienced staff from other institutions into the institution - staff who knew the youngsters at the Institute for Juvenile Guidance. They were asked to make an assessment as to which of the juveniles there were an

immediate danger to public safety in terms of possible violence to others. Of the approximately 85 juveniles in the facility it was decided that about 8 needed to be in a secure facility and could not be released home or to other programs.

The institutional staff were told that none would lose their jobs but that they would have to accept assignments to other community-based or institutional facilities. IJG was closed - no protests were held by the union, no meetings were held with community groups, nor indeed with the Governor's office. It was simply done by transferring the juveniles out, which authority we had under the law. It was done swiftly and decisively and resulted in virtually no problems either from staff, politicians, community groups, or the press. The staff accepted other assignments. There were virtually no incidents in the institution during the period before the closing. A small locked cottage was used on the grounds of another institution for the less than a dozen youngsters who were transferred there as presenting too great a risk to be paroled or sent to community-based programs. The remainder were paroled home with other supervision or services made available. Local T.V. stations were invited down to film the closing of the door - which they did, and thus ended an era of maximum security training schools for juveniles in Massachusetts. In retrospect, it was done this way because of political naivete and the urgency felt in confronting the conditions which existed at the institution. As "unprofessional" as the process was, it accomplished the goal. In attempts to close other institutions in the slow-phased, planful way taught in graduate seminars, those involved in decarceration can expect innumerable problems and incidents on the institutional grounds, fires, riots,

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large number of escapes, etc. community protests, pickets, petitions, rallies at the state-house, union threats of strikes, etc. Although the other institutions in Massachusetts were eventually closed as well, the reform administration very nearly did not survive the period of upset and "phasing down." It became clear as they moved to close institution after institution, that the best approach was to have as detailed a plan as possible, though the plan was not widely circulated. Once the decision was made to close an institution however, it had to be executed quickly and definitively.

This stands in contrast to Ohio for example where plans for the phasing down and eventual closing of the Boy Industrial School - Fairfield Schools for Boys had been in the works since 1968. Although the population went up and down in a cyclical way from a high of over 1000 inmates to a low of under 300 to a high again of 800 back to a low 300 - the bottom line was reached in 1978 when by Act of the Legislature, the Ohio Youth Commission was forbidden to lower the population below 300. This was done on the basis of a "rider" attached to the Youth Commission's budget with consent of the legislature. The rider was introduced by a local legislator from the Lancaster, Ohio area (where the school is located). He justified the law on the basis of the need to preserve a vocational program. The program "needed" 300 youngsters. Of course, the real issue was jobs.

A variation on the same theme occurred in Pennsylvania with attempts to close the Warrendale Training School near Pittsburgh. Although it was

eventually "phased-down" and closed, the amount of upset, expense, and difficulty engendered in that four year process, seemed needless for a relatively small institution of less than 100 beds for boys in their early teens, convicted of minor or status offenses.

In bold contrast to that method, the administration was able to get 400 of the state's most "dangerous" juveniles out of the Camp Hill Adult Prison near Harrisburg, Pennsylvania within eighteen months, and to handle an additional 600 during the same 18 month period. Once the decision had been made, it was acted upon quickly. Although there was legitimate question as to how dangerous these "Camp Hill" juveniles really were, they were in fact viewed that way by the committing juvenile courts - so dangerous as to be unfit for sentencing to the regular state training schools, (Youth Development Centers) but needing to be confined to cells 23 hours a day in an adult prison, subject to the regimens of such facilities.

There had been previous plans to "phase out" the juveniles in the prison - plans which antedated the so-called "Camp Hill Project." These plans were, for the most part, based on consensus models involving all of the significant actors in the imprisonment drama - the juvenile court judges, chiefs of probation, clinicians, and prison administrators and police. Though they had numerous meetings, reports and plans, they never moved a single juvenile out of the prison. They eventually concluded that the majority of the incarcerated juveniles needed a Camp Hill type of facility. Their final proposal was to create a 300 bed locked facility on the grounds of a state hospital or other prison. In contrast to this,

the Camp Hill Project found it needed only 40 such beds for the 400 juveniles in Camp Hill.

More recently, the Pennsylvania Office of Children and Youth, in its desire to reach consensus with the juvenile courts acceded to the wishes and demands of the state juvenile judges commission and developed 150 locked beds at other youth facilities in Pennsylvania. This approach has resulted in some undoing of the Camp Hill Project two years after its completion. Though 400 juveniles are no longer inappropriately caged in an adult prison, at least 100 are inappropriately confined in locked juvenile facilities. We could identify no more than 50 juveniles convicted of crimes against persons in those 150 beds.

Decarceration Through Laws

Though in general, the law provides a framework and grounds for effective executive action in decarceration, enlightened law in no way guarantees success. Ohio has relatively enlightened laws. Still, they have moved slowly toward decarceration efforts and continue to maintain inordinately large institutional populations in institutions which have been shown to be relatively brutal (Bartollas, 1978). Similarly, Florida has reasonably enlightened juvenile laws and the state's Department of Youth Services has relative freedom to assign juveniles within the system. Once again, however, a tradition of relying upon judicial decisions for each placement or return to the community seems to have been the rule rather than the exception.

All of this is not to suggest that the court should be excluded from the placement process. However, the majority of juvenile court judges constitute a highly politicized group with a relatively naive grasp of delinquency, its causes, treatment or appropriate alternatives. There are magnificent exceptions, but the amount of ignorance, temper and pomposity displayed by some juvenile court judges leads one to conclude that they are often more politically motivated than moved by concern either for facts or truth.

There is no question but that enlightened laws can help a decarceration process. However, there is little evidence in any of the states studied (Pennsylvania, Massachusetts, Ohio or Florida) that the laws themselves in any way determined the deinstitutionalization process. Adlai Stevenson once said that poor administration could undermine good policy, but good administration could not save poor policy. The same is true with reference to decarceration. Enlightened laws in no way guarantee decarceration. For the most part,

it is the result of executive action. However, some laws can severely limit the possibilities for executive action and thereby subvert decarceration efforts.

In Massachusetts, for example, the Commissioner for Youth for the Department of Youth Services has the authority in law to assign committed juveniles to whatever program is run by, or funded by the Department. With variation, this is the pattern in most states. The state juvenile correctional agency has the authority to assign juveniles to specific programs, training schools, community based facilities, etc. In some states this is tempered with an informal tradition of "clearing" any movement of juveniles. In Ohio for example, the Youth Authority has placement power for committed juvenile offenders. This authority is seldom used, however, without judicial approval. Politics generally prevails over the law in juvenile matters.

In a few states, however, Alabama, Louisiana, New Mexico, Mississippi, and Pennsylvania, the courts have claimed the right in law to assign juveniles to specific programs and have denied the right of the state juvenile correctional department to move those juveniles without specific court permission. Even in some of these states, the law itself is open to another interpretation.

In 1977, the Commissioner of Youth in Pennsylvania, received an informal opinion from a deputy attorney general to the effect that the Department of Public Welfare (which was responsible for the state training schools and juvenile correctional programs), had the authority to move juveniles from program to program or from institutions to community-based programs without permission of the courts. The courts had the authority to commit and recommit juveniles to an institution, but

the Department could place them once they were committed.

This had not been the tradition in Pennsylvania. In fact, the Department of Public Welfare, cowed by county politics, acceded to the wishes of the juvenile judges to such a degree that it allowed judges to place court restrictions on movement of kids within an institution - assigning them to specific cottages, not allowing them to be moved without handcuffs, etc. When an informal opinion of a Deputy Attorney General which questioned this tradition was brought to the attention of the Secretary of Public Welfare, he responded that it was not a politically useful time to broach this issue. Therefore, no formal attorney general's opinion was sought on the matter. As a result, the courts in Pennsylvania for political reasons continue their strangle-hold on the assignment of youngsters within the juvenile correctional system. This in itself makes definitive decarceration in that state a near possibility. It is an example of the kind of tradition that stymies effective change. If it were the result of thought, theory, research, or knowledge, one might justify it - but it is the result of patronage politics.

In Pennsylvania, the Commissioner was able to get around this control through other means. In that case he had an Attorney General's opinion stating that the juveniles had been committed illegally to the adult prison in Camp Hill. Juveniles were sent to the Camp Hill facility by juvenile courts (they were not tried as adults). They were incarcerated an average of 1½ years and could serve a maximum of 3 years. They were charged with a variety of offenses ranging from assault to such crimes as "turning over gravestones", "non-payment of traffic offenses", "burglary", to "driving tractors without the owner's permission". The Attorney General's opinion closing Camp Hill to

juveniles was sought through the Governor's office and was given with some reservation by the Attorney General. It established within law (later upheld by the State Supreme Court), the premise that juveniles must be removed from Camp Hill prison and assigned to other programs and/or facilities. The opinion was opposed by the State Juvenile Court Judges Commission and by most judges in the state.

Though the Department of Welfare did not move any youngster without specific permission of the committing judge, the ruling set a basic foundation from which to consider alternative situations for the juvenile. It was only when the project had moved all but three or four juveniles at Camp Hill, that some judges who had regularly objected to the decarceration, refused to approve alternative plans. In one case, a judge committed a juvenile to the Camp Hill institution despite the Attorney General's opinion. This case was contested in superior court and the judge's commitment was reversed. The committing judge had written numerous letters to the Commissioner and to the Governor stating in strong terms his opposition to the closing of Camp Hill Prison to juveniles. The juvenile he had sent to the facility as a test of the Attorney General's opinion, had been convicted of burglary. Prior to that time he had been in a child welfare institution. He had committed no violent crime and, even by popularly accepted definitions, was by no means a dangerous youth.

"Executive Authority" and Decarceration

If one has decided upon decarceration it will be effectively undone unless the executive possesses "line authority" which allows for quick, decisive action. Effective decarceration is not likely when a wide range of actors who are wedded to traditions of institutionalization are closely

involved in the implementation of the decarceration strategy. For example, the authority to move youngsters within a system is crucial. It might be interesting to look at the "saga" of line authority in Pennsylvania - where the executive did not possess that authority. Although it had been a goal of a number of Commissioners of Children and Youth within the Department of Public Welfare, and at one point, it was published as a policy - in fact, the Department of Welfare never assumed the authority for the assignment and movement of youngsters within the juvenile correctional system. The OCY was therefore hobbled in its decarceration efforts. A futile attempt to assume the authority to transfer and assign committed youngsters to alternative programs was begun by Commissioner of the Office of Children and Youth, Larry D. Barker in 1972. On November 22 of 1972, he sent out the following letter to Juvenile Court Judges and Chief Juvenile Probation Officers:

The Department of Public Welfare is embarking on a new policy involving its services to juveniles adjudicated delinquent. Whenever and wherever possible, we intend to service these youngsters as close to their home as possible and, furthermore, we plan to make use of community-based programs as extensions of and alternatives to our more traditional Youth Development Centers. Furthermore, we feel it is better for each child to be placed in a facility that is genuinely integrated and our intake policies will reflect this in a fashion that has not been possible under current patterns of commitment.

I would like to announce, therefore, that the policy regarding admissions of juveniles adjudicated delinquent to

Youth Development Centers and Youth Forestry Camps will change in the following manner. Effective November 30, 1972, the Forestry Camps will no longer take direct commitments. They will rather accept students referred to them through the core Youth Development Center in their area. For Youth Forestry Camp No. 1, located in Beaver County, the referring center will be New Castle; for Youth Forestry Camp No. 2, located in Carbon County, the referring center will be Cornwell Heights; and for Youth Forestry Camp No. 3, located in Huntingdon County, the referring center will be Loysville.

Effective January 1, 1973, we will be accepting commitments to Intake Centers which will be established by that time at the Youth Development Centers at Cornwell Heights, Loysville, and New Castle. All youngsters coming from the Southeastern and Northeastern Regions of the Department of Public Welfare whom you wish to commit to the Commonwealth facilities should be directed to Cornwell Heights. All youngsters from the Central Region should be directed to Loysville and youngsters from the Western Region should be directed to New Castle. We are attaching to this letter a copy of our regional map so that you can see in which Region your particular county is located. Our policy of accepting all committed girls to Waynesburg remains, of course, unchanged since that is our only facility for girls in the State. This policy in no way affects your relationship with any other private or public agency outside of the direct operation of the Department of Public Welfare.

As I indicated in the September meeting with the Juvenile Judges Commission, this action is the first step in developing a continuum of service for each youngster committed to our system. By January 1, we will have established Classification Centers in all three regions which have Youth Development Centers located in them. They will be able to diagnose the child's problem and develop a treatment plan for him. We will have established by that time the beginnings of a community treatment program and hopefully have a number of beds for security facilities available. As time proceeds, we will be establishing specialized programs to deal with drug addicts and the emotionally disturbed delinquent as well as substantially increasing the numbers of half way houses, group homes and group foster homes available. We will then be able to place youngsters according to their needs at any given time - from maximum security to placement in a community treatment facility. We feel, after considerable research both within our own state and looking at models that other states have developed, that this pattern will provide the best possible rate of rehabilitation and will also best use each tax dollar that we're putting into the program.

With this letter we are beginning to make a series of internal administrative changes (of which you will be duly informed on a case-by-case basis), transferring youngsters in our system back as close as possible to their home communities. We feel that this will be to the benefit of the welfare of the children committed to us and will answer many of the requests that you have individually sent to us. We hope this is the

first step in a major improvement of services available to you through State facilities. We will continue as always to accept youngsters duly referred.

Commissioner Barker's letter was an attempt to establish as a rule of operation, that the juvenile corrections agency (Office of Children and Youth) could set up a diagnostic and classification center and thereby assign youths to appropriate alternative or youth development center training school facilities. It was a rather mild memorandum. However, it very quickly became a major political issue as a result of lobbying by Judges. The idea that the Office of Children and Youth might assign youth committed to it was seen as an intrusion on the rights of the judges. What Commissioner Barker was suggesting already existed in perhaps 46 of the 50 states. Pennsylvania juvenile judges pressured Secretary Wohlgemuth (Mr. Barker's superior) who indicated she would rescind the Barker letter. On July 9, Commissioner Barker sent the following memorandum to Secretary Wohlgemuth:

Re: Your letter of January 10th to the Judges
 TO: Mrs. Helene Wohlgemuth
 FROM: Larry D. Barker

We have executed your request for these letters to be typed, copied, and addressed. I feel it is imperative that I indicate that the content and intent of this letter is misdirected. This gives every public indication that I violated your confidence by issuing a directive without your knowledge. You know and I know that is not correct. I feel there is a much more professional

way to write this letter and not have judges feel there is a real discord in our desire for children's services.

Please evaluate this letter before signing it.

On January 10, 1972, Mrs. Wohlgemuth, Mr. Barker's superior, sent the letter referred to by Commissioner Barker, to the Juvenile Court judges:

January 10, 1972

I was most distressed upon returning from vacation last week to discover that we have apparently had a breakdown in communication between the Department of Public Welfare and the Juvenile Court Judges. This is to advise you that I immediately ordered a halt to the implementation of policy charges announced in my letter to you of November 22, 1972, affecting the operation of youth institutions administered by the Department.

I am looking forward to the scheduled meeting with the Juvenile Court Judges on February 2, 1973, as an opportunity to seek clarification, set matters aright and restore the level of trust and cooperation engendered at the very fine meeting with the Judges in Carlisle last summer.

Sincerely,

(Mrs.) Helene Wohlgemuth

Decarceration efforts were effectively stopped for at least 3 years by this decision - and the momentum was never regained.

In April of 1973, an opinion from the Attorney General's Office was sought relative to the authority of the Department of Public Welfare to transfer juvenile offenders within its system. It was the opinion of a Deputy Attorney General at that time, that the Department of Welfare had the authority to order a transfer from one youth development center (training school), to another youth development center or camp, without prior court approval - the transfer being subject to later review by the committing court. He noted however, that the transfer power was not an unrestricted right to determine placement but was restricted to reasons of "health, security or morale". Placing the most conservative assessment on this phrase, he said that the Department did have the authority on an ad hoc basis to transfer individual juveniles but that this procedure could not become supplemental to "normal judicial placement procedures".

At the same time that this opinion was sought from the Attorney General, the Governors Office requested an opinion regarding the authority of the Department of Public Welfare, to close institutions. The same deputy attorney general again gave a most conservative opinion summarized as follows:

"In my judgment a threat to enjoin the Secretary of Welfare from closing a youth development center should not be taken lightly. It is at least arguable that the closing of such an institution would violate the Secretary's Statutory Duty to Operate the Youth Development

Centers which were created by statute, and to assure the availability of appropriate juvenile institutions."

Had the reform administration sought such a legal opinion in Massachusetts, of course that decarceration would not have occurred. Not because the closing of the institution was illegal - but because in asking the question, one posed a series of issues which allowed the bureaucracy to grind to a halt. An old military axiom might be taken as a rule of thumb by those interested in decarceration: "It is better to seek forgiveness than permission."

In Pennsylvania, the ways in which the questions were asked of the Attorney General's office and the predispositions of persons asking them, to a great degree influenced the legal opinions - as much as the law or the character of the person giving the opinion.

This became clear two years later, when another opinion was informally sought. There was more a commitment to decarceration in the administration and the Office of Children and Youth had assumed an advocacy position for decarceration. It was the informal opinion of a different Deputy Attorney General this time that, indeed, the Department of Welfare did have the authority to transfer juveniles to other facilities without court approval though the law had remained unchanged. When the Commissioner moved to seek a formal opinion from the Attorney General, however, political considerations within the Department of Welfare came into play and he was not allowed to seek a written formal opinion. It was the firm impression of the Deputy Attorney General that had the opinion been sought, it would have been sustained in the courts. This is mentioned only to suggest that the laws surrounding line authority, transfer authority, etc. are open to wide interpretation.

In July of 1975, following his appointment as Commissioner of the Office of Children and Youth in Pennsylvania, Miller attempted to further define the transfer authority of the Department with reference to youngsters committed to it. He indicated to the Attorney General's Office that he needed an interpretation of the Juvenile Act that would help in decarceration efforts, if this were possible. Unfortunately, matters of bureaucratic etiquette took precedence over legal interpretation. There was some question as to whether this was indeed the correct interpretation of the law. That is, his letter was unfortunately referred to the same Deputy Attorney General who had written the earlier opinion two years previous, suggesting the Department of Welfare did not have such transfer authority. Until that Deputy left the state government, the Office of Children and Youth was unable to seek another opinion. This delayed support of the law in decarceration until 1977, when a different Assistant Attorney General indicated another interpretation might be given. By that time, however, the Secretary of Welfare was fearful of any political upset from the judge's lobby. The formal opinion was never sought.

In Ohio, transfer power is less a statement of law, than one of bureaucratic timidity. Although the Ohio Youth Commission does in fact have the authority to move youngsters within its system to community-based program - such movement is not made without the express approval of the courts. Although this is done as a "courtesy", it in fact has been done in such a formal way that it is now a tradition of that system. As a result, the Ohio Youth Commission has in effect given up the most important tool for effective decarceration.

This is not to suggest that the courts do not have a right to be

involved in such decisions or that the youth corrections department of a particular state will necessarily make a better decision than that made by the court. However, in attempting significant decarceration, it is not likely that one will gain consensus across a wide spectrum of judges. As a result, political considerations will determine action taken. However, with hundreds of judges involved in hearing juveniles cases in each state, it is impossible to anticipate or indeed to rationalize the character and intensity of the politics involved.

In the attempts by the Commissioner of Children and Youth to obtain line control of the Pennsylvania youth correctional institutions within the Department of Public Welfare and thereby use transfer authority, a number of strategies were tried. The institutions rested under the direct control of the regional deputy secretaries for the Department of Public Welfare. For the most part, though these officials stated their agreement with goals of decarceration, in fact they did not wish to alienate staff at the institutions and were not prone to move in any concerted way toward decarceration of juveniles. The position of Commissioner of Children and Youth carried with it no line authority - being confined primarily to policy advice and budget signoff authority. Even this authority was much diluted. The Commissioner therefore proposed to the new Secretary of Welfare that new policy directives be sent out to the Regional Deputy's Secretaries. After a long process of negotiation, Miller gave up the effort as futile.

Miller had come to the Commissioner's position from a staff position in the governor's office. Although the Commissioner's office in itself had very little authority, there was an "illusion" of authority. The following Associated Press clipping illustrates this perception:

Juvenile Services

SHAPP BOOSTS MILLER'S ROLE

Gov. Milton J. Shapp yesterday gave expanded authority to Dr. Jerome Miller under an administration plan to reform state services for juveniles.

Miller, appointed early this year by Shapp as an advisor on youth problems, was designated as commissioner of the Office of Children and Youth in the Department of Public Welfare.

"Dr. Miller has a national reputation for his work in this field," Shapp said. "He will be in the forefront of the administration's efforts to provide better community services for juveniles. He will also be playing a key role along with the Justice Commission in developing a state juvenile corrections plan to be submitted to the federal Law Enforcement Assistance Agency."

Miller has been a controversial figure over the last several years because of his work on deinstitutionalization in the states of Massachusetts and Illinois.

He has been criticized severely by the American Federation of State, County and Municipal Employees (AFSCME) which is blaming him for administration proposals to close Retreat State Hospital, while other critics blame him for the plan to remove juveniles from the State Correctional Institution at Camp Hill.

Despite the critics, Shapp said he would support Miller's efforts in the area of juvenile services.

"My administration has been known as an administration that tackles tough problems, particularly in areas that need reform desperately," Shapp said.

"Our correctional institutions, particularly in the field of juvenile corrections, I think need great change," he said.

"We have an obsolete system in the state and we are going to move to a modern system. There is going to be a period of working with community leaders and with many groups of people throughout the state to keep them informed of what the situation is.

"Hopefully, we will be able to achieve the success in modernizing our juvenile system in Pennsylvania that is so needed."

The governor also responded to union criticism of the planned deinstitutionalization, taking particular note of Gerald W. McEntee, AFSCME's executive director, who, he said, is upset over the plans.

"I would say this," Shapp said, "that we know what we have to do in this state, and we cannot maintain an old, obsolete, unfair, unworkable system just to maintain some people in their present jobs, and I can recognize the union's concern that they would like to maintain the status quo. We will try to give employment to some of the people who will be displaced, but we cannot hold back on long-overdue reform in Pennsylvania."

While criticizing the governor's plan to eliminate some state facilities, McEntee admitted one of his concerns was the laying off on union members.

The governor refused to term the union's attitude as "cruel," in that it appeared to some to be more concerned with union employees than with the patients.

"I wouldn't use the word 'cruel,'" Shapp said. "I would say that it is not uncommon for labor leaders to be concerned about the working conditions and employment of members of their union. This is their function."

However, he said the state, in this case, cannot go along with the union desires.

Richard Doran, Shapp's top aide, said union officials have been informed fully on the plan to deinstitutionalize, which, he said, is more of a consolidation move.

Up to that point, Miller had been able to use the illusion of authority by virtue of his former connections in the Governor's office. It was also becoming clear, however, that the longer he stayed as Commissioner of Children and Youth, the more this authority would erode. One can "bluff" one's way for some appreciable time, but diminishing results begin to set in as decisions are not implemented and suggestions for change are delayed.

On November 5, Miller tried another strategy, suggesting that one way in which the Office of Children and Youth might assume some authority for assignment of youngsters and eventual decarceration, would be under Article 605 of the Administrative Code. This law gave the Department of Welfare power to determine the capacity of institutions and thereby

to regulate the intake to those institutions. Once again, this memo was not acted upon by the Secretary of Welfare. On March 23, 1976, Miller attempted to set limits on intake by sending a memo to the Regional Deputy Secretary suggesting that a maximum number must be sent on the population at the New Castle Facility. It was rejected and was not forwarded on by the Deputy Secretary. By this time bureaucratic forces were clearly in control. The approach of DPW was one of the trying to assuage the judges through consensus meetings and general agreements. Of courses, as a decarceraton strategy such an approach was hardly relevant. During 1977 and 1978 it was clear that the Department of Welfare had backed away entirely from seeking either transfer authority or centralized control of the regional youth development centers. Miller resigned shortly thereafter. The Commissioner who succeeded him did attempt to set some agreed-upon definitions around so-called serious offenders - that only those youngsters committed on serious crimes against persons would be placed in secure facilities. There was some general agreement on this issue by judges. Its implementation was not followed through upon, and the judges continued to commit juveniles to the secure units, not on the basis of the seriousness of their crime, but rather on other more nebulous less definable bases. As a result, youngsters who were considered management problems in other institutions, or youngsters who were particularly discourteous in the courtroom, found themselves regularly committed to the secure facilities for "dangerous" juveniles.

A year later the same issues were still being fought. Miller sent the following memo to the Governor's office on September 2, 1976:

JUVENILE JUSTICE ISSUES

The following are some of the major issues and problems to be addressed in the coming months:

I. Deinstitutionalization of Juvenile Offenders

The major project of last year, the removal and alternative placement of over 400 juveniles from the adult prison at Camp Hill, has been completed. The alternative system has also absorbed what would have been the normal intake to Camp Hill during the past year.

Having demonstrated that most "more serious" offenders can be treated in other settings, it is time to deal with the less serious juvenile offenders confined to the various private training schools, YDC's, and county jails and detention centers. There remain well over 3,000 youngsters daily detained in one or another of these facilities - If we had been able to make the progress here that has been made in Massachusetts, we would have no more than 250 juveniles thusly institutionalized (Massachusetts with one-half the population of Pennsylvania has had an average of no more than 125 kids in locked settings on any given day statewide).

Unfortunately, despite the goodwill of Frank Beal and the support he has given, the welfare bureaucracy is entrenched to the degree that the kinds of quick action (the only way such basic changes can be made) needed is

impossible - lost in endless consensus meetings at local, regional and state levels. The vested interests, vendors, local politicians and employee organizations which underlay the institutions inevitably win in such forums - there being relatively little input from the clientele.

If a decision could be made at the Governor's level that Pennsylvania is committed to getting all but the more serious offenders (i.e., dangerous and violent youth) out of large institutions and into alternative programs, we could close three to five Youth Development Centers within a year to 18 months. This would provide options to groups such as adult corrections which I understand is overcrowded. My view that we could dramatically decrease populations and close YDC's (though tolerated) is seen as radical and impossible by the Welfare Department. I believe this is a mistake. Such plans depend upon our ability or willingness to confront other issues, many of them frankly political relative to such things as local and judicial pressures to keep institutions going whatever the cost (\$30,000 per kid per year in YDC's) or the lack of success: 60-80% recidivism.

To implement such a decision, other decisions would have to be made within Welfare.

- 1) The Office of Correctional Education and Youth Services headed by Mr. DeMuro will have to be given line control over the YDC's.

2) The monitoring and evaluation of jails, detention centers and youth institutions will have to be given to some agency, office, or group outside the Regional Welfare Offices. At present the same persons who develop the contracts, evaluate the performance of those contractors. The same office controlling operation of YDC's, evaluate the performance of those contractors. The same office controlling operation of YDC's, evaluates their own operations. Inherent in this arrangement is a portion of non-finding of real problems and relative non-action when such problems are made known.

II. H.B. 748

This bill takes status offenders (truants, runaways, and "incorrigibles") out of jails, detention centers, and institutions for delinquents. It brings us into conformity with Federal Guidelines under the 1974 Juvenile Justice and Delinquency Prevention Act. Unless it is passed, Pennsylvania will lose approximately 2 million in Federal Juvenile Justice monies.

It will be considered in the Fall Session of the Legislature.

III. FARVIEW (A non "Juvenile Justice" issue)

Having looked over the Farview issue and attended the Senate hearings, I am convinced that Farview could be closed

within 12 months. I feel strongly that much of the professional Mental Health advice being given to the Secretary and Regional Deputy is bad advice and will result in the needless continuance of this nagging inhumane institution. It could be closed and the patients placed elsewhere at an approximate cost of 3 to 5 million, with the provision of low-profile small alternative programs throughout the State. Once again, my views would be seen as unrealistic by my professional peers. I can only stand on my track record. We did it in Massachusetts with juveniles, and we did it with the supposedly most dangerous juveniles in Pennsylvania (The Camp Hill juveniles). Despite the criticisms of "style", lack of administrative skill, etc., it was accomplished - something that had been "planned" by Welfare and Corrections for the previous 12 years with no movement. It was done mainly by "end-running" Welfare decision makers. If a plan to close Farview is desired, I'll gladly put one together - but I would have to do it for the Governor directly - since I have a low tolerance level for the dilution process within Welfare which somehow saps my own energy as well as inhibits rational movement.

Bureaucratic Style

Over two years after the closing of the last boys training school, the "post audit" committee in the Massachusetts legislature filed a critical

report on deinstitutionalization efforts in that state. The report was a political document motivated by the loss of patronage jobs to a number of the legislators who made up the committee membership. It is interesting in that its criticisms of the deinstitutionalization efforts in Massachusetts are, to a large degree, the very reasons that deinstitutionalization succeeded.

One source of frustration to the committee was the lack of paper work and memoranda in the Department of Youth Services files regarding the deinstitutionalization. The committee staff spent months searching through budget documents, programs outlines, memoranda, etc. looking assiduously for evidence of wrong doing, destructive programs, inadequate planning, etc. - anything which might serve to discredit the deinstitutionalization which had been completed 2 years previously. It was well known - through sources in touch with committee members, that they hoped to find illegalities which might have occurred inadvertently during the difficult and often disorganized days of the implementation of the deinstitutionalization. Indeed, committee members and staff spread rumours among the press that the committee hoped to seek indictments against the Commissioner and certain staff members. As it turned out, the committee found no evidence of any illegalities. They were particularly frustrated in that there were very few written records regarding the decarceration. In fact the major document on the deinstitutionalization was written one month after the closing of the last boys' training school. If one is to be engaged in the kind of radical changes, which were entailed in the type of decarceration completed in Massachusetts, it is crucial that an informal system exist which allows the testing of approaches, withdrawing from inadequate plans and/or inappropriate actions. In such a time, one hesitates to write down one's

plans in advance - - not simply to keep them "secret" - but because very often the plans develop out of actions aimed at alleviating a specific inadequacy in the system. Usually such inadequacies are well integrated into the existing structure - and to telegraph one's actions in writing is to invite defeat. The other side will win in the backrooms - "secretly", if you will. This is why a political "post audit" committee notes as "alarming" in the Massachusetts decarceration, an "absence of clear cut documentation for carrying out the ideas of the administration:"

"Almost the entire dismantling of the Departmental organization which was an integral part of the 1969 reorganizations, and the emptying of the state institutions was carried out apparently with oral instructions. There is a dearth of supportive written material -- there was no plan, official or otherwise, for the closings and the little written intra-agency memoranda or time tables for bringing deinstitutionalization about. No evidence could be found indicating that employees were given written instructions as to the lawful implementation of the strategy.

"Public institutions were emptied of youthful charges without any discoverable communications between the executive department and the Commissioner of Youth Services or from the Commissioner to his staff subordinates." (Post Audit, 1973)

This is one of the few times in the report when the committee was reasonably accurate. Very little was written down. Subsequent experience in other states validates that approach. The extensive memoranda and brochures on deinstitutionalization plans in states such as Florida

stand in contrast to their large unchanged institutional populations.

In Pennsylvania, for instance, the Office of Children and Youth had a penchant and a tradition for writing a notation or a memorandum to be cleared through various levels of the bureaucracy for any new or old thought - whether it was related or not to action (it usually was not). This in itself stymied movement and reform in the system. The great expense of paper work allowed a ready escape from responsibility to the bureaucrats in that department. One could posit a theorem that there is an inverse relationship between the amount of paperwork generated on decarceration and the likelihood of any decarceration taking place.

Governors and Decarceration

As we have mentioned, it is crucial to any decarceration strategy that the administrator deal regularly with legislative committees and individual legislators. Clearly more important than this is the degree to which the administrator enjoys the support of the chief executive of the state. Most executive positions as head of corrections and juveniles corrections agencies are appointive and subject to removal by the governor. Even in those states where they appear to be civil service positions, it is equally clear that the governor must support the chief correctional administrator if decarceration is to be effectuated.

The support of the governor must be strong and abiding. This does not mean, however, that it need be public and highly visible. Clearly, if the governor does not give a basic support to the corrections administrator, his position will be compromised and his power diluted. This basic support, however, is probably best demonstrated by the governor not withdrawing support - dismissing the administrator. It was the experience in Massachusetts and Pennsylvania that for the governor to go beyond this basic minimal (but highly crucial) support, was in itself dangerous, and could jeopardize the outcome of any decarceration effort.

It would be an unusual governor who would wish to totally claim as his own a major decarceration effort - particularly before the effort is begun or during its early stages. Once decarceration is accomplished and the results appear to be satisfactory - decarceration is less a political albatross. However, it is very difficult politically for a chief executive to wed himself too closely to a decarceration effort - particularly of the kind outlined in this paper. There are political risks in it which probably outweigh any-

thing to be gained politically, especially in the early stages.

Certainly, for example, the state employees' unions are more of a political force than are advocates for juvenile offenders. Likewise, the lobbyists among professional groups or vendors of services outweigh the lobbyists for the "consumers" of the service - the institutionalized juveniles. Some of this can be balanced through public education and advocacy groups - the League of Women Voters, National Council of Jewish Women, church groups, service clubs, etc. However, unless those groups are well organized and well informed - their support is not as abiding and sustained as is the opposition to decarceration of established traditional institutions.

In Massachusetts during the actual decarceration, the governor himself maintained a "low profile" though he remained strong in his support of the Commissioner. Although the governor did visit some of the training schools and expressed interest in the community-based movement and the need to upgrade services in the institutions, he did not closely identify himself with the decarceration until most of it had actually occurred. In the one instance in which he visited juveniles at the University of Massachusetts who had recently left the last boys' training school - his visit in itself, while meant to give public support to the decarceration effort - also called forth criticism from the opposition party. It was our impression that much of this criticism was political and directed at the governor - using the decarceration issue as a stepping-off point for that criticism.

In Pennsylvania, likewise, the governor expressed strong support for the decarceration of juvenile offenders and the establishment of a series of community-based alternatives. However, it was clear to the Commissioner

that when it came to the implementation of these goals in the kinds of strategies outlined in this paper, the governor's advisors pulled him away from the full commitment of the governor's office to these goals.

Once the goal of decarceration is substantially accomplished, one can count on strong public support from the chief executive of the state. This may be seen by some as faintheartedness. However, it was our impression that this made sense politically and professionally. It does not seem practical or proper for the administrator of the juvenile corrections agency to ask the governor to assume responsibility for every step taken in a decarceration effort.

Indeed, the arrangement - subtle but clearly there where the most effective and sustained decarceration effort was accomplished - was one in which the administrator of the agency asked simply for basic support regarding the goals of decarceration and better care for juveniles. From that point on, the administrator made the majority of the decisions and took the necessary actions. It was also clear that if the political heat was too much, the governor could disown and dismiss the administrator. Indeed on some occasions, the governor came close to doing this. However, it is the role of an administrator of a state agency to use his best judgment in attaining the goals set forth by the administration. The means for attaining that goal were for the most part left up to the administrator with little interference from the governor's office.

In those states in which the governor had an active detailed involvement in the corrections or juvenile corrections agency, decarceration was less likely to occur. This is because in the early stages the political risk will outweigh the gains to be made in accomplishing the goal of decarceration. Political judgments will generally undo decarceration. Once decarceration is

accomplished, however, it becomes politically feasible and supportable.

In summary, the governor must give basic minimal support to an administrator who he must at the same time view as expendable. In return, the administrator uses well the time given. He must be willing to take responsibility for his own actions toward decarceration without assigning blame for problems back to the legislature or the governor. Perhaps he should keep his bags packed as well.

An additional role which the administrator interested in decarceration can play with reference to the governor is that of educating the governor to the issues. This probably is the best means of maintaining the governor's support. In Massachusetts, the Commissioner kept in touch with the governor regularly about problems in the institutions, maltreatment of youngsters, situations which clearly indicated the institutions were not doing a decent and good job with the juveniles committed to their care. In these cases attempts were made to personalize this interest by insuring the governor knew individual juveniles within the institutions, that he had the opportunity to tour the institutions unannounced, that juveniles from the institutions met with him in his office, etc.

The following memo was sent by Commissioner Miller to the Governor-elect of Massachusetts at his request shortly before his inauguration. It outlines the issues which impinge upon decarceration and which are, to a degree, subject to executive action.

Governor-elect Michael Dukakis
10 Tremont Street
2nd Floor
Boston, Massachusetts 02108

Dear Mike:

As per our phone conversation, I'm sending along a few comments and ideas on the matters we discussed. Apologies if this seems a bit disconnected - but the time factor doesn't allow the luxury of optimum organization of thoughts that have been rattling about in my mind for a number of months. With a caveat that there might be some inconsistencies in what follows, I'll proceed.

I. Administration and Finance

My experience with A. + F. was a series of frustrations at best and downright sabotage at worst. I can't overstate the importance of getting a solid hold on this department. I worked with _____, and _____ and found very little substantive change in the ability of A. + F. to deliver. I understand there were some improvements under _____, but I had no such indications during my tenure in Massachusetts. One thing that shone through the regimes of whatever Commissioners of A. + F. is that it was never clearly under the control of the executive (i.e., Governor's office).

In a sense, _____ tenure, though the worst in terms of aiding our agenda for change in the Department of Youth Services, was the most "up front" and symptomatic of the organizational and management problems in A. + F. _____ barely concealed his contempt for the governor's office and worked hand-in-glove with the 2nd and 3rd level bureaucrats (A. + F. staff) who were at times as closely, if not more so, tied to staff on Ways and Means (i.e., _____) as to the executive branch of Government. As a result, I often found myself caught up in a Catch-22 of having to ask support of A. + F. for new programs or adminis-

trative procedures in implementing programs - while at the same time learning that I had to be very careful what I shared with them (whether or not the governor supported me). Our staff were run through as many hoops as could be brought out by A.+ F. with very little final delivery on their promises. For example, on more than one occasion I found that the policies and agreements we had reached with A. + F. in executive meetings were being actively opposed by A. + F. staff in the background meetings with Ways and Means staff and selected committee members, e.g. _____. In summary, A. + F. has to be made a clear arm of the executive - with a solemn halt to the wheeling and dealing by second level staff who combine the language of the civil service bureaucrat with the traditions of the "pol" - an unhappy mixture for accountability. I came to a greater awareness of the problems of A. + F. by contrast - in seeing how effective such an office can be when properly administered. _____ who is Director of the Bureau of the Budget here in Illinois would probably have some thoughts on the matter. My experience here was the BOB is truly an arm of the governor's office and is an aid ti implementing his programs. Our relationship was a series of creative encounters around how we might accomplish reform goals together rather than a monotonous litany of problems in movement of any basic kind.

In a more specific way, A. + F. was not designed organizationally or philosophically to meet the demands of the kinds of programs we began in D.Y.S. and were later developed in Mental Health and Corrections. For example, A. + F. was entrenched in a philosophy which was more congenial to institutional programs staffed by state employees - more than geared toward "purchase-of-care" arrangements with privately contracted agencies.

Although there were improvements in the situation, albeit forced by crises and confrontation - the latent unspoken ideology seemed to be that state services were better and more efficiently given through existing institutional arrangements rendered by state employees. The movement to contract out for services was seen as slightly subversive. Although I'm acutely aware of problems in this approach, such problems were enhanced by A. + F.'s unwillingness to devise appropriate administrative procedures for insuring some degree of success in the purchase of care arrangements. A sequitur of the approach of A. + F. was that the answer to problems in delivery of service was more and more state staff. It was virtually impossible to give up unneeded staff. At one point, I indicated my willingness to "turn in" from 300 to 500 unneeded staff to avoid an increase in our total budget as we moved from state institutional care to purchase of care arrangements. A. + F. viewed this as naive or perhaps mildly psychotic behavior on my part and the issue was never joined. It was my feeling, however, that at least we could have established a personnel "pool" of some sort that would have allowed for the retraining or re-assignment of unneeded staff to other needy agencies. Had this been accomplished, the DYS budget would not have appreciably increased and could have in fact been cut back dramatically in 1972.

Another specific issue for A. + F. with reference to Human Service Agencies - is the necessity to establish some procedure whereby departments such as DYS can help new private agencies obtain "front end" funding. We have attempted with poor success here in Illinois to establish

a revolving fund into which Departmental purchases of care monies can be transferred that would allow the department to make monies available to new agencies before the service is delivered rather than 8 to 12 weeks after the fact. The present system discriminates against the poorer, less "established" social agencies which do not have endowments or large bank accounts to fall back upon. As things now stand, a struggling group home or treatment center may not be able to adequately pay rent and salaries for a number of weeks or months - i.e., whenever the vouchers are processed by A. + F. after the service is delivered.

This is the bind that occurred for many of the private agencies in Massachusetts following my departure. I had been able to get the vouchers paid reasonably on time through a strategy consisting of a combination of threats to resign mixed with a dash of temper tantrum every 2 or 3 months - such manufactured crises were usually a spur to A. + F. and the payments would get out. Obviously, you can't run an agency indefinitely that way - and _____ quite rightfully decided to let the pressure build normally from within the bureaucracy until more routinized procedures were developed for honoring vouchers on time. This strategy worked well and bills eventually were processed more efficiently by A. + F. - following a 2 or 3 month period of upset and picketing from the private agencies themselves. Unfortunately, some of the financially weaker agencies could not sustain themselves during the lull in payments. I attribute this to A. + F.

II. Human Services

My experience in both Massachusetts and Illinois is that human ser-

vices are delivered with little or no accountability to the clientele. You can survive indefinitely as a career commissioner (and gain a reputation as a good administrator) by being accountable to:

- a) the executive office
- b) the legislature
- c) the staff
- d) professional interest groups

All of these groups obviously have a legitimate stake in the action of an agency. However, unfortunately, their needs are not identical with nor necessarily consonant with the best interests of the clientele. If I were to assess the relative impact of these groups upon reform in a human service agency, I would have to say that the ultimate resistance to basic change will come from the professionals - they psychiatrists, psychologists, social workers and educators who mouth the need for better services for the poor, but in fact have a symbiotic relationship with the present unproductive programs in most human service agencies. As a result, reform demands invariably take the form of providing better working situations for more and more professional staff, with little or no recognition of the need for measurable success or accountability. If I may presume to offer a bit of advice - beware of the liberal professional altruists who will doubtless flock to your door with more of the same programs which were bankrupt a decade ago. Until some honest to goodness consumerism - with concomitant consumer power is built into human services, it seems risky to me to depend alone upon the "helping professions" for direction.

The place in which the most unproductive of middle-class professionals hide in state government is in "middle-management". Take a good look at the second level in central offices of human service agencies and at "regional" offices that lie between "district" or local offices and the central office. I think you'll find a lot of duplication of tasks in the pursuit of non-decisions and the flight from face-to-face contact with clientele.

I think the time is ripe for a greater importance to be attached to volunteerism in the human services. Although this is grudgingly allowed by many professionals, volunteerism has within it the possibility of making the human service agencies and professionals more responsive. Aside from whatever direct services volunteers can render, e.g., casework, counseling, etc., they can become trained in consumerism of the human services. Since most volunteers will be from the middle-class - they are a natural group to ask middle-class questions of middle-class professionals - like "When will this youngster get better?"; "Why do you charge 'x' amount when another place charges 'y'?"; "What programs do you offer?"; "Is it competitive with other agencies?" - all those questions a good middle-class parent would ask if they were shelling out 3 or 4 thousand dollars a year for their kid - a figure somewhat less than is being spent for a lot of kids in state care, with little accountability. Middle-class volunteers can ask such questions well. When the poor (i.e., clientele) ask the same questions they are diagnosed as manipulative.

Because of the inevitable violation of Human Service administrators from clientele, I think it would be a good idea to insist that all administrators of human service agencies carry a small caseload of direct-service clients.

Regarding the organization of Human Services, it was my impression that the umbrella agency succeeded only in adding another level of bureaucracy to state government. I think if one were to assess the positives of the reorganization, 3 or 4 years after - the greatest gains were not made by virtue of any new or startling organizational structure, but rather as a result of the selection of good commissioners, e.g. _____ - and allowing them some freedom to move creatively. Human Services also became something of a buffer in dealing with A. + F. However, if A. + F. were responsive to the executive office, hopefully, no buffer would be needed. I don't say this to criticize the staff or administration of Human Services, who were obviously for the most part hard-working, dedicated individuals. However, I think the concept of the umbrella agency was wrong. Although it makes sense in a theoretical sort of way - in the practical and political world of Massachusetts human services, it was not productive. Perhaps under other executive leadership it could be made to work, though I remain skeptical of the concept. My own experience in DYS is that there were no decisions by Human Services which we could not have made, or which could not have been made directly by the Governor's office. That may be a biased view. Although I found Human Services as supportive of our programs, such support would have been unnecessary if A. + F. had been a more responsive agency. The support of Human Services with the legislature was negligible.

III. Department of Youth Services

If you haven't seen it, I'm sending along a copy of the Harvard study on DYS. I think it outlines well our problems in bringing reform to that agency. Because we were a relatively small agency, we were able

to move to a degree, independently of Human Services and the executive. Although they were supportive in the sense of not backing away during times of crisis, we kept a low profile with them or we made our administrative changes and closed the institutions.

As distinct from the present reorganization of human services, I think certain functions in the human services could be combined. It's my feeling that a single children's agency, which embraces children from Division of Child and Family Services, Department of Youth Services, Children in Mental Health Department and Office for Children, would make some sense. The system that I knew in Massachusetts was contradictory with children getting lost between and among agencies. I felt that _____ and _____ groups (Massadvocacy_ offered the best assessment of the situation as well as the best proposals for its solution.

IV. Mental Health

My experience was that it was an agency long on rhetoric and short on delivery. To get a disturbed youngster care in a Mental Health facility required an act of Congress. The diagnostic games played to justify rejection were complex but unfortunately effective in denying services. Our "psychotic" kids became "character disorders" when brought to Mental Health, and therefore ineligible for in-patient services. The Mental Health group are the most entrenched of professional bureaucracies. In addition, they have succeeded in subverting the intent of enlightened legislation by turning regional mental health boards, as well as volunteer groups, such as the Mental Health Association, into lobbies not for clientele and patients, but for entrenched mental health professionals. It makes a difficult position

situation whereby the solution proposed for present disasters in lack of services, is more of the same from the same individuals. Parenthetically, I think the same danger exists for the Office for Children and its citizens groups unless things are watched closely.

Here again, there needs to be a structure and stress upon consumerism in human services. I've often thought that we need some sort of public corporation to train and organize consumers in making the human services responsive. Perhaps something like an organization of volunteer advocates assigned one-to-one to persons in state care or in state institutions - not to give those persons direct care or counseling, but rather to ask for them, of the professionals, the very hard questions regarding outcome. If one could tie a voucher system to such an organization, with the ability to "shop" for services and to take the money to those agencies which were responsive, I think one would find a dramatic turnaround in Human Services. To quote Harold Laski - professionals should be on tap but not on top. Or better yet, Aristotle's comment that the best judge of the meal is not the chef, but rather the guest.

V. Corrections

This is an area that I feel so strongly about that I fear I don't feel able to write in a brief form my concerns. Sometime we could discuss it. However, let me say that -here needs to be an abandonment of the rehabilitation model in adult corrections and a movement toward a simple "Justice" model. There needs as well to be a concentration on the development of closed, secure, intensive, small programs for the minority of prisoners who are "crazies" in the institution and/or have been involved in serious offenses of violence. Community-based programs will continue to get the short end of the stick until the abovementioned are dealt with. Some

adult institutions should be closed altogether - and they could be, in a relatively short time. The preoccupation with keeping large correctional institutions in equilibrium saps resources and money as fast as it is appropriated.

I would also move for state control of probation. The present arrangement merely gives a blessing to the patronage arrangements which exist between judges and probation staff.

VI. Welfare

I wouldn't presume to offer solutions to the situation there - much of it requiring federal leadership. However, the area of "special needs" is a disaster. "Services" need to be separated from income maintenance. I've often wondered whether the feds wouldn't support some state willing to implement statewide, a program based on the successful federally sponsored pilot project in New Jersey wherein persons simply declared their need for welfare and received help accordingly - with very little evidence of cheating. If such a system could be backed by a hard-nosed IRS, Postal Service type of prosecution of those who misrepresent their needs, it might help cut back on the huge staff bureaucracy of Welfare which is both social worker and policeman and not very good at either. If that bureaucracy could be reduced, flat grants could be appreciably increased.

Finally, the need in state government concerned with human services is to:

- 1) establish accountability to the clients receiving the services and to the taxpayers who pay the bill for those services. I think contractual arrangements, competitive agencies, and ultimately a voucher system for human services could be a step in the right direction.

- 2) The measure of success must lie with our ability to provide decent and humane care to those "deepest" in the system - i.e. the most retarded, the most dangerous, the most disturbed, the least likely to respond to our care. If we can provide decent, even though not totally successful, care for those persons, we ennoble the society a bit. So you don't need to watch the community mental health programs as closely as you need to watch what happens to the kids at Belchertown or the men at Bridgewater. If you can enhance their state you'll have dealt with a major part of the problem.

Thanks for the opportunity to share some biases and prejudices.

Sincerely,

Re-allocation of Resources

Effective decarceration demands the early creation of a large number of alternative programs for previously institutionalized juveniles. The wider the array of programs the more likely the program can be fitted to the individual needs of an institutionalized youngster. Youngsters should not have to fit the needs of service-givers. Such a goal leads one to certain conclusions. For example, it is highly unlikely that an array of services can be set up solely under state auspices. If only to keep a certain degree of competitiveness and fluidity, it is crucial that there be a mix of state-run and privately contracted programs.

Unfortunately, any state juvenile correctional administrator who wishes to move in this direction is immediately strapped by budget constraints. Most state juvenile correctional system's budgets are virtually bound up in institutions. The bulk of the institutional budgets, aside from such items as heating costs, are relegated to personnel costs and salaries. If one is going to propose an array of alternative services, either state-run or privately operated, one has to find some means of freeing state institutional budgets for that purpose.

The usual approach to creating new alternatives has been to use federal funds for the new programs. The difficulty with this is that unless those programs are quickly integrated into regular state budget cycles they become temporary. They are seen as "frills" when there are decreases in state budgets. As a consequence, innovative alternative programs are usually short lived. This is because their budget sources are time limited, as is the case with most federally sponsored projects.

One of the ways in which resources allocated to institutions can be freed for alternative programs is through the reassignment of state personnel to alternative programs. Staff assigned to various institutions in most states can legally be assigned to community-based programs, and in some cases, to supplement the staff of non-profit contracted agencies. Although the so-called legislative post-audit committee in Massachusetts severely criticized the Commissioner for engaging in this practice, one of the ways in which he was able to obtain reasonable per diems from a number of non-profit private agencies was by assigning to those agencies certain state employees. This amounted to a state contribution of staff, thereby lowering per diem costs to the state Department of Youth Services.

A simpler approach would be to start a certain number of community-based alternative programs which were totally run by the state. This can mean the need for legislation or budget revision which allows for the establishment of new entities - community-based alternative programs - which then can be staffed. Another approach used was to establish "annexes" of institutions and to run certain community-based programs from the institutional budgets. This was done with some success in Massachusetts although it, too, received criticism from certain legislators who were, not incidentally, ideologically opposed to the decarceration efforts of the Department.

Probably the most important and useful way to obtain adequate transfer of state institutional budgets to community-based alternatives is through the transfer of monies allocated for staff positions in the institutions. Institutions have a turnover rate which generally will allow for some "freezing" of hiring into vacant positions. This sets up a process which is cumulative in its effect. If the pattern of decarceration is seen as clearly established

by virtue of such re-assignments and re-allocations, staff are more willing to consider alternative arrangements and to accept transfers into those types of positions. In addition, staff who are closely bound to the institutional traditions begin looking for alternatives in state government in terms of their personal careers. Early retirements tend to increase, as do requests for transfer to other agencies in state government, etc. As a result, although one may have the ability to freeze no more than 3 to 5% of unfilled positions per year, the indirect effects can add substantially to the percentage re-allocation of resources from institutional to alternative programs.

It is crucial that the administrator know the amount of turnover in his institutions and the types of personnel which are leaving. One cannot simply make a rule of thumb that all positions will be "frozen" as they become vacant. Very often, better staff tend to move from position to position, whereas the less innovative, more entrenched institutional staff tend to stay on. To rely upon attrition alone is to ensure that staff and leadership become increasingly stagnant and unproductive. In some cases, if decarceration is the goal, this is not a totally unhappy one.

In Pennsylvania, for example, the Executive Deputy Secretary for Operations looked with some alarm upon the turnover rates in the Department of Public Welfare Institutions. He was pleased to note the Youth Development Centers (training schools) which "consistently had the highest turnover rate among the program areas, showed a significant decrease which compared favorably with the department average." However, it was suggested that the rate of turnover for the Youth Development Center (4.1%) was still too high.

To the administrator not committed to decarceration, but who is concerned with quality programs within the institution, not only high rate of turnover, but low rate of turnover presents problems to the institution since it stifles his ability to hire new blood.

Certainly, in corrections there is little evidence that any increases in community-based budgets have resulted in decreased institutional budgets. In states which are more burdened financially, or where community-based programs grow alongside ever larger institutional budgets - tax payers, or their representatives in the legislature, are apparently willing to put up with this sort of situation. However, fiscal patterns which reflect structured support for true alternative programs do not exist in most states. Just as clientele in "alternative programs" should, in fact, come from institutional populations, so budgets for alternative programs should come from institutional budgets. Most community-based alternative budgets are really additional monies, not alternative budgets. This is why so many correctional community-based programs are short lived. It is a common experience to see many interesting, intriguing and seemingly successful community-based programs vanish in a relatively brief time. Vin ter and Sarri found many such programs on their first site visits. When they returned for reassessment, however, they noticed that most of these programs no longer existed. In contrast, the institutional programs, whether good, bad, or indifferent, continued to lumber on, growing in both budget and staff. This was due to the fact that native programs were generally funded by federal funds or other time-limited or less stable sources of funding not tied into the routinized and accepted budget categories. As a result, when the funding runs out, the "alternatives" go under.

Although it is unusual to find alternatives which really replace institutions, or institutional budgets which are indeed transferred to alternative programs, in one of the states in this study, there were such transfers. In Massachusetts in 1972, virtually all of the Department of Youth Services budget was in alternative programs. As a consequence, for these alternative programs to be undone, either

additional funds would have to be found, or funds presently allocated within the state budget system to community-based programs would have to be withdrawn and given to new institutions. Although the community-based programs used by the Massachusetts Department of Youth Services have a rather short history, and are not yet as entrenched as vested interests, as were the state institutions, the transfer of monies back to the institutions or the creation of new institutions would be a considerably difficult task even for an executive who might be prone to believe in institutionalization.

In contrast, in Ohio and Florida, although one can see some growth of community-based budgets, there is no consequent decrease in institutional budgets. In fact, in both states, the institutional budgets grew dramatically at the same time the community-based budgets were expanding. This probably will be the Achille's heel of the community-based effort in those states. One could anticipate that with a narrowing tax base, the last to be funded will be the first to be unfunded - i.e., the community-based programs - particularly if they are not true alternatives. That has certainly been the experience in initial plans developed in the wake of Proposition 13 in California.

I.E., an investigative newsletter, conducted an informal survey of California probation departments following the Proposition 13 referendum, which revealed that they anticipated a 30 to 60% cut in revenue which would be aimed primarily at the "alternative" community-based programs (which were really "additional"). The probation administrators felt that institutional budgets would continue or grow in the wake of this taxcutting procedure. This is particularly ironic in view of the unusually high per capita cost of institutionalization stimulated recently by high costs of maintenance, fuel costs,

etc. The reason for this pattern is that the community-based programs never were true alternatives. They were additional and therefore when one has to cut back to essentials, one cuts out "frills", in this case, superfluous community-based programs. The institution remains as the ideological as well as budgetary base from which other programs flow. Decarceration is impossible in such a political and economic context.

Pennsylvania was able to close one institution (The Warrendale Youth Development Center) for juveniles and transfer resources and staff to community-based day centers. They were also able to move 400 juveniles from an adult prison and handle an additional 600 potential committals to that prison. There was no "ballooning" effect as a result, whereby the juveniles ended in other state juvenile or adult institutions. In fact, the number of juveniles in the State Youth Development Centers and Adult prisons declined during that time. These numbers have continued to decline. One could show some small drop in some of the institutional budgets in Pennsylvania. However, in no way could one show a dramatic drop. This was because the political issues were not confronted. As a result, Pennsylvania remains vulnerable to population increases in its institutions, should other political forces gain ascendancy.

The Secretary of Pennsylvania's Department of Welfare, within which Juvenile Corrections resided, was unwilling to take on the political controversy which accompanied decarceration. Though the reform administration appeared to have the support of a Governor, his ill-fated run for the Presidency took his attention elsewhere. It was impossible to get his attention regularly enough to allow for the follow-through and the consistency needed in what is essentially a political effort. Transfer of fiscal resources is such an effort.

State Operated Alternatives vs. Private Vendors

The abiding principle in the development of community-based alternatives should be the Jeffersonian maxim that power is best diffused. Just as the state institution rests on political, not clinical or even public safety tenets, so ultimately one can expect that whatever community-based "alternatives" are created, once they become relatively strong, will ultimately fall into the same pattern. What starts as altruism often ends as vested interest. It is important to recognize this process.

To assure professional and political support in decarceration, one must develop counter-lobbies and counter-political forces to balance off the inordinate power which characterizes state institutional traditions and systems. One can do this through state contracts with private non-profit vendors, contacts with important board members, church groups, etc. This should be seen however as one step toward a democratization - and not as an end itself. The simple dismantling of state institutional power structure and their replacement with an array of alternatives and private non-profit (or profit) programs is no guarantee either of sustained competition or quality services. In both Massachusetts and Pennsylvania, it was common for small non-profit groups which began as altruistic endeavors to grow into semi-conglomerates - doing their own lobbying, demanding agreements for pre-set numbers of youngsters in their programs, increased rates, limiting intake of "unacceptable" youth, etc.

In the move from institutions to community-based programs, there are perhaps two or three years of leeway before this process sets. Regulation of the alternative agencies is not enough. Monitoring, though crucial, is not enough. A spirit of competitiveness and accountability should be en-

couraged. This can occur only if there are a wide array of programs to choose from - and ultimately only if the clientele has some part in this choice.

There are ways in which choice can be enhanced. One is to sacrifice a certain amount of management control and administrative precision to ensure a wide mix of programs. It is simpler, in management terms, to deal with one or two large agencies which supposedly provide an "array" of services. It is much more difficult to deal with a large number of non-profit agencies - many of them walking the edge financially, with little or no endowments, no capacity for start up funding, etc. However, although it is easier to fund two or three large agencies than 200 small agencies, one loses a great deal in the exchange.

In Massachusetts, for example, one advocacy agency for youth - originally started by a couple of college students with a loan from their father - grew from a small agency with five or six youngsters assigned to it, to one of the largest contractors with the State Department of Youth Services, handling contracts in excess of one million dollars for the supervision of hundreds of youths. Although the agency appears to continue as efficient and helpful, this consolidation is questionable.

Where in 1972 in Massachusetts there were perhaps 200 or more contractors with the Department of Youth Services - that number has fallen dramatically to a point where three or four agencies have the bulk of the contracts with the department. This was done under a banner of administrative efficiency. It could ultimately lead to many of the same problems presented by the large state institutions - when virtually all of the money went to one "agency", i.e. the institutions of the department.

Another issue is that of accountability. In setting up a community-based alternative a classic bureaucratic malady of the takes hold: they feel that they will somehow be measured by the permanence of the programs they support. Although admittedly this is a fine goal, it is unrealistic to expect that new programs, new contractors - particularly if large numbers are dealt with - will all work, be effective, or appropriate. Of course, one hopes to be able to guarantee such effectiveness - but it is unreal to think that it can be guaranteed in all cases. It is necessary therefore to build in allowances for a percentage of failure.

There should be allowances for the closing down of ten to twenty percent of the new "alternative" programs every year. It is unrealistic to expect a success rate of eighty or ninety percent. Therefore, one has to design a system which allows for the acceptance of a certain amount of failure. At least twenty percent of new programs should be closed each fiscal year. Such a system ensures a certain percentage of the monies becoming available for new and innovative programs yearly. Any system, of course, needs to rest squarely upon strong professional evaluation and monitoring.

PUBLIC EMPLOYEES AND THE HELPING PROFESSIONS

Most of the literature on deinstitutionalization treats the matter of employees and jobs as something of secondary importance to clinical or professional issues. In fact, jobs are the major reason for the sustenance of outmoded institutions and the effective sabotaging of decarceration efforts. When the jobs are tied to employment rates in remote geographic areas (a common situation with state institutions) the problem is even more complex.

The relative power of public employees' unions in the various states largely determines possibilities for accomplishing successful decarceration. In Massachusetts, there were two public employees unions, the American Federation of State, County and Municipal Employees and the Massachusetts State Employees' Association. In addition, there was a social service employees union though most of its membership was in child welfare work. During the political criticism of the Department of Youth Services efforts to reform the system the social service employees union passed a petition among child care workers state-wide, supporting decarceration efforts.

In Massachusetts, not a single employee was fired or layed off as a result of the decarceration. This was a baldly political decision. Later experience further validated that decision. Decarceration was accomplished without the organized opposition of the state employees unions. This diffused legislative opposition. Although many, if not most employees, opposed the decarceration effort and various local union leaders spoke out against it, the fact that no jobs were actually threatened made the task easier and cut into organized opposition among the union members. In addition, the Department

hired the union negotiator as personnel director. This man had considerable credibility among the union membership. He made it clear, institution by institution, in protracted employee meetings, that no one would be fired as a result of the decarceration. The most that would be asked would be for some employees to accept transfers or reassignment to community-based facilities.

In fact, the administration did not have the authority to transfer any employees - and for the most part, the employees knew this. The Commissioner did, however, have the authority to transfer the incarcerated juveniles from institutions to alternative programs. It was his reasoning that as the institutional populations lowered dramatically, or as the institutions became near empty of inmates, his bargaining position vis a vis state employees would be stronger.

A variety of alternative assignments were offered to institutional staff - including re-training as parole aids, assignment to one or another private non-profit agency while retaining their state civil service positions (this allowed adjustment of rates with the private agencies), assignment to outward bound programs, etc. Employees were even offered the option of taking a youngster or two into their homes and collecting their full salary. Perhaps not surprisingly, only a few employees expressed interest in this alternative plan. For a while, certain institutions continued with a full complement of staff and few or no inmates. Many staff came faithfully to work each day in an empty institution, fully anticipating that the youngsters assigned home or to community-based facilities would soon get into trouble and be returned to the institution, thereby providing proof of the failure of the decarceration effort. However, as the weeks and months ran on, the position of the state employees in the empty institutions became less tenable. Reassignments and acceptance of transfers became more the rule than the exception. The policy of

acceptance of transfers became more the rule than the exception. The policy of the Department was outlined in the following letter sent to the Chairman of the Joint Committee on State administration.

Honorable John J. McGlynn House of Representatives, State House
Boston, Massachusetts

Dear Representative McGlynn:

You are in recent receipt of a letter from Mr. Howard V. Doyle, President of the American Federation of State, County and Municipal Employees, AFL-CIO, which expresses concern that the Bureau of Personnel, the Division of Civil Service, and the Department of Youth Services respect the rights of employees in implementing the provisions of Chapter 18A of the General Laws.

We, therefore, wish to submit for your consideration the following information which clearly shows our continued concern for the rights of employees during this period of reorganization.

Chapter 18A became effective on 10/29/69, establishing a newly reorganized Department of Youth Services. Upon my appointment, it was learned that our Central Department personnel office consisted of one head clerk, a part-time clerk-stenographer. Because Civil Service procedures were new to our employees, they were not able to provide adequately the necessary administrative material to the Director of Civil Service while still keeping up with other personnel responsibilities.

Since then we have assigned other administrative employees to assist with personnel functions so that we could fulfill our employee obligations relative to Civil Service. It was not until April of 1971 that the

Department was able to obtain and fill a position of Personnel Supervisor to spend full time meeting our employee obligations. We are hopeful of receiving Federal Funding assistance to help us further in this critical function, and we believe that we are, at present, catching up on the backlog.

However, because of this administrative delay, knowing our obligation to our employees, we have taken the following actions:

1. We have approved substantial promotion requests of both administrative and line staff positions.
2. We have requested that Civil Service examinations be held up until our employees are eligible for promotional exams in order that provisional promotions that have been granted our employees might be finalized through departmental promotional examinations or qualifying examinations, where applicable. The Director of Civil Service has kindly granted this request.
3. We have requested and received assistance from the Director of Personnel in providing some of his staff to assist us with the backlog of personnel actions.
4. Upon the closing of the facility at Bridgewater in 1970, the Department provided alternative assignments for all employees of that facility.
5. As the Department moves further from institutions into community based treatment programs, our Personnel Department has been instructed to insure that each affected employee will have continuing employment in his present classification under procedures which recognize years of service and make no distinction between employees' status.

Procedures for the implementation of this policy have been established in conjunction with both the AFSCME Union and the Employee's Association.

6. Within the week of February 14, we will have honored assignment requests from approximately 120 employees whose assignments will begin when current institutional work is fully terminated. We expect all other assignments of employees to be determined within the coming four to six week period. Each assignment is being implemented with employee organization representatives present, and there has been no objection by them to our procedures in this regard.

We feel sure that you will agree with us that the considerations listed above were proper and necessary. We are sensitive to and cognizant of the rights of employees in the Department. However, while providing these considerations, we must keep in mind the mandate of the Legislature in the establishment of the Department of Youth Services, specifically, better care and treatment for troubled youths.

This is our basic responsibility to the people of the Commonwealth. We, therefore, must accept the fact that the work must be performed where the need is. We do not accept this need as being in a large closed institution or semi-closed institution, but in the majority of cases in the community near where the youth must eventually live.

Although there will doubtless be some problems in implementing these changes, we do not anticipate a major conflict between fulfilling our responsibility to the employees of the Department while at the same time providing more effective care for young people.

Sincerely,

Jerome G. Miller, D.S.W.
Commissioner
February 15, 1972

Although it is important to take the needs of the state institutional employees into consideration during decarceration over-emphasis upon this works to the detriment of effective action. This is because state employees have more power politically in any prolonged or protracted discussions or planning committees with reference to decarceration of captive inmates. Though the rhetoric of the more enlightened public employee unions such as the AFSCME has been supportive of the "concept" of deinstitutionalization, in practice they have been opposed to virtually any basic change in that system.

In Pennsylvania, an arrangement was worked out with the state employees union through the Office of Gerald McEntee, state president of AFSCME in Pennsylvania, whereby the union was assured that no employee would lose their jobs in the closing down of training schools. A Boys' Training School was closed over a 4 year period with no strong union opposition. Despite the reassurances, despite the relative calm at the institution itself, the union remained paranoid and at any time would have preferred to keep the institution open. That institution was closed without loss of personnel through reassignment of inmates and staff to a "day treatment" center. That particular plan did not result in any loss of union membership, since similar numbers were needed in day treatment as were needed in the institutional setting. It would seem however, if the budget does not expand dramatically, a truly effective decarceration will ultimately result in fewer state employees - particularly as personnel funds are freed up to allow purchase of care.

There were minimal controversy in Massachusetts from 1970 through 1972 regarding the closing of the state training schools. Rather, controversies revolved around incidents occurring within the institutions during attempts to reform or humanize them. Though the staff may have sensed this as a step towards decarceration, they were more disturbed with changes within the institutions themselves. These upsets occurred as the administration moved institutional programming away from

the repressive, outmoded, and at times, brutal programs which had prevailed in the state training schools. Doing away with rules of silence, use of isolation, the use of restraints, marching, line-ups, short hair cuts, uniforms, and a variety of other changes disturbed the staff much more than any "pie-in-the-sky" plans for deinstitutionalization.

Maxwell Jones, one of the creators of the so-called "therapeutic community" was brought in to conduct staff training. He held joint meetings with the inmates and staff at a particular boys' training school. After three days of seminars - his parting comment was that perhaps the reform administrators were being too optimistic to expect establishing a therapeutic community at that institution. During the three days, he had repeatedly seen his meetings disrupted by staff and administrators (a "line-up" and "head count" of boys was called in the midst of one of Jones' therapeutic encounters with the youngsters), speeches by local legislators objecting to permissive approaches, and so forth.

In Pennsylvania, Miller's close association with the Governor - having worked on his staff previous to becoming Commissioner of Children and Youth - led to the Governor's request of him for some ideas and advice regarding the closing of the Fairview State Hospital, a discredited institution for the "criminally insane."

Miller recommended its closing. At that time, a number of the staff were under indictment and grand jury investigation for allegations of brutality and murder of patients. The conditions at the facility were appalling. The annual per capita cost was in excess of 100,000 dollars. The "hospital" was unaccredited. Despite the allegations, despite grand jury investigations, the appointment of a special prosecutor, despite the Pulitzer prize-winning series in the Philadelphia Inquirer on conditions at the facility, the Governor's

political advisors saw it as politically impossible for the Governor to order the closing of the facility and the transfer of the patients elsewhere. AFSCME actively opposed the closing of the facility. In addition, the hospital was located in a sparsely populated area in the state where the hospital was a major industry and employer.

Given this political situation, it was no surprise to hear the politically attuned Commissioner of Adult Corrections suggest that he could make the facility into a fine adult prison, though this plan was later scrapped. After three years of debate around the issue, a special task force finally recommended creation of two alternative institutions for the criminally insane in more populous areas of the state - one near Philadelphia, and one in the Pittsburgh area. This compromise insured that the state employees union would maintain the same or a greater membership. One would not be surprised however to find Fairview used for other purposes, with employees kept on in one or another state governmental role.

One way out of such a situation would be to allow the number of state employees to drop through "attrition" - simply by not filling positions as they become vacant. There are inherent difficulties in this approach, however. As stated earlier, staff that stay on indefinitely are not necessarily the most creative. The administrator may find himself in the position of losing the staff most capable of bringing about successful alternative programs - while keeping those staff who are most opposed to any programs which might affect their present status.

This is not to say that attrition is not an important factor in any successful decarceration. Attrition can be used as a tool in that process. For this to happen, it is crucial that the budgetary mechanisms allow for the transfer of monies from personnel slots to "purchase-of-care" budgets. Other-

wise, one risks losing the money and the positions. Consequently, there is little chance that adequate budget will be built into the regular state budget for finding alternatives to institutionalization.

Generally, however, institutional state employees have a relatively low turn-over rate. In Massachusetts, the number of staff leaving positions was probably less than 5% per year. In Ohio, Pennsylvania and Florida the turn-over rates are similarly low. One therefore has a situation in which institutional employees are accustomed to seeing administrators come and go with new governors, or changes in political parties. "Reformers" in this context, are transitory. It remains the burden of the state employee to wait out "reformers". Bureaucracy trudges on virtually unaccountable to those it "services". It therefore has within it the worst possibilities that can be envisioned in any bureaucratic structure.

Institutions are among the least responsible of bureaucracies. There is in them no semblance of accountability. Institutions with captives as clients are, a fortiori, the least accountable. It is in this context that long term plans, 5 year plans, and the like have little or no meaning. To suggest that what an administrator charts as the decarceration course for an agency in 1979 - to occur over a three or four year period culminating in 1983, is nonsense in most state administrations. Unless the task can be accomplished within the first 20 to 36 months of a four year term, it will not be accomplished.

Perhaps the most striking example of employment as the major *raison d'être* of institutions was in Massachusetts, where, for a while, institutions were virtually empty of clientele with full complement of staff. No objections were raised in the State legislature. It was only when a subsequent commissioner, 2 years after the closing of the last boys' institution, suggested

that the Department of Youth Services had 300 more staff than it needed, that the era of "backlash" set in regarding the decarceration of juvenile offenders.

Criticisms of the effort during this period had to do with the "management practices" of the Department, (a post-audit investigation was launched) and with the "permissiveness" of the reform administration. The post-audit investigation was led by a legislator from the District in which one of the major youth institutions were located. The report severely criticized the deinstitutionalization in Massachusetts, and was circulated throughout the country as a means to discredit, if possible, decarceration efforts elsewhere. In many ways, one could make a case for the view that decarceration itself was not so much a threat to the legislature as the possibility of fewer jobs for state employees in individual legislative districts. That, of course, is the problem that plagues deinstitutionalization everywhere.

Another issue is the degree to which the institution must maintain a certain level of "quality" during the decarceration stage. There is something of a Catch-22 involved here. One can hardly build up the institution with new, innovative staff, and at the same time ask that some staff help in the closing of the institution. This problem occurred in Massachusetts. Innovative, bright, young, committed staff were brought into the institutions during the phase in which the administration was attempting to turn them into "therapeutic communities." When it came time to close these institutions, although new staff remained generally committed to the goal of establishing alternatives, they experienced difficult personal problems in giving up on new institutional programs and focusing efforts elsewhere. It may be that the administrator who wishes to decarcerate must anticipate and accept a period of time in which the

institution will be relatively uninteresting and inactive. It is crucial that during this time, youngsters be moved to alternatives as quickly as possible. It is also important that the inactivity not deteriorate into misuse of youngsters. In sum, it is probably a practical impossibility to expect to have an active, innovative, institution on the one hand, and on the other be committed to moving out of that same institution into alternatives. The needs of one will undo the needs of the other. One might ask why decarceration need occur if an institution can be made innovative. The rationale for the move lies in the history of state institutions with captive inmates - innovation may be begun, but it is seldom sustained for long.

The Helping Professions and Decarceration

"Although only a few may originate a policy, we are all able to judge it." (Pericles of Athens)

In its most repressive days, the discipline "cottage" at one of the Massachusetts training schools had regular visiting psychiatrists, psychologists, and educators spending a large number of consultant hours working with staff and youngsters. None of these professionals called public attention to the insanity and brutality of the "cottage" itself, preferring to "work through" the matter with administrators in the vain hope of change by consensus, an approach which not incidentally engenders little jeopardy to their own careers as consultants in state service.

Perhaps the psychoanalytic model has something to do with this, since at times it logically saps such important commodities in reform corrections as "moral indignation", labelling it as "disguised envy" (which it may be) - but that is another moral dilemma which must be resolved in some personal way.

However, with the new crop of "behavior modifiers" - the disciples of Skinner, Wolpe and McConnell, falling over one another to provide validation and control to outmoded institutional models - one cannot place the onus on Freud. In summary, the professionals associated as consultants in the brutal "cottage" were part of the problem.

At a more pedestrian level, it is clear that a shrewd state administrator of juvenile correctional programs can have liberal professional support for whatever institutional programs he cares to run, (good, bad, brutal or caring) by expending approximately five percent or less of his total budget to the proper consultancies, to members of the proper professional organization and societies, and for appropriate research and demonstration grants to the proper universities. Those troubled individual professionals who might raise objections can be rather easily isolated and invalidated if a properly accredited professional context is purchased early on.

Political considerations or exposes in the media can, of course, upset the balance, as can consumer pressure. However, with captive populations such pressure is for the most part non-existent. Now and then professionals turn on one another, but barring such events, the wedding of state administrators to inadequate or destructive programs, coupled with the silence of professional groups, makes for human services by consensus of the service provider or vendor. Consumerism does not enter the equations.

Many so-called "consumer" groups have become lobbies for middle-class professionals and their proposals amount to calling for more of the same - even though the same has been part of the problem. The best examples I have known have been some chapters of mental health associations where typical meetings are made up of state professionals (psychiatrists, social workers,

psychologists, etc.) and professional vendors of services (owners of treatment programs), along with a few upper middle class supporters from outside the professions. One sees very few actual consumers - the lower class, poor, the patients and their families.

Decarceration is not related to such mundane issues as to whether kids should be in prison, whether rehabilitation works, whether group homes and community-based programs present decent alternatives, etc. These issues are merely the polarities around which discussion revolves. The motivations for the discussion are quite another thing. Issues such as rehabilitation vs. punishment come to mean next to nothing when one gets to the basics of reform. The real issues have to do with the fear that change, no matter how successful (or unsuccessful) will affect the unspoken relationships which undergird the present juvenile correctional system. This backdrop has to do with political patronage, union agreements, preferred screening techniques for private agencies, and cozy relationships with organizations representing the helping professions.

When one moves to change this system, it is an axiom that the demands and measure of "success" are precisely those for which the existing juvenile correctional system has never been held accountable. There is a constant call that we "need more research" (as if research findings were ever used in designing institutional programs) before embarking upon alternative programs, there is questioning as to whether alternative programs will have "properly trained staff", (as if prison guards or training school staff were ever properly trained) and "What effective monitoring is there to assure decent treatment?" (As if correctional institutions ever monitored their treatment of inmates), etc. The jargon surrounding the correctional system in change

relates to the manifest functions, but not to those which are latent. One could easily be misled to think that corrections is really there to "correct". The purpose of the jargon is to ensure the survival of the existing system. The helping professions have always been able to provide such jargon. It justifies and validates defense of the existing system against threats which might arise from its own internal contradictions.

The questions which surround decarceration efforts are not the result of unreasonable law and order demands by the so-called "right wing", but rather more often they express "reasonable" concerns of the informed liberal professional "helper". This group has a notable discomfort with conflict coupled with a pervasive indecision which stymies action. The softness of liberal support for decarceration generally undermines effective progress.

An example from a field other than corrections might be helpful. Certainly, people must be weary of hearing the litanies of mistreatment or neglect which characterize many state hospitals, prisons, training schools, or state homes for the retarded. From Belchertown and Fernald in Massachusetts, to Lima State Hospital in Ohio, to Farview and Pennhurst in Pennsylvania, the pattern repeats itself. In New York, for example, the repeated exposure and call for reform of places such as Willowbrook must at length engender boredom and apathy from the public. Why is the problem not solved more quickly? Why hasn't Willowbrook closed? It is because though such institutions have the manifest purpose of providing care for the retarded, their latent purpose is to sustain a professional system of child and adult "care" which ensures that those clientele who inhabit Willowbrook will not darken the doors of the private and public agencies which are financed and staffed sufficiently well to provide decent and human care. Those agencies in turn "treat" clientele who

This professional ambivalence was embodied in the political stances taken by the National Association of Social Workers with reference to decarceration efforts of Commissioner Miller in Massachusetts and Illinois. The Illinois Federation of NASW Chapters sent the following letter to all Illinois legislators with a summary of the discredited Massachusetts "post-audit" report.

May 13, 1974

Dear Legislator:

The National Association of Social Workers, the Illinois Federation of NASW Chapters, recently has received the Management Audit of the Department of Youth Services of the Commonwealth of Massachusetts. Because of its impact in relation to services for children in Illinois, a committee of professional persons with considerable experience in and knowledge about the state's child welfare programs completed an in-depth review of the Massachusetts study. In a word, this committee found devastating and tragic parallels between the Massachusetts experience under Dr. Jerome Miller's administration (October 29, 1969 to January 1973) and what is happening in Illinois since he took over the Department of Children and Family Services in January of 1973.

In consideration of your pressured schedules, we are submitting, for your careful review, the attached summary of the Report provided by the Commonwealth of Massachusetts rather than the 230 plus pages of the full Report. We believe you will want to read this material very carefully to obtain a picture of the destructive actions of the Miller administration in Massachusetts which, in the main, are being repeated in Illinois. You will be particularly interested in the same unplanned shot-gun approach to

programming; the same fragmentation and lack of services; the same disregard of legislative intent, constraints and directives; the same questionable fiscal management; and the same abuses of the State's Civil Service System and personnel standards and practices.

The National Association of Social Workers is a strong advocate of good quality services for Illinois children; effective legislative controls; and adequate financing of social programs. Our concern is that the tragic repetition of what happened in Massachusetts be stopped in Illinois and corrective measures be instituted. The Legislature must play a key role in assuring that the Department responsibility provide the kinds of services that benefit, to the utmost, the state's children and their families and be accountable to the legislature and to the general public.

If our professional Association can be of assistance in your further considerations of the Department of Children and Family Services, you can be certain that we will give our fullest cooperation. Please feel free to contact our Executive Director, Miss Marian Orr, ACSW.

Sincerely,

Helen Lane, ACSW
Vice President

Marian Orr, ACSW
Executive Director

The Massadvocacy Center, a respected citizen advocacy group, filed the following response:

"An Analysis of the Report by the Joint Committee on Post-Audit of the Massachusetts Legislature Entitled: 'Management Audit of the Department of Youth Services'" Prepared by the Massachusetts Advocacy Center

The Joint Committee on Post-Audit was created in 1972 to provide a vital service to the Legislature and to the people of Massachusetts: namely, to determine through careful and impartial examination whether agencies of state government meet their legislative mandates through their fiscal expenditures. Ideally, such a Committee can and should provide legislators and citizens with much needed information about the operation of state agencies. We all could then make intelligent judgments concerning bureaucratic performance and public accountability.

It was, therefore, with considerable interest that the Massachusetts Advocacy Center, an organization specifically concerned with the quality and availability of services to the children of the Commonwealth, awaited the results of the Post Audit Committee's nine-month study of the Department of Youth Services. That study, recently released in the form of an uncorrected proof of a report entitled "Management Audit of the Department of Youth Services" is now available for public review and comment. After a careful analysis of the report's findings and conclusions, the Massachusetts Advocacy Center finds the report profoundly disappointing - a rhetorical exercise and a public disservice. Not only is its language immoderate and unbalanced, but more seriously the report is notably lacking in substance and content. Instead of the careful and objective analysis one would expect from a nine-month effort by a legislative committee, the public has been served with a report which reflects little thought, a misuse of public funds by its authors, and a lack of genuine concern for children who need help.

The ultimate disappointment of the report, however, is its failure to provide any new or reliable facts about the progress DYS has made toward deinstitutionalization. Instead of being an objective and informative document, the Committee's report represents an attempt to discredit the efforts made by DYS to implement the new policy. Citizens of the Commonwealth continue to have a compelling need for the facts about deinstitutionalization within DYS. We need to know the long-range fiscal implications of the new policy, and whether or not there are reliable indications of the relative costs of a purchase-of-services approach. We need to know what has been the statistical impact of deinstitutionalization on juvenile corrections, and what effect, if any, does the data indicate the new policy is having on the manner in which courts and law enforcement personnel treat young people. And most importantly, we need reliable information about how our children feel about this new approach to treatment, and what reliable indices there are of the impact of deinstitutionalization on their needs.

These and other critical questions unfortunately remain unanswered by the Committee's report. Instead we have been offered a document that impedes rational discussion by a rhetorical treatment of distorted facts and half-truths. For example, in an attempt to document DYS's poor placement procedures, poor quality of service, and general "loss of control," the report cites statistics in three areas of concern: runaways (or "escapees", as the report chooses to identify them), deaths and "other attendant consequences." However, while the data on the number of runaways for fiscal 1969 is cited, we are never told the source of the data, nor is there any apparent effort to analyze the data in the report. For

instance, the report attributes only 2 runaways to Roslindale Reception Center, 324 to Lyman School and 133 to other state training schools. (This is based on an annual commitment rate of about 800 youths according to the Massachusetts Council on Juvenile Behavior). If we are to believe the Post-Audit report, more than half the children committed to these facilities ran away, a figure which, if it were reliable, would certainly have been seized upon by critics of DYS long before now.

The most irresponsible use of statistics, however, occurs in the reports use of 1973 runaway statistics from detention facilities for comparative purposes. It should be obvious to even the most casual student of DYS legislation that the comprehensive services offered by DYS are for children referred or committed to the Department and not those detained by DYS for the courts. Certainly, the report's confusion of the functions of commitment and detention, and its failure to take into consideration the size of the population from which the runaways occur does not provide a basis for confidence in the report's conclusion that the number of "escapees" from DYS community-based treatment programs is "sky-rocketing." Nor does such carelessness reflect the kind of attention and concern for the details of either the operation of DYS or the children committed to it that the Committee should have demonstrated.

In a similar way, the Committee reports that since 1969 the DYS budget has doubled to more than 16 million dollars. What the Committee fails to point out is that during the same time period the DYS caseload of children being served more than doubled. Indeed, at no place in the report are we told the aggregate number of children being served by DYS or the costs per child, in spite of the fact that the Committee had more than nine months to collect such elementary statistics.

In light of such serious defects, we can only conclude from our analysis

that the true purpose of the report was to provide a forum for a personal attack upon the former Commissioner of DYS, Dr. Jerome Miller, and thereby to discredit the entire policy of deinstitutionalization. How else can one explain the report's repeated descriptions of the administrative actions of DYS as the personal actions of the former Commissioner: the legislative and Departmental commitment to deinstitutionalization becoming "his philosophy"; the Department's decision to close the institutions becoming "his action"; and the inevitable bureaucratic problems associated with such a major and innovative program transformation becoming "his failures" and the product of "his impatience." And how else are we to regard the apparently last minute decision to delete the report's references to Dr. Miller by name, by simply drawing a line through his name and replacing it with the presumably more neutral term, "the Commissioner."

It is clear from our review that the Post Audit report serves absolutely no useful purpose. It obscures the important issues surrounding DYS with its careless use of statistics and its penchant for impugning the former Commissioner. As such it is virtually worthless to persons concerned with clarifying those issues and making DYS more effective in its delivery of services to children. We have been badly shortchanged by the Post Audit Committee's report, particularly those troubled young people whom DYS exists to serve.

In the future, we believe that the Post Audit Committee ought to be required in advance to demonstrate to the Legislature and the public that it has the capacity to perform its duties with the care and objectivity that such vital work demands.

The Massachusetts social work organizations wrote the following letters in response to the letter from the Illinois NASW.

5 June 1974

The Honorable Daniel Walker
Governor of Illinois
State House
Springfield, Illinois

Dear Governor Walker:

It has come to my attention a serious challenge toward the leadership of Jerome Miller has developed as a result of the post-audit report on his agency.

As an out-of-stater, I am, of course, unable to comment on the particulars of the case; however, as some professional organizations in Illinois have added their own criticisms of Dr. Miller to the general discussion, I have chosen to write personally to comment on Dr. Miller's standing among his peers here in Massachusetts.

Dr. Miller, in the judgment of the Eastern Massachusetts Chapter of NASW, was one of the outstanding members of our profession working in the State. In 1973 he was selected as "Social Worker of the Year" for the creative job that he had done in developing alternatives to institutionalization for young people entrusted to the Division of Youth Services. He was known here as a public official with a deep understanding of the need for institutional reform and an exceptional level of courage in taking the steps necessary to bring these reforms about.

Organization change invariable involves some degree of confusion and anger on the part of those whose roles in the system may have to be changed

I trust that this fact will be given due consideration and that decisions regarding Dr. Miller's future will be made with fairness and appreciation of the enormity of the job to which he has devoted his energies.

Sincerely,

Richard S. Scobie, Ph.D.
President

THE MASSACHUSETTS SOCIAL WORKERS GUILD

Local 509, SEIU, AFL-CIO

14 Beacon Street, Room 803

Boston, Massachusetts 02108

June 18, 1974

Governor Daniel Walker
Capitol Building
Springfield, Massachusetts

Dear Sir:

I recently learned of the heated opposition to the policies and programs of Jerome Miller from the National Association of Social Workers in Illinois.

Opposition from NASW is most surprising since, in Massachusetts, the organization had supported the dramatic, if controversial, changes made by Mr. Miller as Commissioner of Youth Services.

While in Massachusetts Mr. Miller implemented urgently needed reforms in what had a traditional but unsuccessful pattern of care for youthful offenders. The change to a community-based program was strongly opposed by those with a political interest in perpetuating the outmoded institutional system.

Early critics of the community-based program have continued their opposition. Experience has demonstrated a need for a maximum security

placement for a small number of children. But the need in no way justifies a return to the institutional program.

As an innovator, Jerome Miller made fundamental changes in our services to delinquent or troubled youth. Not all the changes were perfect. Administrative procedures required further planning and change. Whether the problems that emerged during the Miller administration were caused by faulty planning or the weakness of the bureaucracy is subject to debate. The charges of negligent care fostered by the Post Audit Committee are, in my opinion, highly suspect. A close examination of the facts fails to show a relationship between the tragedies that befell troubled youngsters and the policies of the Miller administration.

The charges are a vestige of political opposition to the shutdown of the state's institutions.

I wonder if opposition by NASW in Illinois has a similar basis - protection of the special interests which are threatened by a change in philosophy and program. In my opinion, the youth served by the Department of Youth Services benefitted more from the Community based program instituted by Jerome Miller than the institutions advocated by political opponents. If it is really out of a genuine for children that NASW roots its opposition, I am confident a thorough study of the facts will support the work of Mr. Miller here in Massachusetts.

Sincerely,

Robert L. Mollica, M.S.W.
Assistant Director

"Institutional - Community-based Symbiosis"

It seems logical that the supporters and operators of community-based alternative programs would be supportive of decarceration efforts. One assumes that "community-based" groups, ostensibly dedicated to programs designed to avoid institutionalization of juvenile offenders, should likewise be dedicated to the reduction of institutional populations, if not the eventual demise of the large congregate institution. However, this is seldom the case. In fact, the more "professional" the community-based alternatives are - those staffed by professional psychiatrists, psychologists, and social workers - the more likely they are to support the institution as a crucial point on a so-called "spectrum" of services. Paradoxically, this cliché is applied even in the more extreme forms of imprisonment of juveniles in state prisons and jails. The issue of "services" is of course moot in such settings. Rather, it should be more important to mitigating the harm and destruction the institution can do to the youngster in such cases. Most professionals, unfortunately, do not agree.

Nathan Glazer has noted that a serious limitation "on the effectiveness of social policy is presented by the inevitable professionalization of services. Professionalization means that a certain point of view is developed about the nature of needs and how they are to be met. It tends to handle a problem by increasing the number of people trained to deal with that problem." (Glazer, 1971; 53)

Glazer goes on to argue that this is followed by a sequence

in which we run out of people deemed qualified (creating a new set of dissatisfactions) or come to question their ability to deal with the problem (but new efforts create new groups of professionals, etc., etc.).

In Massachusetts, some of the most outspoken opposition to the closing of the last boys' reform school came from operators of so-called "group homes" in the state. Although the group homes themselves were professionally run, generally well operated, decent and humane settings, it was also clear that they maintained a certain hold over their clientele by using the institution as a threat. That is, unless the youngster obeyed rules, and involved himself in programs, he was threatened with commitment to, or return to a state institution. Although the staff of the group homes for the most part referred to the institutions as inappropriate and destructive, they at the same time used the threat of incarceration in such institutions as a means of motivating clientele in their "community-based" programs.

There is an odd pattern here which can be seen at different levels. The language of those who operate community-based alternatives is one of concern, care, and in fact decarceration, - the less than subtle threats are those of incarceration and institutionalization should the client be obstreperous or uncooperative. Community-based programs are for the "deserving" and the "good boys". The institutions are retained for the "undeserving" or "bad boys". In practice, this results in the community-based programs being reserved for those who don't need such programs, whereas those who do need alternative programs are relegated to human warehouses, prisons, jails, and training schools. Thus,

the community-based programs depend upon their ability to threaten clientele with exile to a depersonalizing, destructive institutional environment. Such community-based programs are therefore as tied and wed to the institutions as though they were another building on institutional grounds. There is little difference between the large training school's use of a "discipline cottage" to motivate juveniles to cooperate in the less repressive "cottage" programs on the grounds - and the community-based "alternative" program using the threat of the institution in a similar way.

Early in 1975 when the intention to move juveniles out of the adult prison in Camp Hill Pennsylvania was announced, the following letter was received. The letter speaks for itself.

"Dear Dr. Miller. I am writing in regards to a recent article published both in the Pittsburgh Press and the Post Gazette, concerning your intentions of moving the juvenile offenders from the state correctional institution at Camp Hill Pennsylvania. I am in complete agreement with you, that many youngsters now institutionalized could be put in community facilities if enough facilities were available. I am also in agreement that wherever possible, you should attempt to serve a youngster with community resources. I am the Director of four group homes in Pittsburgh PA, Allegheny County, and for several years our program has made available to juvenile offenders an alternative to institutionalization. I think that if your plans to close the

state institution at Camp Hill to juveniles is carried out, I am afraid that it will greatly effect group homes in communities throughout Pennsylvania. In our four years of operation here in Pittsburgh, we have had little opposition or complaints about moving into a community with a group home. Since the announcement of your intentions we have been receiving phone calls and comments from neighbors about bring youngsters into their community who are convicted of violent crimes. All that the neighbors see, is that the youngsters who normally are sent to Camp Hill will be sent to homes such as ours. To them this represents a threat to their children and their property.

I think that if the plans to close the state institution at Camp Hill to juveniles is carried out, the state should consider another maximum security facility where youngsters who cannot make in in the community can be given some help.

Be assured that our agency will do everything possible to cooperate with you and your department, to better serve kids in Allegheny county and throughout the state. But we must go on record at this time as being opposed to your plans as they now stand.

If I can ever be of service to you or your department in any way, please do not hesitate to call on me. Sincerely
John H. Patak, Director, Circle C Group Home Project, Young Life Campaign.

The following reply was sent to Mr. Patak:

"Dear Mr. Patak: Thanks very much for your letter of May 14 outlining your concerns about the proposed Camp Hill Project. Please be assured that we have no intention of placing violent youngsters in unsupervised group homes. We plan to develop a wide range of services for the juveniles presently incarcerated in Camp Hill, ranging from secure facilities to group home facilities and a variety of other options.

You should be aware that not all of those incarcerated at Camp Hill are there for violent offenses, and, indeed, a good number are there for much less serious offenses than would normally be the case of those young people sentenced from the Pittsburgh courts. This is particularly true of some of the rural areas where there are very few options available to judges.

I think that your comments about being on record against this project are a bit premature. I take for granted that they are related to some of the other local opposition and a bit of the "wheeling in dealing" going on in the Pittsburgh area with reference to attempts to discredit what is going to be a fine and successful project.

May I add that I find it a bit of the paradox that a Director of a group home should suggest that the success of his program is dependent on the ability to scapegoat and isolate others from the possibility of consideration for decent and humane treatment in community-based programs. May I reiterate that we have no intention whatsoever of

putting dangerous or violent youths in open settings and will find, or help to stimulate, the creation of a number of small secure options. I would hope, however, that as youngsters complete programs in such options that they would not be seen as totally inappropriate for movement into community-based programs - unless one is to suggest that we jail them until they reach middle age - a position I am sure you would not wish to take. Thanks for your interest and please keep in touch.

Sincerely,

Jerome G. Miller
Special Asst. to the Governor for
Community Programs

Another example of the symbiosis of professionalism and incarceration can be seen in an incident which occurred shortly after the beginning of the Camp Hill project in Pennsylvania. The project was designed to remove 400 juveniles from an adult prison where they spent 22 hours a day confined to their cells - with virtually no services. Under a banner of appropriate "alternative" services, the representative of the Child Welfare League of America led the group in opposing the removal of the juveniles from prison. A feel for the situation can be gotten from the following article which appeared in the Times of Reading, Pennsylvania, on November 18, 1975.

WORKERS RAP YOUTH OFFICIAL

It was billed as a conference to examine treatment facilities for juveniles.

It ended up roasting the state's new commissioner of children and youth, who plans to revamp the juvenile justice system in the state.

Nearly 200 people from 21 counties across the state attended a day-long conference Monday at Bethany Children's Home, Womelsdorf, to gain some positive ideas on residential group care for juveniles who have gone astray of the system and need special treatment and handling.

REPRESENTATIVES of children's services, agencies, juvenile probation offices and other child placement agencies, as well as representatives of existing residential group care facilities in the state, got some positive answers on residential group care from the assistant executive director of the Child Welfare League of America.

But Monday's conference also left the people with a lot of unanswered questions, most of which they blamed on the new commissioner, Dr. Jerome G. Miller.

Dr. Miller didn't attend the sessions. Nevertheless, he wasn't forgotten and neither were some of his ideas.

IN FACT, SOME of the innovations which the commissioner has already implemented were the subject of much heated talk.

At one point, an irritated caseworker asked, "Who does the High Priest (Dr. Miller) talk to before he makes these changes?"

The change being discussed was the closing of juvenile facilities at the State Correctional Institution in Camp Hill.

MANY OF THE conference people claimed that the new commissioner closed the Camp Hill facility without having another alternative.

Reportedly, Dr. Miller has plans to close even more juvenile facilities across the state, including several youth development centers and youth forestry camps.

The centers, camps and the Camp Hill institutions were the correctional facilities used for juveniles who have more serious problems.

Many of the conference people voiced concern about where those type boys and girls would be placed if Dr. Miller is permitted to close the existing camps and centers without having an alternative plan or commitment place.

ACCORDING TO Merwin R. Crow from the Child Welfare League in New York City, "to destroy resources and services, without providing viable, commensurate and effective alternatives, is the highest form of official irresponsibility."

Crow, who formerly directed a residential treatment center in Des Moines, Iowa, added that to not provide adequate care is a gross exploitation of children. "The major issue in child welfare is to use group care therapeutically and to have a spectrum of services available based on the needs of the child. The child has a right to health and to be physically and emotionally well."

According to Crow, Dr. Miller had implemented a similar revamping of the juvenile system in Massachusetts and Illinois before coming to Pennsylvania. "Some cities in Massachusetts now have what we call 'delinquency ghettos'," Crow noted.

SHORTLY BEFORE Monday's conference ended, Dr. Miller was again roasted by the conference participants, when a release was read announcing that Massachusetts will reopen its reform schools in January. Dr. Miller had closed the schools as part of his revamping of the system there.

"It certainly looks as if Dr. Miller left no impression in Massachusetts," concluded the Rev. Garnet O. Adams, superintendent of the Bethany Home."

Similarly, Anthony Trivisono, Executive Director of the American Correctional Association voiced his professional concern with the Massachusetts decarceration.

Commenting on the closing of juvenile corrections facilities in Massachusetts, Trivisono said: The "backlash from (that) decision... is yet to come, but it is coming rapidly. Within the next few years juvenile courts in Massachusetts will demand that there be secure institutions for some children. I think for the great bulk of juveniles, closing the detention homes was probably to their benefit. I think a form of this could be done and, indeed, is being done in many states through planned depopulation and decentralization.

"But let's look at the situation in Massachusetts from a different perspective. In Massachusetts any kid over 16 is considered an adult by the court while in many other states the juvenile age limit is 18. The differences between 16 and 18 years old are quite significant. In Rhode Island (there are) many 17 and 18 year old kids in training schools that would be confined in an adult prison in Massachusetts. There is no way to effectively compare juvenile justice systems from state to state as long as the age limits vary the way they do. Most states could not and should not emulate Massachusetts simply because some 17 and 18 year old juveniles need institutions with good security, educational and vocational training programs. I would like to see a uniform age limit of 18 established in every state."

Judges and Decarceration

For a variety of reasons, again most of them political, juvenile court judges as a group have generally opposed in practice deinstitutionalization or decarceration movements. It is no accident that the National Council of Juvenile Court Judges remains the only major organized group at the national level which still opposes the deinstitutionalization of status offenders (runaways, truants, disobedient children) and the removal of these non-offenders from the juvenile justice system. The problem with many juvenile court judges is that their rhetoric bears little or no relationship to their practices. They have spoken historically of the courts providing care, concern, rehabilitation, etc. Although this approach has had limited results and perhaps has done more harm than good to a large number of youngsters, it continues to be the gospel for juvenile judges' organizations. Those judges who periodically speak frankly and embarrassingly of punishment, jails, whippings, etc. are unfortunately closer to the reality of the juvenile court.

The same patterns which underly much of the current controversy around the decarceration of status offenders were evident in Florida, Ohio, Pennsylvania and Massachusetts. The objections of the courts to decarceration are built-in by-products of the juvenile justice system. To suggest that too many youngsters are in institutions is to obliquely criticize the juvenile court, which for the most part is responsible for the youngsters' placement in such facilities. It is a reflection on the screening processes, the clinical or diagnostic expertise, and perhaps most telling the "altruism" of the juvenile court itself. It is therefore systemically

impossible for the court to support alternative ways of handling the juvenile offenders, who have historically been institutionalized. If "alternatives" are to be supported by juvenile courts they must therefore be used for another population - first the non-delinquent neglected child, then perhaps the status offenders, but only with great reservation the true "delinquent".

A Boston Juvenile Court Judge noted that the 1000 or so juveniles in the Massachusetts system were the "bottom of the barrel" having been screened, tried in a variety of other programs. Institutionalization was the "last resort". This, of course, is the classic cry of juvenile court judges. It is our experience, however, that the reality bears little resemblance to their perceptions. This is surprising in that they must know that the bulk of youngsters coming before the courts have not indeed been tried in a variety of other programs funded at similar levels. They usually have been tried over and over in one program (probation) or perhaps over and over in other, more destructive situations (detention centers, and training schools). One cannot trust "facts" given by juvenile court judges in their public pronouncements - "facts" which, for the most part, hinge upon a few "war stories".

There are, of course, exceptions, but for the most part those exceptions do not hold the leadership positions in the organizations which represent juvenile court judges. The former President of the Juvenile Court Judges Council from Ohio, Judge Walter Whitlach of Cuyahoga County (Cleveland), is an example of a powerful judge with little or no understanding of the issues surrounding decarceration -

which he assiduously opposes. One becomes inured to grandstanding from less prestigious or "authoritative" sources, but it is always a striking disappointment to hear it from judges of stature. Unfortunately, this is often more the rule than the exception.

Perhaps one of the reasons for the opposition of most organized juvenile court groups is related to the political underpinnings of the juvenile court in most states. In Massachusetts the courts remained highly political. Although the State Department of Probation supposedly screened and "cleared" employees of the probation departments, it was understood and well known that most probation officers were political appointees of the judges. Indeed, in Boston Juvenile Court, some probation officers performed frankly political lobbying tasks - many spent a good deal of time in legislative halls performing those tasks closely associated with entrenched patronage systems. Similarly, in Pennsylvania, staff from the Juvenile Court Judges Commission acted as lobbyists for the juvenile judges. Similar situations exist in Ohio, and to a greater degree, in Florida. This is not to suggest that there are not large numbers of trained and skilled probation officers. It is simply to point to the reality of the situation - that many probation workers are part of an entrenched political system and hold their jobs at the bidding of the judge. In this political context - which often has elements of "the politics as power" - any significant decarceration is less power and is therefore to be opposed.

Pennsylvania perhaps provides the clearest example of the political involvement of juvenile court judges. They opposed, as a group, the

closing of the Camp Hill Prison to juveniles. Pennsylvania juvenile judges have always had the right in law to waive juveniles to adult court if they wished to obtain a sentence to an adult prison. In the case of Camp Hill, however, the juvenile court judges wishes to continue the option of sending juveniles to an adult prison under an indeterminate juvenile commitment.

The position of the majority of juvenile court judges regarding the decarceration of juveniles is perhaps best exemplified in the following statements by two prominent Pennsylvania judges - representing the major cities in the state. The first is a 1975 letter from Judge Maurice Cohill opposing the closing of the Camp Hill Prison to delinquent offenders.

April 22, 1975

Honorable Robert P. Kane
Attorney General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear General Kane:

Thank you for the letter of April 15, together with the copy of your letter to Superintendent Ernest S. Patton of the State Correctional Institution at Camp Hill in which you stated that your office will "resist through all lawful channels" the placement of juveniles at the institution after August 15, 1975.

There is no doubt about it; being a juvenile and committed to the State Correctional Institution at Camp Hill (SCI-CH) may result in the rankest sort of discrimination against the juvenile - there is little or no rehabilitation program for juveniles there. I am told that the reason for this is that the new Juvenile Act of Pennsylvania does not permit children to be mixed with adults. As a result, rather than create a special security facility for children, the Commonwealth, through the Department of Justice, has chosen to segregate the juveniles at SCI-CH into cells and completely ignore any sort of rehabilitative program for them, concentrating instead on the adults. I therefore agree with the premise of your letter, but I am shocked at the proposed solution.

Juveniles are not sent to SCI-CH for sticking their tongues out at their mothers. These are all boys who present a real threat to the community. There are presently 67 juveniles from Allegheny County at SCI-CH who have all been committed there for serious criminal offenses and following a number of appearances in Juvenile Court and commitments to other juvenile facilities. I am in the process of having a list compiled which will show the number of court appearances, placements in other institutions and serious criminal offenses committed by Allegheny County juveniles presently incarcerated at SCI-CH.

You state that the administration is attempting to obtain "substantial federal funds" for alternate placement resources. I respectfully suggest that this is something that should have been done a long time ago. I hope you succeed, but you can't possibly get money and create alternate facilities for the 396 juveniles presently at Camp Hill in a period of a few months or even years.

In today's Pittsburgh Post-Gazette Governor Shapp's new special assistant on juvenile justice, Jerome Miller, is quoted as saying "Many of the juvenile offenders who would normally go to Camp Hill will be sent to residential homes after August." I can guarantee you that no juveniles from Allegheny County who would normally be sent to Camp Hill will be sent to a residential home by this court. Rather, the charges that bring them to this court will be certified to Criminal Court; they will be tried as adults; in all probability

they will be committed to SCI-CC any way by the Criminal Division they will then have a criminal record that will go with them for the rest of their lives. I do not believe the Commonwealth is going to accomplish anything by this approach.

I fear that the philosophy expressed in your letter reflects the thinking of the new special assistant, Jerome Miller. He left the Commonwealth of Massachusetts after he shut down the juvenile institutions a couple of years ago. The pendulum is now apparently swinging back. I quote from the Boston Globe of April 13, 1975:

"The (Massachusetts) Youth Services agency already has secure places for 84 juveniles, with 12 more planned, in five 'intensive care' facilities. It has 52 additional beds in secure facilities for juveniles awaiting trial or treatment, according to Ed Budelmann, assistant department commissioner. (Safety Secretary Charles V.) Barry contends that 300 to 400 secure places are needed...

"More reformers seem to agree that a small number of youths pose enough danger to themselves or others to make placement in a foster home, group home or other unlocked facility inadequate."

If the Department of Public Welfare is having a difficult time obtaining community-based facilities in Pittsburgh for youngsters from the Youth Development Center at Warrendale, who really do need such facilities because most of their offenses are relatively minor, how do you anticipate obtaining residential homes for offenders such as I have enumerated above?

I have made a survey of the beds available in adult correctional facilities in this part of the state, and it looks like this:

Pittsburgh (Western Penitentiary)

General Population 709 Maximum Population - 1300

D&C Clinic $\frac{173}{872}$

Greensburg Correctional Facility

Population 175 Maximum Population - 184*

*Greensburg has exceeded 200 with makeshift bedding in other than normal housing facilities.

Camp Hill

Population - Juvenile 396 Maximum Population - 1200

Adult $\frac{640}{1036}$

I would respectfully suggest that you transfer all adult prisoners from SCI-CH to the beds available in other adult correctional facilities and permit SCI-CH to become a secure juvenile

facility. A true rehabilitative program will then be able to be developed for these youthful offenders without the unwanted effects of having them integrated with an adult prisoner population. This would no doubt put a strain on the adult facilities, but the alternative of having a lot of young people unnecessarily getting a criminal record is, to my way of thinking, an unsatisfactory alternative.

It has been my privilege to serve on the Allegheny Regional Planning Council of the Governor's Justice Commission since its inception. On April 14th I spent all day at public hearings conducted by our Regional Planning Council, listening to citizens and public officials comment upon the needs and present state of the Criminal and Juvenile Justice system in Allegheny County. As chairman of the Governor's Justice Commission you should know that the one point that came through loud and clear to us was that most of the witnesses expressed concern about the victims of criminal activity and the apprehension of offenders.

I tell young people who appear before me that I see my duty as being two-fold. I tell them that our court has a duty to attempt to rehabilitate them, but I go on to tell them that we also have a duty to protect the community, and if it appears that our efforts at rehabilitation are not meeting with success, I will not hesitate to order them committed to an institution for a period of time. It may surprise some people to learn that institu-

tionalization can work. We have many good juvenile institutions in Pennsylvania - both private and those operated by the Department of Public Welfare. SCI-CH used to be a good institution for hardened juvenile offenders. It no longer is because the Department of Justice has chosen not to provide much of a program for them.

What I am suggesting to you is that you not permit Jerome Miller to do in Pennsylvania what he did in Massachusetts and attempted to do in Illinois - to sacrifice a number of young people on the altar of his desire to close all institutions.

Sincerely,

Maurice B. Cohill, Jr.
Judge

MBC/ph

cc: Honorable Milton J. Shapp
Ernest S. Patton, Superintendent SCI-CH

A similar point of view is expressed in this proposed position paper presented by Judge Frank Montemuro, Administrative Judge for the Family Court of Philadelphia, to the Pennsylvania State Trial Judges meeting in February 1976. The paper not so subtly refers to the Camp Hill decarceration project.

Suggested Position Paper

The very important matters of:

- (a) inadequate secure-type facilities for both male and female delinquents;
- (b) the lack of facilities for deprived children;
- (c) the lack of facilities for the emotionally disturbed child who needs security;
- (d) the development of community treatment programs with local controls;
- (e) the increase of state subsidy for the development of such community treatment programs;
- (f) improved and expanded county probation services and;
- (g) the public's need for the court to retain power of commitment all represent aspects of the same problem.

They emanate from and are part and parcel of the commandeering and distortion of Pennsylvania's efforts over a number of years to improve services to juveniles by a doctrinaire group determined to impose its philosophy by unilateral control of the entire system. It is to Pennsylvania's credit that we anticipated the emerging changes in the basic philosophy in corrections, particularly as embodied in the concept of resocialization of the offender through community based treatment programs providing alternatives to adjudication and to commitment. Task force of citizens, professionals, government officials and judges worked together toward attaining a better system of treatment for our children. This vital consensus and attendant quality of in-put has all but been negated by a coup d'etat stratagem seeking immediate control of the overall mechanism and the funding flow, by those certain that they alone are anointed as the messiahs of the "true belief". Armed with massive grants and proclamations of good intent they contemptuously ignore all existing structures and seek an edifice totally apart from them. In such a climate, of course, the

voice of reason and moderation is certain to be scorned and castigated as the defender of evil to be attacked by all. Indeed, chaos is deemed preferable to modification or orderly change in the system. There is no sense of degree, only kind, in the onslaught. Moderation and careful reasoned procedure is not the fashion. Thus, there has been introduced wholly unnecessary and divisive conflict involving state vs. local jurisdiction, judiciary powers vs. state administrative incursion, and community based treatment vs. institutional treatment. The result is not the comprehensive plan serving the broad spectrum of children's needs which we had envisioned; but a moment to moment, ad hoc approach reminiscent of the sixties when the lunatic fringe assured us that we first need destroy all existing systems before devoting any concern to their replacement.

Although judges and other knowledgeable individuals associated with the juvenile justice system had for many years urged a secure-type facility specifically for juveniles, their plea went unheeded. Rather than exercising the effort to plan an appropriate facility for juveniles, the Commonwealth drifted along the effortless course of self righteous hand-wringing and eye-rolling bemoaning the destructive influence of juveniles participating in programs with leprous older youth. The solution decided upon by the newly self-designated champions of the rights of children to offset the infection brought about by sharing a carpentry program with an older youth, was to subject them to a regimen of cruelty and dehumanization abandoned almost two centuries ago -- inactive confinement in a cell for 22 hours a day. With the advent of the "Camp Hill Project" planlessness was further compounded by hastily contrived "security" units which gave true meaning to the term "warehousing". Devoid of services, appropriate staff or semblance of program, these concentration camps did not even provide the personal security from attack that was provided at Camp Hill. Project staff, carefully selected from those uncontaminated by previous

CONTINUED

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contact with the system were equally uncontaminated by knowledge or expertise. Descending in a horde upon the beleaguered administrators to Camp Hill, they made uninformed promises to the youth in residence which they could not fulfill and succeeded in creating institutional turmoil. Content to remain silent so long as the judiciary was senselessly castigated, these officials now find the institution they manage labeled a cesspool and a hell hole. The concern for children evidenced is akin to the cynically faithless lover who offers nothing but endless repetition of "I love you". Amidst the havoc, the Department of Welfare sits immobile and bewildered, captive of it knows not what. After painfully preparing its own comprehensive plan, the Department finds its erstwhile antagonist ensconced in its own halls and many of its administrators seeking survival by carrying water on both shoulders. The Miller organization, consisting of a cherub-faced pied piper and a shifting army of camp followers of the non-descript, directs the aimless floundering of the Department. Despite endless rhetoric, any formulated program remains a cryptic mystery. Indeed, rhetoric itself, seems to be the program, coupled with doling funds to any already existing agency that can house a child, irrespective of program direction. It appears that the calendar year could not possibly be sufficient to cover Dr. Miller's speaking engagements. Similar to the process in which a bankrupt business seeks to survive by becoming a conglomerate, the goal seems to be gaining total power, hopefully via establishment of an all controlling Department of Youth Services. In place of a plan which would mobilize the efforts of the state in goal oriented endeavor, we are offered the eminent doctrine that "single authority is more direct and effective". Hitler, Stalin and Ghengis (Sic) Khan carried out "direct and effective" programs using this rationale. In attaining this type of control, it is necessary to neutralize and denigrate those forces most able to forestall unbridled concentration of power, in this case, local authority and the Judiciary. The technique has been to constantly proclaim a phony con-

sensus as to their aims and herein lies the issue and it is folly to allow it to go unbarred. A host of sound and scholarly responses by the leading judges in the state addressing specific vital issues reiterating, again and again, logical, documented positions become an exercise in futility. It is pointless to continue in this vein endlessly. No answer is given to this reasoned discourse. A partisan manifesto merely appears stating that "almost everybody believes" and re-gurgitates the original position while implying that consensus has been reached and is a fait accompli.

While giving lip services to the concept of community based services emulating from the local community and local control of the organization of such services, their entire thrust, particularly as embodied in the bill establishing a Department of Youth Services, makes a mockery of local autonomy. The incredible statement is made that "local government has abdicated its role in the system." Virtually every progressive program or overall concept has been initiated at the local level and many times as a result of judicial leadership. The state's fiscal irresponsibility even in the tortuous delays in reimbursement funds has served to impeded these efforts. Even now, the Office of Children and Youth scrupulously avoids participating with local government. The recognized and accepted vital role of the state in "coordination" has been ignored and made subservient to the drive for state "control". Not only is this an anachronism running counter to the swelling conviction nationally that concentration of power in vast national and state bureaucracies should be eliminated in favor of local management, but to the historical axiom that the tax dollar is dissipated in direct proportion to its distance from the local community.

The statement that "judges have controlled the system in Pennsylvania for 75 years without making much progress" hardly merits the dignity of response. No "system" of treatment alternatives worthy of the name has ever been provided by the state despite decades of pleas and suggestions by Judges throughout the State.

Torrents of verbiage spew forth from state officials professing concern over status offenders, deprived children and children in need of treatment for mental disabilities.

Using the time honored ploy of the demagogue, they flail about in condemnation of local government, the Judiciary, institutional personnel and private agencies. Meanwhile they have provided no alternate facilities or any viable treatment modalities. Similar to the tea party in Alice in Wonderland in which the Doormouse rouses himself from somnambulence only for mindless repetition of "no room! No room!" Their activity consists solely of repetition of the problems while wrapped in the mantle of noble resentment. If the needs of children are to be met only by decrying what is, then we need no vast, new expensive bureaucracy to perpetuate and enlarge itself in the preparation of diatribes and the overseeing of studied neglect. The March Hare or the Mad Hatter could be installed in the Office of Children and Youth at a minimal fee.

Swift progress could be made in improving services to children in Pennsylvania. Almost universal agreement could be reached on providing sound alternatives for status offenders, deprived children and children with mental disabilities. The development of community based treatment programs in the child's local community is advocated by all, as is the role of the state in coordination and support of a total comprehensive program whose goal is a model system of services to children. Rather

than capitalizing on this basic consensus and will to achieve these constructive aims, years of effort are dissipated in a fanatical determination to make the Juvenile Court a mini-adult trial court - one with the repugnant flavor of a criminal court for children.

The avowed intent is to eliminate the juvenile court and the juvenile court judges from all aspects of the juvenile justice system other than to make an adjudication of delinquency. Attorney Robert Wolf, an ardent supporter of this intent, states that the clear issue is whether the juvenile justice system is to be controlled by a state administrative agency or the judges. The judges of Pennsylvania do not see this as an issue. They do not control the system and have no intent or desire to do so. They earnestly seek only the participation of all to the benefit of the child.

The Legislature would be well advised to think long and hard before initiation of an all powerful administrative monster as Senate Bill 521 provides. Experience has shown that vast bureaucracies soon become independent of control and in large measure unresponsive to executive, legislative or judicial policy. Equally important, it has license to operate in arbitrary fashion with its clients, the community and other agencies. There is no recourse, as in the case of judges and other elected officials, to remove by vote those whose performance meets with disfavor. With the elimination of the court from the juvenile system, what readily convenient forum would exist, particularly in light of the increasing emphasis on child advocacy, for redress against the erroneous or ineffective course outlined by the dictates of administrative bureaucracy? The followers of the new bureaucracy corrupt and distort even the soundest of principles. Any who object to the orthodoxy of extremism are certain to be reviled as evil. The well-intentioned increased percentage of funding

to stimulate development of community resources, is coupled in the snide implication of offering a tempting plum to bribe the judge and community to utilize the treatment alternative that provides the greater financial return. Breathes there a judge with soul so dead who has ever given the slightest consideration to such venality in the disposition of a case? None exist! The concept of diversion, espoused and implemented by the judiciary, becomes a stark authoritarian philosophy that once a child enters the justice system, or a premonition exists that he could conceivably need service, he is solely and unequivocally the responsibility of the state; without the due process safeguards through which the court often decides he does not require services or need not avail himself of services. The Youth Service Board, a promising concept, becomes instead an instrument of unwarranted intervention. The worthy aim of treatment of juveniles other than in institutions wherever possible and appropriate, becomes a propaganda device to gain an end by attacking all institutions and their managers. No thought is given to insightful change in the nature of the institutional vehicle - that would require considerably more effort and ability than mere ranting. Community based treatment, an integral element of court philosophy and practice through its probation services and innovative programs through its locus in the community, becomes a simplistic cure-all for all children's problems. Ignored in the wild enthusiasm surrounding the fantasy enshrining the capability of community agencies and the psychotic panacea of removing everything possible from the court, is the reality that these same agencies have always turned to the court as a last resort with the problems they cannot handle, problems which often were far from insurmountable. Ignored as well is the fact that each child is different, with needs requiring a continuum of services ranging from minimal

counseling to secure custody. Probably the greatest disservice to children and their families lies in the cynical emphasis placed on the lower cost of community services as a reason for their exclusive use. Where a community agency is selected as the treatment of choice, quality service cannot be rendered at bargain basement prices. Supervision and monitoring of such diverse facilities presents a more difficult problem than scrutiny of institutional programs. Unless carefully monitored, the possibility of abuse of children lost in the boondocks of an impersonal administrative empire without means of succor is a very real one.

The Juvenile Court Judges' Commission of Pennsylvania have no intention of engaging in the indignity of repeating point by point the same subjects on which they have made their position clear on many occasions. This demeaning process is designed as a smokescreen to create the impression of a hostile adversary struggle for power by two contending groups. In this we have no interest. Our sole interest, from the beginning, was to participate in attaining a goal oriented system encompassing the major services to children. It is the approach that has been taken, rather than the basic concepts involved, to which we object. We envisioned the age-cy, and it need not be a new one, as one which would provide leadership in coordination of public, private and community services in a total juvenile prevention and correction system, offering a broad spectrum of services with a true continuum of treatment alternatives; not as an all-powerful monolith criss-crossing the branches of government and state local jurisdiction. Instead, the interests of children have become secondary and we have the divisiveness caused by the arbitrary ramrodding by a power faction of a single point of view. Transitory though their reign may be; the damaging impact of their influence will remain long

after their departure from the Pennsylvania scene. Viewing the present discord, the turmoil which will undoubtedly ensure when rigid. Ill-conceived ideas are tested as to performance and legality presents a sad vista to our perception.

The Politics of Diagnosis - Secure Care

Just as rules in bureaucracies are made in anticipation of extreme incidents, so the institution itself is justified by the most extreme case examples. This is the "war story" approach to rationalizing institutionalization. The "war story" rationalizes the extreme label, which, in turn, justifies the institution. This relationship between diagnosis and institutionalization is crucial to any understanding of the process of decarceration. In this scenario, prisons are often seen as reserved for "killers", "rapists", and other "vicious" criminals. Training schools are reserved for dangerous toughs (and now in New York the "vicious" 13, 14 and 15 year olds). The same process pervades all fields where institutions abound. For example, facilities for the retarded -- which amount to no more than human warehouses -- often characterize their clientele as being near a "vegetable" state. The liberal use of "war stories" confirms the stereotype. To the degree that the clientele do not fit the stereotypical diagnoses, they are the undoing of the institution.

If escalating the seriousness of the inmate's diagnosis is not feasible, institutional administrators can, at times, de-escalate the definition of the institution, bringing it more in line with the actual condition of the clientele. This, however, is bureaucratically risky. Institutionalization in such a case might be justified for those who resemble the bureaucrats or politicians' own middle-class sons or daughters. That is

usually an unacceptable alternative. Juvenile correctional institutions remain entities for the children of the poor - though they cost more than most upper-class "alternatives" such as private boarding, or military schools. This is why the deinstitutionalization of status offenders is relatively popular. Deinstitutionalization of status offenders, however, is not likely to affect the mass of institutionalized youngsters.

This basic moral flaw has plagued American corrections and social work from the outset. From Jane Addams to the present, we have reserved our decent care and effective deinstitutionalization for "deserving" youngsters who are, or resemble, the middle-class. Few ask the question that if alternatives work well for nondelinquents, might they not work well for delinquents? If they work well for whites, might they not work well for blacks? If they work well for the middle-class, might they not work well for the poor?

Diagnosis, then, remains a crucial pivotal point. An interesting paradox in this is that institutions with captive clients have a tendency to create behaviors which approximate their more hysterical diagnoses and predictions. The youngster stripped nude and locked in an isolation room not unexpectedly, may display "animal like" behavior, aggression, incontinence, head banging, suicidal gestures, etc. The schizophrenic in the large mental hospitals described by some observers as "hot houses" for schizophrenia, might find psychotic behavior compatible with his environment. The prisoner in the adult prison had best learn to act in "psychopathic" ways, if he is to survive - seizing the moment, trusting no-one, avoiding long term goals

showing little emotion, etc. The irony in this is that long term institutionalized persons become socialized to their own diagnostic labels and the "treatment" which follows. They thereby become an apologia for their own maltreatment. The following example from Massachusetts illustrates this pattern.

I can recall outlawing the use of "the tombs" for youngsters at an industrial school for boys. It had been the practice to take the youngster's clothes away and place him in a dark, locked cell for infraction of institutional rules. One evening, finding a youngster in the "tombs", I asked him to come out. He swore at me and shouted "people like me need to be treated like this - you're really stupid!" (Miller, 1972; 3)

That sixteen year old had successfully internalized the roles and norms of his institutional world. He really believed that the way to handle one's impulses (in this case the urge to run away from a quite insane institution) is to grab the potential offender, strip, beat and handcuff him, and throw him in an isolation chamber for a few days or weeks. At this point the line between institutional pathology and inmate pathology becomes hazy.

As mentioned earlier, it is the pattern in institutions that the diagnoses or labels change, but the treatment remains basically the same. With professionalization, (i.e. social workers, psychologists, etc.) come more sophisticated diagnoses, more complicated and convoluted

labels for the same behaviors. The institutional responses which confirm the labels generally call for variations on the themes of isolation, scapegoating, and ostracism.

The panacea for every outmoded or faltering correctional system has always been to establish a "diagnostic and classification center". As patriotism is the last refuge of the scoundrel, classification is the last bulwark of a discredited correctional system. It is based in politics, not in science or clinical practice. Unfortunately, clinicians in juveniles corrections seldom realize when they are being used. Though individual clinical judgments and diagnoses may be accurate and valid, they are at the same time irrelevant unless understood within a political and bureaucratic context. Certainly adept criminal lawyers and prosecutors have known this for a long time - it being a common practice to buy the type of diagnosis needed by shopping for the appropriate clinician. What one calls a "character disorder" another calls "schizophrenic". Whereas some assign responsibility by McNaghten criteria, others follow the Durham rule, and so forth. It is therefore a useless exercise to expect a scientific product from this process.

As mentioned in another part of this paper, the diagnosis itself is constricted or widened by the breadth of treatment or dispositional alternatives. Where dispositions are limited to "either - or" situations - (either jail or on the street with little or no supervision; either detention or return to an inadequate home situation), the diagnostician will tend to be more conservative in his choice of labels.

This is because he places his reputation at more risk as the client has freedom to get into further trouble. If there is a wide array of treatment options - ranging from secure locked settings through such programs as group homes, forestry camps, foster homes, advocacy programs, specialized transitional living arrangements, "tracking" programs on the street, etc., the diagnosis becomes more flexible and less restrictive. We are not speaking here to the relative merits or drawbacks of these options. Indeed, some of them have social control implications which in themselves are ominous. However, classic correctional diagnostic and classification centers, often run by clinicians, continue to cling to the myth that they are engaged in a scientific rather than bureaucratic or political exercise. Though there are, of course, elements of science, these are minor considerations in the actual processing of offenders, whether adult or juvenile. Classification within an institutional juvenile correctional system will relate 1) to the needs of the institutions, and 2) to the needs of diagnosticians. The labels attached will be bounded by the dispositions available. Despite sophisticated or complex diagnostic regimens, assignments will be made on the basis of age, sex, size, manageability, and perhaps, seriousness of offense (though the latter is not necessarily so).

In planning for decarceration - the removal of large numbers of delinquent youngsters from an institutional setting to community based or home settings - classification assumes greater importance, precisely because of its political meaning.

Two years before the so-called Camp Hill decarceration project, there was a discernible amount of criticism of the imprisonment of 5 to 700 juveniles in an adult prison. As a result, representatives from the Governor's staff, the Department of Welfare, and the Bureau of Corrections formed an "evaluation committee" for the purpose of looking into the possibility of an alternative to imprisonment in Camp Hill for the juveniles placed in that facility. The report of the committee is interesting, if not classic, since it is not atypical of the ways in which bureaucracies tend to solve problems - including the overuse of incarceration for juveniles. The committee was formed of groups which would give a consensus to whatever plans they developed. The majority of committee members were made up of representatives of the very courts which had committed the youth to the Camp Hill prison. The next largest group were members of the Camp Hill prison staff.

Essentially, one had a situation in which those who were responsible for the incarceration of juveniles at Camp Hill were given the task of evaluating their own efforts and suggesting "alternatives". Not surprisingly, they arrived at the conclusion that all but a few in Camp Hill prison needed incarceration. The question of the need for incarcerating juveniles was hardly broached. It was taken as a given. The committee met for a week. For their discussions they decided to use placement recommendations based on categories of "long term security", "short term security", "minimum security", and "intensive care and drug". The least incarcerative setting - minimum security - was another institution, one of the so-called youth development centers (state training schools). The criteria used by the committee for their recommendations included 1) the nature of the offense, 2) the history

of the offense, 3) social history, 4) psychological and psychiatric information, and 5) institutional adjustment.

The committee stressed that they had made "several assumptions" in approaching the population of juveniles housed at the cells of Camp Hill. Among these assumptions were:

- 1) "The juveniles analyzed were sent to Camp Hill for a reason.
- 2) Placement recommendations were made without considering the time the juvenile had already spent at Camp Hill. In other words the committee was looking at the cases as they appeared at commitment; and
- 3) "The committee worked on the philosophy of "give the kid a break" by recommending the least severe placement when there was some uncertainty" (for example, in deciding whether a boy was considered potentially involved in long-term or short-term violence).

Among the major conclusions - not surprisingly - was that only 11% of the total population of juveniles at Camp Hill prison were fit for minimum security. In most cases, these juveniles had been sent to Camp Hill for "diagnostic" purposes. All the other youths, 89%, were recommended to locked facilities of one sort or another as "alternatives" to the locked facility in which they were incarcerated.

Interestingly, although even by their own standards and records search, the largest single group of juveniles in the facility were classified as "non-dangerous", these were also listed as in need of incarceration. They were described as being "dangerous to themselves" although they exhibited few examples of crimes of aggression. The

typical history indicated a pattern of chronic runaway and elopement. Juveniles were further described as having "character disorders", being impulsive and immature. This report stands as a classic in how to set up a "decarceration project" which will lead to virtually no decarceration - thereby embarrassing no one, fulfilling the letter of the law, and ensuring that whatever "alternative" replaces the prison, will in most respects do exactly the same things the prison did or did not do.

What is interesting about this is not the fact that such a large number of non-violent juveniles were in Camp Hill prison - that a large percentage of the judiciary denied these facts initially.

There were, of course, regional differences in reasons for commitment to Camp Hill. The majority of juveniles from Philadelphia were committed to Camp Hill for crimes against persons. However, juveniles from Philadelphia made up only 1/4 of the youth in Camp Hill. However, in Pennsylvania, as in most states, the majority of incarcerated juveniles are from rural areas or small cities and towns. Indicative of the attitude of many of these judges was the interesting response received from a prominent judge in a rural area in Pennsylvania when he became aware of public statements made by Miller regarding the reasons for which juveniles were confined at Camp Hill prison. His letter and Miller's response follow:

April 25, 1975

Dr. Jerome Miller
Special Assistant to the Governor
Office of the Governor
Harrisburg, Pennsylvania

Dear Dr. Miller:

I see by the morning paper that "Jerry Miller, Shapp's Special Assistant for juvenile justice" is in favor of closing Camp Hill for juvenile delinquents. "We're putting together a whole wide range of options for the "kids", he said. Well, Dr. Miller, I'd like to see you develop a whole wide range of options for the long suffering public. A clue to your philosophy is your blithe description of delinquents as "kids". Many of the "kids" I see every day in juvenile court are sexually precocious, street wise and sadistic. You may think they can be absorbed into decent society without discipline but I don't. And if I were you I wouldn't be too hard on the judge who sent a "kid" to Camp Hill for knocking over tombstones. Any "kid" who would destroy a gravemarker is capable of pushing his grandmother off a ninety foot cliff.

I have not gone into the statistics but my juvenile probation officer tells me that we have had less recidivism from Camp Hill commitments than from some of the other "options" you propose.

-2-

In my judgment your closing Camp Hill without an alternative secure detention facility is a mistake.

Very truly yours,

Wilson Bucher

May 13, 1979

Honorable Wilson Bucher
Judges' Chambers
Second Judicial District
Lancaster, Pennsylvania 17602

Dear Judge Bucher:

I've received your letter of April 25 outlining your concerns about the proposed Camp Hill Project.

I, of course, can't agree with much of what you say in your letter - in particular, that Camp Hill teaches "discipline" that allows youth to be absorbed into society - or that someone that would turn over tombstones would be "capable of pushing his grandmother off a ninety foot cliff."

I would be most appreciative of any statistics your Juvenile Probation Officer would have with reference to the recidivism from Camp Hill commitments. It seems that the measure of any new project in this regard will have to rest on such statistics and there would be no reason to develop options if, indeed, the Camp Hill facility were shown to contribute in any way to public safety by lowering recidivism rates among its alumni. It is not our impression from statistics we have garnered that that is indeed the case. For your own information, I am enclosing a brief summary of the project. As you will note, it does include secure options for those youth who present a danger in terms of violence toward others.

I hope you'll feel free to keep in touch from time to time.

Sincerely,

Jerome G. Miller
Director
Community Based Programs

Two years prior to the decarceration project in Pennsylvania, classification of all imprisoned youngsters had been done by institutionally-oriented staff and court personnel. This classification exercise arrived at the unsurprising conclusion that the adolescent boys confined to the Camp Hill adult prison, in fact needed to be in that prison, or in a similar facility.

It was clear that if there was to be a consideration of alternatives and possible decarceration, one would have to come up with a different group of diagnosticians to do the diagnostic workups on the boys in Camp Hill. A cursory search of the records coupled with numerous individual interviews with youngsters in Camp Hill showed a large percentage were there not on crimes against persons - indeed, the majority were not. It was also clear that a number could have functioned in alternatives but had not been tried in them. Despite the mythology circulated by the Pennsylvania juvenile court judges commission, the majority of youngsters confined in the Camp Hill Prison had not been tried in any other facility before they were committed to Camp Hill.

Frankly, the reform administration which wishes to pursue a decarceration strategy needed another opinion. Therefore, they contracted with the clinicians from another group - a recognized department of family psychiatry - for diagnostic workups to be done on all the nearly 400 adolescents in that prison. These new diagnosticians - psychiatrist and psychologists from various parts of Pennsylvania came together for this endeavor. Among the clinicians were some with

national reputations in forensic psychiatry, others with long and rich clinical experience, etc. Clearly, it was not a group which could be bought as an entity to "guarantee" a diagnosis which would ensure community based placement for the boys in Camp Hill. The diagnosticians were a bright, relatively independent group, though they knew the biases of the reform administration regarding juveniles being kept in an adult prison. It was crucial that the diagnosticians be not in any way associated with the adult or juvenile correctional system, the juvenile courts, or with any of the actors in the political drama which had resulted in this wholesale incarceration.

Crucial to the process before introducing these diagnosticians to the incarcerated youth, was the fact that these professionals were paid to attend a number of training courses before they entered the institution to begin their diagnostic workups. Eminent experts in juvenile violence were brought in as lecturers and seminar leaders. They discussed some of the aspects of diagnosing the violent juvenile offender. Most importantly, a large number of hours were spent acquainting the clinicians with the alternatives available or potentially available for the types of youngsters they might find in Camp Hill. Alternatives were described and listed program-by-program. These were presented in an array of possibilities which they should have in their mind while interviewing and testing each individual boy at Camp Hill. It was indicated that the administration did not wish to intrude on clinical judgments. However, it wanted them to know that there were a wide range of options with which they were probably unacquainted -

options which might be considered in addition to jails, prisons, training schools and probation.

In addition, the clinicians were guaranteed (a crucial part of this process) that the Department of Welfare would tailor programs as much as possible to the types of alternatives envisioned in the diagnosis. That is, the diagnostician was to describe the type of program he or she would design for this particular juvenile, on the basis of the kinds of possibilities discussed in the training sessions. The clinician did not have to relate to whether or not such a program, in fact, existed.

It was the task and responsibility of the administration to create for that youth the optimum program possible in light of the diagnosis. The treatment planners were also asked to prepare a "back up plan" so that there would be at least two plans per youngster when the court was approached for a boy's release from prison. These guarantees to the clinicians put them at less bureaucratic risk. In fact, programs were designed for the individual juveniles as they left Camp Hill and for the most part they followed the recommendations of the diagnosticians. With the help of LEAA funds, the administration was able to create services, purchase care, and search out the types of programs needed for incarcerated youth.

Most interesting in this decarceration process, was the clinicians' independent finding that only approximately 40 of the 400 juveniles in Camp Hill were in need of secure settings and could be viewed as dangerous enough to require that type of incarceration. Three hundred

and fifty of the 400 in the prison became fit candidates for community based alternatives. The classification study done by "experts" associated with the corrections system - done 2 years previously - had labelled 89% of the adolescents at Camp Hill as fit candidates for locked, incarcerative settings. Both of these diagnostic approaches were political. A blunt recognition of that fact might put the forces for reform at less disadvantage than has been the case in most other attempts at classification.

The Myth of the Dangerous Juvenile

The public and political "justification" for use of a secure facility is that of the seriousness of the delinquency and the "dangerousness" of the offender. There is probably little disagreement about this as a principle, and less as a rationale for political speeches. However, in practice it is very often a much different process. As we have noted elsewhere, there is frequent disagreement about what "dangerousness" means. One can certainly make allowances for cultural differences, the ways in which different communities view social deviance. This was true in the decarceration experience in Pennsylvania. Although there was a myth that the majority of the juveniles in the Camp Hill Prison were there on serious crimes of violence - in fact the majority were not there on such crimes. Most juveniles had been imprisoned for property offenses and other non-violent crimes.

Another frequent justification for the incarceration of juveniles in locked prisons and facilities such as Camp Hill, is that although the record may list a minor offense - in fact the juvenile is a multiple offender and has been tried in a variety of other options - Camp Hill being the "last resort". This, of course, is the principle of the "least restrictive alternative" - that one does not prematurely place a juvenile offender in a locked facility if he can function in a less secure facility with other services. The locked facility is

used only as a "last resort". Again, in the case of the Camp Hill Prison it was found that the majority - over 75% - had not been committed to a state training school or youth forestry camp previous to their sentencing to Camp Hill. The following are the statistics as provided by the Bureau of Corrections in April of 1975 - at the beginning of the so-called Camp Hill Project.

CAMP HILL JUVENILES

Statistics were taken from the Bureau of Corrections computer printouts. The phrase "previous juvenile commitments" refers to any previous commitment to a youth development center or a youth forestry camp.

<u>Number of Prior Commitments to YDC's or YFC's</u>		<u>Residents</u>
0	(75.1%)	326
1	(20.6%)	89
2	(3.2%)	14
3	(.7%)	3
4	(.2%)	1
5	(.2%)	1
over 5	(-0-)	0
	<u>100.0%</u>	<u>434</u>

The Dangerous Juvenile and Decarceration

Thus, the difficult definition of the "dangerous" juvenile must be clarified, for in this process the issues stand in bold relief. In Massachusetts the reform administration only allowed so many "dangerous" youngsters per region - they allotted a pre-determined number of slots for "dangerous" juveniles region-by-region. They based the allotment on past regional patterns of the number of youngsters labelled "dangerous". The purpose was to discourage the pattern of ever-expanding and widening the definition of "dangerous". This expansion process is more often than not a bureaucratic or political exercise rather than a clinical or legal one.

If a particular regional director found that he had more "dangerous" juveniles in need of "secure" placement in a locked facility than he had allotted slots, he had to negotiate with other regional directors for any opening they might have. If no such opening could be found, he had to declare "non-dangerous" one of the locked-in juveniles and release the youngster to an alternative program. As reckless as this approach seems at first glance, it worked quite well, since it took into account the bureaucratic realities which determine how youngsters are defined as "dangerous". For the most part the definition has little to do with actual behavior but rather is determined by the amount of bureaucratic risk at which the administrator places himself. Allowing a semblance of freedom to juveniles who are potential management problems is a risk from which most bureaucrats shy.

The number of truly "dangerous" youngsters who have been convicted of crimes of violence is, of course, much smaller than the numbers who are incarcerated as "dangerous". The majority incarcerated as "dangerous", who occupy the "holes" and isolation units of most prisons, jails and training schools, are not persons who have committed violent crimes on the street. Rather, they are people who have been institutional management problems after their sentencing for lesser crimes (usually property offenses). This type of incarceration is virtually unrelated to previous serious or non-serious street crime. Allowed only so many "dangerous" youngsters per region was a way to keep the pressure on bureaucrats and to keep the definition of "dangerous" fluid and subject to reconsideration and revision. Thereby, although "dangerous" often means avoidance of risk on the part of the administrator, greater risk is ultimately taken with public safety by the premature overuse of incarceration. There is no evidence whatsoever that the "dangerous" become less dangerous as a result of spending time in maximum security. Unless they could be kept locked indefinitely, no ultimate public safety is guaranteed - there is just a short respite while others take their place on the street - and their hatred is further honed. The nub of the problem, from which the solution may flow, centers around the issue of the most "dangerous" youngsters. This is why the label "dangerous" contains the potential for spirited debate.

The debate around who is dangerous is in itself healthy - for it keeps the problem from being "solved". This is one area in which final solutions are riskier for the society than the discussion, conflict and movement which the problem necessitates. The term "oscillation" might be appropriate here. Like the revolutions of a gyroscope, debate keeps the greater whole in balance, Solving the problem - stopping the debate-endangers the balance and vitality of the whole.

It is of the nature of defining the deviant that those definitions are made by persons with power to make the definition stick. In addition, they can call upon a whole series of rituals - a judicial and correctional liturgy, if you will, that in a perverse and self-defeating way confirms the deviant in his new diagnosis, making it part of his identity. The only tempering mechanism is the potential ability of the labelled person to resist the label and to bring some pressure to become the labelling system itself. But such counterpressure is generally not available to the captive deviant or the convicted offender. It is clear that the more deeply the person gets into the system, the less power he has in controlling or moderating the definitions which the system places upon him. The offender who previously victimized others becomes more and more a victim as he assumes the identities thrust upon him. Perhaps there is a certain justice in this - though the result seems needlessly destructive. The juvenile correctional bureaucrat by virtue of the youth of the clientele in his system, is more free to place destructive definitions upon the adolescent offender. The "more or less" dangerous person is easily called the "more

"dangerous" than the "less dangerous". It takes everyone but the labelled offender off the hook. It is part of the larger process that leads to the over-incarceration of large numbers of youngsters.

The "dangerous" offender, then, provides the lynchpin which theoretically and ideologically holds the whole juvenile correctional system together. It is important that this definition be understood. We have referred to some of the issues concerning that in the section on diagnosis. Having made the decision that certain juveniles cannot, indeed, be free on the streets, the matter of so-called "secure" care, comes to the fore. One of the early papers among the many done by the Center for Criminal Justice at Harvard University (Coates, 1971) was one relating to uses of detention in Massachusetts. An interesting by-product of that paper was a conclusion regarding the use of secure care or locked settings.

In looking at the issue of recidivism and return to detention, the Harvard researchers did a factor analysis of variables relating to youngsters in detention. Among their findings were the following: first, whether or not a juvenile offender was kept in locked detention was unrelated to the seriousness of the offense for which the youngster was arrested. There were exceptions in the cases where particularly heinous crimes were committed - murder, rape, armed robbery, etc. However, there were so few such crimes among the bulk of detained youngsters that they were statistically insignificant.

A second finding by the Harvard researchers was that social class was mildly associated with the use of locked detention. That is, youngsters of lower socio-economic status were more likely than other youngsters to be detained in a locked detention center.

The third crucial finding, however, was that the major determinant as to whether locked detention would or would not be used, was whether or not there were beds available at the detention center on the day on which the youngster was arrested. If there were beds available, the youngster was detained - if they were not, the youngster was either released or placed in some alternative setting.

This latter finding has great significance with reference to the use of secure care not only for detained (pre-adjudicatory cases), but also with regard to sentenced juvenile offenders. This is also the implication of William Nagel's research on adult corrections and the building of prisons in a number of states. He found that the degree to which states built prisons, determined the degree they tended to incarcerate prisoners. Those states which built fewer prison cells incarcerated fewer prisoners. Those which built more prison cells, incarcerated more prisoners. In both cases the imprisonment rate was virtually unrelated to crime rates.

Finally, and most important, the Harvard researchers found that the most significant predictor of later recidivism was whether a youngster was detained in a locked setting.

For reasons such as the above mentioned, it is important that anyone engaged in a decarceration movement be aware that the use of incarceration is, to a large degree, political and bureaucratic - unrelated to crime rates, diagnosis, seriousness or potential seriousness, violence among offenders, etc. One would like to harbor the myth that we indeed imprison only the most violent, after we have tried a variety of less restrictive alternatives and/or treatment and rehabilitative programs. However, such is not the case in most juvenile or adult systems. Where "alternatives" have been tried - they usually involve one or two "alternatives" tried two or three times - more likely than not, probation with warning, detention, and training school confinement. There is no patterned system whereby youngsters move from the least restrictive alternatives to the more restrictive alternative in a graded way - as envisioned in the Juvenile Justice Act of 1974. Such patterns are common in judicial and correctional rhetoric, but such rhetoric seldom bears any relationship to day-to-day realities of juvenile correctional systems.

Those who are most likely to inhabit the locked facilities are those who present bureaucratic problems or represent political issues. That is why most maximum security facilities in the juvenile correctional system are not filled with youngsters who have committed violent crime on the street. Rather, the majority of their population is made up of juveniles who are considered management problems within one or another part of the larger juvenile correctional system.

It is common to find youngsters who present program or management difficulties in group homes being threatened with transfer to locked state institutional facilities. Similarly, state systems or training schools generally have one or two maximum security facilities where the time served is lengthier, and the treatment harsher - these are used as the "big stick", to ensure that youngsters behave appropriately in the other putatively "open" state institutions. Again, it is not uncommon that the youngsters who are in the secure, disciplinary institutions, are not those youngsters who had committed the most serious crimes on the street. There would always be some who had, but by no means would they make up the majority. For example, in Pennsylvania, the Camp Hill Prison - a prison that supposedly had the most dangerous and serious juvenile offenders in the state - the majority of juveniles were not there for crimes against people. It would more commonly be the case that juveniles sentenced to secure facilities were either management problems in other institutions or group homes or were an aggravation to the court because they would not stay where they were told, had improper court room decorum, or a series of less property offenses.

If, indeed, secure care "worked" and made the juvenile less likely to repeat his crime, its expansion to larger groups of youngsters beyond those convicted of violent crimes, would make sense. However, virtually all research shows that this is not the case. The major contributor to recidivism rates in the Massachusetts programs - even those programs which were smaller, better run, less dehumanizing, etc. than the larger locked institutions were. It is a given that locked settings will probably not effectively rehabilitate or "cure" the

majority of youngsters in them.

This suggests that in applying "therapies" to captive clientele, one must tread lightly on invalidating human experience even when that experience leads to unacceptable action. It is quite possible that those actions reveal more about the society than they shed light upon the "pathology" of the offender. Probably, the best one can do in locked settings is to set up a decent and humane environment which will guarantee control and supervision while at the same time avoiding coercive treatment. There are, of course, ways in which humane security can be enhanced - smaller settings, one-to-one ratio, less "hardware" (e.g. isolation rooms, handcuffs, etc.) - all of which is too easily used in lieu of relationship, concern, and involvement.

We have discussed elsewhere in this paper how only so many "dangerous" youngsters were allowed per region during decarceration in Massachusetts. It was interesting that in a study done for the British Government on decarceration of juvenile offenders in Great Britain, the Massachusetts experience was pointed to as one of the major options the British Government should consider. -What was most perceptive of the working committee, however, - a committee headed by the present British Ambassador Peter Jay - was their understanding of the political nature of the definition of the "most dangerous" offender. They pointed with approval to the system whereby only a certain number of juveniles would be allowed to be defined as "dangerous":

A strategy of decarceration depends on an absolute ceiling being fixed for the number of young offenders deemed to be in need of secure accomodation. In Massachusetts the Commissioner of Youth Services (Jerome Miller) in effect decided how many such dangerous youths there were in the state. This essential decision is perhaps the most difficult to make in pursuing a strategy of decarceration. We have said that on the best estimates available to us there were not more than 400 children (in Great Britain) in this category. To an extent the decision will be arbitrary. What is crucial is that no amount of persuasion and pressure should allow the number to increase except in the light of a fundamental review of the strategy. In practice the effect of such a limit will not be very different from the position that faces magistrates and social workers under our present system. A child cannot be sent to a community home unless a place is available or the management is willing to accept him. While we fully appreciate the constraints that a limitation on numbers in secure accomodation will seem to impose, we firmly believe that if a strategy of decarceration is to be adopted, this is the only way to ensure that the number of youth offenders

in institutions will not escalate. (Jan: 1977; 52)

This reflected an understanding of the bureaucratic processes involved in the definition of "dangerous". Such a statement, of course, is seen as quite radical in this country.

Decarceration and Bureaucratic Survival

Another interesting issue in decarceration processes are the career survival rate of those administrators who subscribe to one or another approach to decarceration. As the administrator of the so-called "radical" reform of the Massachusetts Youth Correctional System, Jerome Miller lasted four and one half years. He left that position voluntarily. It was his feeling that he probably could not have lasted more than another 9 months as Commissioner of Youth in Massachusetts. There were a variety of reasons for this. However, four and one half years is at least average survival time for a juvenile correctional administrator in most states.

Similarly, in Pennsylvania, although Miller resigned after two and one half years, he could have stayed on indefinitely in the position - provided he didn't wish to move beyond the completed "Camp Hill Project" referred to earlier. Had he attempted to bring about more changes he probably would not have been able to stay in the position more than another six to eight months - if that. Part of the reason for his relatively short stay in Pennsylvania had to do with the "telegraphing" phenomenon that occurs when one gets a reputation for a commitment to, or partial success with, decarceration.

When Miller arrived in Massachusetts he was an unknown entity - having been a social worker in the Air Force for approximately 10 years, and later a professor in the School of Social Work at the Ohio State University. He had no track record in juvenile corrections. Aside

from his statement to the Governor and the search committee regarding the need for community-based alternatives, (something that most "enlightened" administrators would embrace), there was little way of knowing which way things would go in Massachusetts. When he left Massachusetts to go to Illinois, however, he was cast in the "deinstitutionalization" mold - preceded by newspaper articles, reports from Massachusetts, calls to Illinois from groups which opposed deinstitutionalization, etc. He was seen as a "deinstitutionalizer" and thereby viewed as a threat not only to the juvenile correctional system in Illinois but implicitly to the child welfare system of private institutions. He was perceived as wanting to close down all children's institutions.

Miller was eventually forced out of Illinois, and joined the Governor's staff in Pennsylvania. By then, the pattern was clear. He was preceded by a long telegram to Governor Shapp from Jerry Wurf, President of the American Federation of State, Country and Municipal Employees, asking that Miller be dismissed. Miller was perceived by the Pennsylvania judges in the same way. The decarceration of youngsters in Massachusetts, successful by most measures, was viewed by many as a huge mistake. The amount of misinformation circulated leads one to conclude that massive decarceration touches something quite deep in the collective consciousness.

One would presume, therefore, that administrators who bring about rapid decarceration will have relatively brief careers. To a degree, that is true. But perhaps not surprisingly, those incrementalists who set goals for decarceration in Ohio and Florida survived shorter periods of time heading their agencies. Joseph White, former head of the Ohio Youth Commission was in that position for a relatively short period. O. J. Keller in Florida headed the Juvenile System for about 3 years, and although he moved up to head the larger Human Services Agency, was shortly thereafter forced out. The difference between incrementalists and advocates for more massive change, however, has to do with survivability in the field, not in a particular state. The above-mentioned would probably be acceptable to head other state systems whether of conservative or liberal bent, whereas it is doubtful Miller would be acceptable in most such systems. He would have to wait for a Governor who some might view as innovative and others might view as careless,

before being given another opportunity to decarcerate a juvenile system.

As one moves to the extreme right among administrators - toward those who bring little or no change to the system, survivability becomes less a problem. They are acceptable as administrators in state after state regardless of the success or failures of the system they have run - success in terms of better treatment or more effective care for youngsters. This is because ability as an administrator in this field is not judged on the basis of such results. Rather, it is assessed generally on the basis of three tenets.

The Ability to:

1. Keep staff happy
2. Stay within allotted budget
3. Avoid untoward or embarrassing incidents which might come to the attention of the community.

If one can fulfil these three basic demands, regardless of how the clientele fare, one can survive indefinitely as a career administrator in juvenile correction. This is why Peter Drucker takes it as a given that "service institutions do not perform." He notes that explanations probably popular in the business community, are that service institutions fail for these reasons - "their managers aren't businesslike; - they need better men; - their objectives and results are intangible." Drucker puts it another way: "All service institutions are threatened by the tendencies to cling to yesterday rather than slough it off, and to put their best and ablest people on defending what no longer makes sense or serves a purpose." Government is particularly prone to this disease. Drucker relates it to the basic difference between service institutions and other business or-

ganizations. The crucial difference is the way that service institutions are paid budget allocation rather than "for satisfying the customer". When this occurs in an organization with captive inmates or powerless clientele arrayed in opposition to politically powerful staff or other vested interests, the situation becomes intolerable. In this sense, corrections is truly the underbelly of the society - not only through its mistreatment of captive clientele, but also in its sustaining of institutions which are inherently stagnant and obsolete - all the while blessing them with professionalism aimed at avoidance of confrontation with those interests which sustain the whole system.

Personal Dilemmas in Decarceration

After observing the role of juvenile corrections administrators in four major states, we are convinced that they are caught on the horns of a dilemma: they are damned by peers, staff, and often by inmates themselves if they make basic changes in their system, and self-betrayed if they don't make changes. This surely must be a situation designed to create a kind of moral schizophrenia. The system for which one is responsible represents a series of impersonal contradictions which in turn lead either to alienation from one's job role or personal hypocrisy. There is the dehumanization of the youngsters - the endless "discipline cottages", the "lineups", the "beatings", the strip cells, the setting "limits", the isolation, the handcuffs, of institutional "therapists", the "silent" cottage, the sack dresses, the recreation period "jacks", the homosexual assault, the haircuts, etc., all of which are common. Though not always commonplace, these occur regularly enough to provide the lynchpin for the whole system, but are irregular enough to allow for one's being labelled as "obsessed" for focusing on such unseemly events.

Such a focus inevitably leads to upsets in the system (runaways, engineered escapes, riots, etc.). Entrenched systems are not changed by consensus. The upsets lead logically to more of the very things one had criticized. This allows the administrator to "control the movement" in order to "buy time" for the sake of a long term "reform". One feels sickened at the manipulation of it all, the inevitable cycle - confronting the moral issue, followed by predictable further disruption,

followed by retreat from principle, etc., etc. The cumulative effect must be some sort of moral deadening, moving one inevitably toward nausea apathy and lifeless bureaucratic security.

In juvenile corrections, where ideology is a major issues (in corrections everyone is an expert), one might think that the main battles would be at an ideological level. Those who wish to get people out of prisons and into community-based programs versus those who want to throw offenders "under the jail". Indeed, ideology is a large part of the problem as one moves to close institutions for delinquents. This, however, is not the major battle in decarceration or, indeed, in the reform of destructive systems for the aged, the mentally ill, the retarded, or other forms of institutionalization.

In state-given human services, the system of "care" often creates its own pathology. Then in an irrational but somehow logical twist, offers more of the same as the solution for the problem it has generated. If the agency has existed for a long time - as have most juvenile correctional agencies - this paradoxical pattern is intensified and soon engulfs all actors - staff, professionals, inmates, and families.

Let us take a typical example which is so small as to be banal, yet so important as to demonstrate a cornerstone of the system. One of the Massachusetts training schools had a long tradition of placing obstreporous, "dangerous", or boys who were "management problems" in a specific "cottage" - (The term does not describe an English Cornwall landscape). This "cottage" had a long tradition of brutality, repression, etc., going back some twenty years or more. There were basically no

programs in the cottage, although there had been attempts at such from time to time. A youngster might spend anywhere from a few days to a few months locked in the place - most of the time sitting in silence or at a table reading, with his hands folded. Now and then, "activities" were held, such as scrubbing the floor in unison with toothbrushes, calisthenics, and other degrading punishments.

When the new Commissioner first toured the "cottage" with the superintendent, he was struck by the oppressiveness of the place and the deafening quiet of the thirty or so shorn teenagers sitting like so many characters out of a Fred Wiseman movie. A brief walk upstairs and one found the "tombs" or isolation rooms, with a few kids nude or stripped to their "skivvies" and locked in darkness.

Miller asked the superintendent about the "silence" and was informed that there was no "silence rule". The assistant superintendent said the same thing - "they just don't want to talk". The "tombs" were "rarely if ever used" and then "only for a few brief hours." This was clearly not true. Yet, it took the Commissioner, who was head of the agency, a number of weeks and a series of long drawn-out meetings to establish that there may indeed have been a "silence rule" in the "cottage". The administrative meetings were punctuated with numerous visits by the Commissioner to the "cottage" and interviews with youngsters in the "cottage" ("What happens if you talk?" - "They beat the shit out of you, but don't tell anyone I told you and I'll deny

it if I'm asked").

Finally, a few weeks later, there was a meeting of sweet confirmation in which the assistant superintendent and director of education showed Miller a pseudo-sociological questionnaire given to the boys in the discipline "cottage". The questions went something like this - "I like cottage nine because" - with a multiple choice of answers. And there in the middle of the second page was the question - "I think the silence rule is a) helpful, b) not helpful, etc., etc." Confronted with paper confirmation of reality, the denials of the existence of the silence rule subsided and the new Commissioner could make some progress toward ensuring its demise. But it wasn't that simple.

On a later unannounced visit to the "cottage" one night, he was met by a burly, frantic "master" - (the supervisors were called "masters"), who said the the "cottage" was on the verge of riot. There were riots later, but this was not to be the night for one. "Listen to the racket in there - they are planning something." He listened - but heard only 6 or 8 of 30 boys speaking in semi-whispered conversation. The tradition of silence was such that it had engendered in the "master" the same sort of panic a Catholic school boy of the 1950's would feel if he or his pals had talked in a normal voice in the church sanctuary - it was sacriligious and somehow deeply deviant. To compound the matter, the boys in the "cottage" were not engaging in your everyday conversation. Rather, they were whispering veiled obscenities regarding the "master's wife,

daughter, etc. - not so loudly as to be confronted, but not so softly as to be misunderstood. They were providing a slightly skewed auditory Rorschach situation which somehow fit the paranoia of the scene.

A logical question might be asked - how many of these boys had been characterized by their preoccupation with obscene language before being placed in this "cottage" - probably none. The "treatment" had created a new behavior which called for a new diagnosis which in turn demonstrated a need for further "treatment" in the discipline "cottage". It took a number of weeks for this to work itself out before simple conversation in normal tones of voice could begin. That is when the "escapes" and "riots" began - many of which were staff-stimulated. That's when one "solution" would have been to reinstitute the rigors of the discipline "cottage" and the "silence rule". This approach probably would have slowed down the numbers of escapes. However this was a "solution" which was avoided.

An interim approach was to institute new programs - group meetings, clinical services. The definitive way out of that dilemma was to close the "cottage", ultimately to close the training school, and to set up a system wherein the needs of individual youngsters could be met.

The reason the "interim" solution is mentioned, is that it is classically the professional "answer" for problems in the delivery of human services - an answer which includes the litany well known to those who have had much contact with lobbies for the helping professions. The "answer" is that existing problems hinge upon the lack of

a sufficient number of well paid, well trained professionals. A "solution" which is as infinitely expandable as the system can be no solution at all.

Executive Battle Fatigue

"Things are seldom what they seem

Skim milk masquerades as cream"

- Gilbert and Sullivan

One of the patterns which emerges in decarceration efforts is "battle fatigue". It is impossible to decarcerate adult or juvenile offenders without some conflict. However, if one understands the political basis of the institutional lobby, there is no way to significantly change that structure without conflict. To suggest that we all share the same goals is, of course, nonsense. All may share the same "clinical" or "correctional" goals (although this is often questionable), but the goals which sustain institutions have little to do with correctional or clinical practice. They have first to do with jobs, contracts, and financial security. In addition, they have to do with those more subtle concerns regarding how our self worth is bound up in how we define those we view as different from ourselves. To affect institutions is to shake those definitions.

Those who promise decarceration or deinstitutionalization without conflict are deceiving themselves. Characteristically, they either end up speaking the rhetoric of decarceration with few measurable results, or they "decarcerate" the wrong population (e.g. placing in "alternative" programs those who need not be in any kind of residential setting). They thereby make themselves vulnerable to backlash and institutional retrenchment. It is our view, that unless there is a vigorous public debate around the issue of decarceration, efforts will be transitory. This debate need not, and should not, be confined to "institutions" versus "alternatives". There must be public discussion around the meaning of deviance and a personal awareness, and, if possible a face-to-face awareness of those we are exiling.

There must be a clear understanding of our need to exaggerate and over-emphasize pathology and violence in order to justify that exile. Such a debate occurred in both Massachusetts and Pennsylvania with differing results - primarily due to the difference in line authority held by the Commissioner of Youth Services in Massachusetts versus the Commissioner of Children and Youth in Pennsylvania.

Following the public discussions, the public education, the debates, the meetings, the exposure of youngsters in the system to the public, etc. - one has to have the ability to take appropriate executive action. This will result in conflict - but it will be meaningful conflict which can potentially change the ways in which institutionalized persons are handled. If however, one's executive options are unduly constrained by law, superiors, or personal reticence, the debate will be empty and the conflicts engendered will have no use. As a result, small victories will appear large, because of the amount of energy they take. Self-deception will soon set in.

Decarceration is polarizing in itself. There is no way to avoid such polarization. The problem is not the polarization, but the actions which follow - whether they are directed toward basic change or solely toward administrative peace.

Dr. Bachrach, in her analytic review of deinstitutionalization, suggests that the earlier period of polarization surrounding deinstitutionalization has recently been replaced by a period of "depolarization: (a) moderation of views" (Bachrach 1971; 63). She obviously views this as a useful step forward. We are not so sure. What masquerades as "moderation of views" may be viewed from another vantage point as retreat from initial values and goals. The "moderation" she notes may be the result, less of reason and understanding than of battle fatigue.

One can deal with an issue such as whether an adolescent offender should be in an adult prison or whether that youngster could function in an alternative (this seems an appropriate battle). However, one can use as much energy dealing with whether an inmate will spend one day in the "hole" or six days in the "hole" for an institutional rule infraction (a less productive debate.) Both processes take their toll. In either case one is less inclined to fight the battle again having lost. However, in winning the latter, one settles back to enjoy a hollow "victory". One then focusses on the amount of energy expended, rather than the quality of the issue.

There are of course many Bureaucrats who never get to the point involving themselves personally and emotionally in any way which might allow them to use up emotional energy. They simply redefine the parameters of the debate in such a way as to absorb both sides of the argument without conflict - through redefinition. An example of this can be seen in a recent paper delivered by the superintendent of an institution for the retarded. He suggested that the true deinstitutionalization of large institutions could be obtained through "accreditation" of those institutions. If they were accredited they would not any longer be institutions. Similarly, a criminologist writing in a correctional publication, suggested that the ideal community based facility would be the jail. Obviously, if one can take the most institutional of institutions and redefine it as a community based alternative, there is no reason for debate, nor conflict. One or two conferences should create "de-institutionalization".

All of this is not to suggest that a certain amount of bureaucracy is not necessary or that the functions of large agencies such as juvenile correctional agencies can be handled in a haphazard, chaotic, or totally non-bureaucratic way.

However, such systems tend to alienate. Therefore, other problems will follow unless steps are taken to minimize certain by-products of bureaucracies. Alienation leads first to helplessness, then apathy, and finally, violence.

Paradoxically, it is of the nature of bureaucracies -- the correctional institution being the ultimate in bureaucratic non-accountability - that they tend to alienate those who run them while they depersonalize their clientele. The effect of such a process is to subject the administrators, wardens, superintendents, guards, and other institutional staff to processes similar to those to which the inmates are subjected. Probably the basic difference - tragic in itself - is that the keepers and institutional managers don't know it. They are manipulated by the very system they "control".

In most cases, the staff and administration can, in a sense, compartmentalize their life-space, whereby they act in one role as institutional staff and in another in their outside living - home, family relationships, etc. Of course, no one adequately compartmentalizes everything - and there is spillover from one role to the other. Such compartmentalization, itself a kind of depersonalization and alienation, can explain the more extreme cases of the splitting of personal experience - the Himmler who could visit a concentration death camp in the afternoon and in the evening be seen acting the role of the normal loving father or uncle to children.

The same process occurs in a less extreme form regularly in institutional life where there are captive inmates. It would be the uncommon parent who would deal with a "sassy" or difficult adolescent son or daughter by hand-cuffing them, or insisting that they remove all or most of their clothes and sit in a locked dark room the size of a closet for days or weeks at a time. Similarly, it would be the unusual - if not pathologically motivated parent - who would hover over their adolescent son or daughter observing them at every moment, refusing them privacy or personal effects, censoring their mail, speaking only of their "weaknesses" and

tendencies toward pathology. Such behavior, however, is not uncommon among institutional staff who work in juvenile correctional facilities.

What would be seen as devastating if done in one's own home with or to one's own children, is seen as "appropriate" and in fact useful and good, if done in an institutional setting. A whole ritual accompanies this, which, while confirming the labels and deviance of the inmates, at the same time, validates bureaucratic management techniques (which is the sum of most institutional mistreatment.). The language of this bureaucratic liturgy is more likely derived from one or another of the professions used by juvenile corrections, such as psychiatry, psychology and social work. The ritual is seldom justified as meeting bureaucratic needs. It is more likely to be rationalized as a professional mandate.

The administrator who wishes to succeed in a decarceration strategy, must keep these alienating effects of the institutional tradition constantly in mind. He must develop some means of minimizing his own alienation from the clientele he ostensibly serves. He must find ways of keeping "in touch" with the realities for which he has responsibility.

In a way, the administrator is in a situation similar to that of most "utopian" planners and strategists. To the degree that one is removed from the day to day interactions, concerns, and client life, and to the degree that one depends solely upon statistical and "objective" input, to that degree one runs the risk of losing touch. This is not to suggest that extensive planning and statistical material is unnecessary. It is, however, important to put such planning in perspective. It provides only a back-drop often artificial, to effective and humane deinstitutionalization.

There are a number of things the concerned administrator can do. He can schedule his calendar in such a way as to ensure regular site visits to institutions and alternative facilities. Even this, however, is not enough in itself. Visits can be routinized to such a degree that every visit resembles every other visit. Subjecting oneself to guided tours, tea with staff and administrators, and preannounced and thoroughly planned visitations, diminishes the possibility of the concerned administrator being in touch with his own system. The administrator must ensure authentic listening to individual clientele and/or inmates. He must see them alone and in a variety of settings. He must visit when staff are not present or when "normal" "9 to 5" staff configurations are absent -- evenings, and weekends. Whatever "incidents" occur, the administrator must view them himself, investigate them himself, or use the help of those closest to him. It is important that staff or the teams involved in planning and implementing decarceration, include a proportion of former inmates, persons of the same age, class, and race as the clientele. Of course, all of these considerations should be almost automatic in authentic decarceration. However, they usually are not present.

Finally, one might even be so bold as to suggest that an administrator who wishes to bring about a successful decarceration must keep his own, and the feelings of his immediate staff at some high level of involvement. There is little room in the process of undoing systems of depersonalization, for the "uninvolved", totally "objective", non-sympathetic person. We use these terms, knowing full well their meaning in the traditions of the so-called helping professions. It is an unfortunate reality that the thoroughly "professional" helper is probably of little help in decarceration. In fact, the administrator who wishes to decarcerate

needs people who sympathize more than people who "empathize". He needs people who get angry or depressed when confronting the systems for which they have most or partial responsibility. Many professionals, because of their training, have been effectively "cooled-out". As a result, they are a hindrance to decarceration. They may provide some resource help in gathering facts, data, or in assignment to specific definable tasks, but they are incapable of providing a guiding force or thrust for effective decarceration.

In the decarceration of juvenile offenders, it is useful to have a few former clientele from one or another of the institutions or alternatives, working at the central office, available to speak, argue and interact with staff. Staff involved in decarceration should be in the situation of having to "put up" with problems which will inevitably arise in such a situation. There is no reason why those involved in decarceration should be immune or isolated from the kinds of experience which institutions and communities will have in actual decarceration.

Similarly, in the deinstitutionalization of mental health facilities, it is important that central office and administrative staff have former or present mental patients around them. In neither of the above situations do we refer to the practice of having "good" and compliant delinquent boys or girls in the office as "window dressing" - or having "ex-patients" as "house niggers" who present little or no problem. Rather, we are suggesting that those who work with decarceration or deinstitutionalization, have about them, clientele who are as much as possible typical of the clientele one hopes to decarcerate. This, of course will cause administrative and management problems. However, what it contributes in terms of staff commitment, involvement, and increased awareness, by far exceeds any administrative disadvantages. The goal of course, is internalization - digesting and taking into oneself some element of decarceration before moving in abstract and detached ways toward a reality with no personal meaning.

Because this is necessary, one should probably not plan to be involved in many deinstitutionalization or decarceration efforts in one's lifetime. Some, of course, can tolerate the intensity - over and over - others cannot. One thing is clear: it is virtually impossible to have a career in mind if one is to be effective in decarceration. That is the Catch-22. To the degree one succeeds, one's options are restricted to fewer and fewer career choices. This is why the administrator who wishes to embark upon decarceration should not come easily to that decision. Once the decision is made however, he should act with dispatch.

Whose Agent is the Administrator?

Is the administrator of juvenile correctional system responsible to the society at large, to the courts, to the victims, to the clientele committed to his agency, or to all of the above? We take the rather narrow view that one's responsibilities are bounded by the arenas over which one has most control. In the case of juvenile corrections, there is little control over public response, and no control to speak of, over the courts. There is however, virtually complete control over the lives of the youngsters committed to state institutions. One's responsibility must be measured, therefore, by the degree to which that control exists in law or in practice. The primary responsibility is to ensure that the control is not misused and that those who are subject to it are not abused, or made less human by that experience. By being "less human" we mean that to the degree choice is withdrawn, one's humanity is diminished.

The responsibility of the juvenile correctional administrator must be to his clientele - the court committed, delinquent youth, caught up in the corrections system. It is the administrator's responsibility to enhance that young offender's freedom within the limits of reason and public safety. Characteristically, the pressures on an administrator in this situation are not in the direction of planning for freedom, but for denying it. Therefore, much akin to the rationale for so-called affirmative action programs, the correctional administrator must lean in the direction of widening choice in order to counter-balance the pressures for restriction and retribution by the larger society toward the offender. Here again, the goal is probably at odds with most career aspirations of the correctional administrator.

Until such time as there is some element of democracy in juvenile correctional systems, it seems that the correctional administrator must be the agent, first of the inmate and then the agent of the public. The pressures on the administrator for the most part come from groups who stand in opposition to the individual interests of the inmate - employees, unions, conservative legislators, vendors of institutional supplies, and so forth. The administrator must therefore lean in the direction of the protection of the rights of the inmates (a generally unpopular and impolitic stance) and lend some of the power of his office to this pursuit, if scapegoating and hysteria is to be modified in any way. Assuming that role brings conflict - with courts, police, politicians, probation workers, and even with professional clinical personnel, all of whom have some vested interest in maintaining the present ineffective juvenile correctional system. If they didn't have such an interest, the system would long ago have withered.

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THE POLITICS OF DECARCERATION

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APPENDIX A

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ACQUISITIONS

A BIBLIOGRAPHY

ON

THREE APPROACHES TO THE PROBLEM

OF INSTITUTIONALIZED PERSONS:

- * THERAPEUTIC COMMUNITIES
- * COMMUNITY-BASED PROGRAMS
- * DECARCERATION

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APPENDIX B

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APPENDIX C

JUVENILE DECARCERATION SURVEY

Circle one number in response to each statement. (Circle the number that best describes your personal reaction concerning the truthfulness of each statement.)

1 = Strongly Agree
 2 = Agree
 3 = Unsure
 4 = Disagree
 5 = Strongly Disagree

A. SOCIAL CLIMATE

1. Communication

- | | | | | | |
|--|---|---|---|---|---|
| a. The staff members try to keep you informed about important things that are happening at the institution. | 1 | 2 | 3 | 4 | 5 |
| b. If a student does well here, the staff will tell him/her so personally. | 1 | 2 | 3 | 4 | 5 |
| c. Students in the institution tell a staff person when they think another student has done something wrong. | 1 | 2 | 3 | 4 | 5 |
| d. If a student does well here, the other students will tell him/her so personally. | 1 | 2 | 3 | 4 | 5 |

2. Decision-Making

- | | | | | | |
|--|---|---|---|---|---|
| a. The staff makes changes without getting advice or opinions from the students. | 1 | 2 | 3 | 4 | 5 |
| b. If the students really want to, they can share in decisions about how the institution is run. | 1 | 2 | 3 | 4 | 5 |

3. Control

- | | | | | | |
|---|---|---|---|---|---|
| a. The staff is more concerned with maintaining discipline and keeping students in line than with helping them with their problems. | 1 | 2 | 3 | 4 | 5 |
| b. If a student messes up, the staff will punish him/her. | 1 | 2 | 3 | 4 | 5 |
| c. If a student screws up, other kids here will punish him/her. | 1 | 2 | 3 | 4 | 5 |
| d. The staff will reward a student for good behavior. | 1 | 2 | 3 | 4 | 5 |
| e. Other students here will reward a student for good behavior. | 1 | 2 | 3 | 4 | 5 |

- 1 = Strongly Agree
- 2 = Agree
- 3 = Unsure
- 4 = Disagree
- 5 = Strongly Disagree

4. Fairness

- a. The rules here are fair. 1 2 3 4 5
- b. The staff deals fairly and consistently with everyone. 1 2 3 4 5
- c. The students here are on the up-and-up -- they are open and honest with each other. 1 2 3 4 5
- d. The staff always punishes students when they know they have broken rules. 1 2 3 4 5

5. Safety

- a. Students here never try to take advantage of each other. 1 2 3 4 5
- b. Some students here run the show. 1 2 3 4 5
- c. Students here will threaten or beat a student up to get what they want. 1 2 3 4 5
- d. The staff won't help a student who's being pushed around or beaten up. 1 2 3 4 5

6. Open-Ended Probe

Please describe a key incident since you've been here that will give me a picture of what it's like to live here [of what you think life's like here for the residents].

B. EXTENT OF COMMUNITY LINKAGES

- 1. The students in this institution spend a lot of time outside in the community. 1 2 3 4 5
- 2. The students in this institution feel they know a lot about what's happening in their home community. They are still in touch with the outside world. 1 2 3 4 5
- 3. Being locked up is like being in another world. You're isolated from everything that's important in life. 1 2 3 4 5

[Explore one or more examples of "what's important in life."]

- 1 = Strongly Agree
- 2 = Agree
- 3 = Unsure
- 4 = Disagree
- 5 = Strongly Disagree

C. EXTENT OF PROGRAMS

- 1. The institution offers educational programs that the students here like to take. 1 2 3 4 5
- 2. The institution offers vocational programs that the students here like to take. 1 2 3 4 5
- 3. The institution offers counseling programs that the students here like to take. 1 2 3 4 5

D. COMMUNITY LINKAGES, PROGRAMS, AND LIFE CHANCES

- 1. The programs offered here help students to make it when they get out. 1 2 3 4 5
- 2. The staff does everything they can to prepare students to make it when they get out. 1 2 3 4 5
- 3. People in the community won't offer students any help after they get out. 1 2 3 4 5
- 4. The staff doesn't really care one way or the other about how students do after they get out. 1 2 3 4 5
- 5. The staff does everything they can to prepare your home and community for your release. 1 2 3 4 5
- 6. People in the community go out of their way to make it hard for students to go straight after they get out. 1 2 3 4 5
- 7. The programs offered here don't make a difference one way or the other when students get out. 1 2 3 4 5

Open-Ended Probe

What are your chances [the average student's chances] of going straight outside after release? (Ask for ranking on a scale of 1 to 5, where 5 represents certainty of going straight. Explore reasons for scale score.)

E. BACKGROUND INFORMATION

1. Age _____
2. Race _____
3. Place of Residence (Urban/Rural/Suburban) _____
4. Current Offense _____
5. Number of Prior Confinements:
 - a. in training schools _____
 - b. in detention _____
 - c. in mental hospitals _____
6. How long locked up at time of interview: (days _____)

APPENDIX D

KEY PARTICIPANT QUESTIONNAIRE

- A) WHAT DO YOU LIKE MOST ABOUT THE WAY THINGS ARE NOW IN YOUTH CORRECTIONS?
HISTORICALLY, WHAT HAVE BEEN THE THINGS YOU APPROVED OF MOST?
- B) WHAT DO YOU DISLIKE MOST ABOUT THE WAY THINGS ARE NOW IN YOUTH CORRECTIONS?
HISTORICALLY, WHAT HAVE BEEN THE THINGS YOU DISAPPROVED OF MOST?
- C) WHAT ARE YOUR VIEWS ON JUVENILE DECARCERATION, BOTH NATIONALLY AND AS THEY
AFFECT YOUR STATE?
- D) LET'S TALK ABOUT THE GROUPS -- BOTH PRESENT AND PAST -- INVOLVED IN YOUTH
CORRECTIONS IN THE STATE IN TERMS OF DECARCERATION:
 - 1) WHAT ARE THE PUBLIC AGENCIES/GROUPS, AND HOW HAVE THEY
AFFECTED ANY DECARCERATION POLICY?
 - 2) WHO ARE THE PRIVATE INDIVIDUALS/AGENCIES THAT HAVE BEEN
INSTRUMENTAL IN YOUTH DECARCERATION POLICY?
 - 3) WHAT ROLE HAVE THE COURTS PLAYED IN SHAPING YOUTH POLICY?
 - 4) WHAT ROLE HAS THE MEDIA PLAYED?
- E) THEORETICALLY, HOW WOULD ONE PULL TOGETHER ALL OF THE ISSUES AND FORCES YOU
HAVE SHARED WITH US, i.e., DECARCERATION OF THE JUVENILE OFFENDER?
- F) WHAT DO YOU PERSONALLY THINK ARE THE CHANCES FOR JUVENILE DECARCERATION,
EITHER ABSOLUTE OR FRAGMENTARY, OCCURRING IN THIS STATE?
- G) WHAT WOULD HAVE TO HAPPEN FOR JUVENILE DECARCERATION TO OCCUR HERE?
- H) WHAT IS YOUR OWN ROLE IN THIS STATE AND HOW DO YOU FIT INTO THE OVERALL PICTURE?
- I) WHO ELSE WOULD YOU RECOMMEND THAT WE SEE IN THIS STATE RE: JUVENILE DECARCERATION?

END