

## The Rehabilitative Prison Model

Among prison administrators and prison researchers it is common to divide the world of prisons into two broad categories: the archaic, vengeful, brutal, custodial prisons of the past and the modern, enlightened, rehabilitative institutions of the present. The difference between these two images of what a prison should be is reflected in the language used to describe various features of the system:

Traditional Custodial Prison	Modern Rehabilitative Prison
Prison	Correctional facility
Guard	Correctional officer
Prisoner, convict	Inmate
Solitary confinement, "the hole"	Adjustment center

In the custodial prison, the basic principles of operation are secure confinement of prisoners and punishment for their wrongdoing. Besides protection of the public, the rationale of prison practices is to make prison life so unpleasant that prisoners will, upon release, hesitate to commit new crimes. In the reformed, rehabilitative prison, the central principle

of the institution is "treatment" designed to "cure" the inmate of his criminality, to rehabilitate him from his fallen state.

The California prison system is often considered a model of this enlightened penology. The name of the prison administration itself—the Department of *Corrections*—proclaims its liberal, rehabilitative intent. The official self-image of the Department is that it uses its benevolent authority to constructively change inmates from violent, antisocial criminals to good citizens. Dr. Norman Fenton, former assistant to the director of the Department of Corrections, and founder of the Department's group counseling program, expresses this self-image over and over in his book *Treatment in Prison: How the Family Can Help*.<sup>1</sup>

The point of view of the institutional staff is treatment. Unfortunately, however, whereas persons who go to a physician ordinarily are quite willing to give previous history in detail, with men in prison there are emotional factors which handicap such faith and trust in the officials concerned with the treatment of the men . . . (p. 17).

The employees of the prisons ask you to try to believe in their good will towards the inmates. If you can aid your relative in changing any attitudes of suspicion and resentment toward authority he may have, it will be a great help to him. . . . Actually, the hopes of the prison employees resemble yours for the well-being of your loved-ones while he is in prison and for his welfare and happiness later on when paroled (p. 20).

Crime is certainly in part a mental trouble. We hope also that prisons are becoming more like hospitals (p. 7).

If only there were some quick and certain cures for the behaviors that cause men to go to prison! But there are none as yet (p. 36).

1. Norman Fenton, *Treatment in Prison: How the Family Can Help* (Sacramento: California Department of Corrections Publication, 1959).

Dr. Fenton captures a great deal of the ethic of the rehabilitative prison in his support of the introduction of television into prisons:

Some persons who dislike men who are sent to prison raise questions in regard to the introduction of television in the institutions. They say these men are in prison for punishment. Many persons on the outside cannot afford television sets—why should they be provided for prison inmates? The answer is, first, that prison is not for punishment. The loss of freedom is punishment enough. The purpose of prison is rehabilitation and re-education. It is to inculcate attitudes and interests that will make for good citizenship later. Staying at home and enjoying television when on parole is a lot better than going some places where they will waste their money and be influenced harmfully by criminal associations. The parolee can spend his money more wisely on the purchase of a television set for his family than on many other things. The prison has a responsibility for getting him interested in doing so and staying at home to enjoy his set (p. 42).

Since 1944, when the Department of Corrections was first established, this orientation toward imprisonment has been generally accepted throughout the United States. Several features of the California system are particularly important in the rehabilitative prison model: the indeterminate sentence; the pattern of rehabilitation programs within prisons; the system of evaluation of inmates; and sophisticated custody classifications.

*The indeterminate sentence.*<sup>2</sup> One of the canons of the “correctional” prison is the indeterminate sentence. In such a system, when a man is sentenced for a crime, the judge does not set a fixed sentence, but rather a sentence with a maximum and minimum term. A prisoner with an indeterminate sentence is ostensibly released when he is “rehabilitated” rather than when

2. For an excellent discussion of the history of the indeterminate sentence in California, see Sheldon Messinger, “Strategies of Control” (unpublished Ph.D. dissertation, University of California, Berkeley, 1969).

he has served some preestablished fixed term. The punishment—or rather, the “correction”—is designed to fit the criminal rather than the crime.

If the indeterminate sentence system were in fact completely indeterminate, all prison terms would have a life imprisonment maximum and a zero minimum. As it is, in California first-degree robbery and first-degree burglary both have 5 years to life sentences; second-degree robbery, 1 year to life; forgery, 6 months to 14 years; assault with a deadly weapon, 1 to 15 years; possession of marijuana, 1 to 10 years; rape, 3 years to life; and so on. Only about 7 percent of the inmates who are released from California prisons are discharged at the expiration of their maximum sentences; the rest are released on parole.

The indeterminate sentence has two basic rationales. First of all, it is argued that since the purpose of imprisonment is not punishment, but rather “rehabilitation,” a person should be kept in prison until he is in fact rehabilitated. Second, it is felt that if the prisoner knew exactly when he would get out, he would just sit back and bide his time. When his release is contingent upon his “rehabilitation,” there is pressure on him to participate in various treatment programs which will help to demonstrate that he is rehabilitated and thus ready to be released. The corollary to this, of course, is that if he refuses to be “rehabilitated” or is incapable of rehabilitation, he will be kept in prison indefinitely.

Many assumptions underlie the indeterminate sentence philosophy. Most fundamentally, it is assumed not only that prisoners need to be rehabilitated, but also that prisons create an environment where this is possible. Furthermore, it is assumed that the Adult Authority (the parole board) is capable of dispassionately and justly evaluating when a prisoner has been rehabilitated. These assumptions pose grave problems. As discussed in Chapter 1, the assumption that criminals are emotionally disturbed and in need of help is open to serious question. But even if they were, prisons, as we shall see, are in many ways

the least likely place for a human being to make constructive changes of any sort.

There is little evidence that the procedures of the Adult Authority enable it to make reasonable judgments as to when a prisoner should be released from prison. The AA members are all political appointees, nearly all of them with strong law-enforcement backgrounds. The parole hearings are sometimes as short as five minutes. The AA board members rarely know the prisoners individually and have only a few minutes before each hearing to glance through their dossiers. By and large the AA accepts the recommendations of the prison authorities. The prisoner has no opportunity to present evidence in his behalf in order to challenge statements of fact or interpretation made by the prison, and he is never allowed counsel during the parole hearing. As a result of these procedures, many of the Adult Authority decisions are essentially arbitrary.<sup>3</sup>

*Programs within the prison.* A second canon of the correctional prison is that it should offer constructive programs for inmates and that each inmate's program should reflect his particular needs. In most prisons a fairly wide variety of programs

3. The indeterminate sentence in one form or another is used in most states throughout the country. Only in the South are fixed sentences still relatively common. But the California indeterminate sentence has a distinctive feature. In most states, once the parole board has decided to give the prisoner a parole, a firm discharge date is fixed. Thus, if after a prisoner had served three years of a one-year-to-life sentence for robbery, a parole board agreed to give him two years parole, the prisoner would be discharged from parole after having been under judicial supervision for a total of five years. If he violated his parole during that two-year period and was returned to prison, he would have to serve in prison only the time that remained in the two years. In California, however, if a parolee is sent back to prison on a technical parole violation—which could amount to as little as getting married without permission of one's parole officer—his prison term is *refixed at the maximum*. Thus, in the example above, if the parolee had served three years in prison and 23 months on parole, and was then returned to prison for a technical violation, his term would be reset at life imprisonment. As in the parole board hearings, the parolee is not allowed counsel during a parole-revocation hearing, and the Adult Authority almost inevitably accepts the decision of the parole officer. This procedure was upheld by the California Supreme Court in 1971 on the grounds that parole is an act of grace rather than a right, and thus there is no need for a defense counsel.

is formally available to prisoners. All prisons in California have educational programs at least through high school, and some offer a meager college program as well. Vocational trade programs are generally available, although for the more desirable ones the waiting list is long. A variety of "productive employment" is offered, ranging from prison industries to the prison kitchen and a clerk's job in the prison chapel. Some therapy programs are also available in each institution, including group counseling, some psychotherapy, Alcoholics Anonymous, and religious and group therapy. Some institutions have special programs not available elsewhere, and prisoners may be sent to such institutions specifically for those programs. One prison in particular, Vacaville, has extensive inpatient psychiatric programs, and prisoners felt to be in need of such treatment are generally sent there. In theory these alternatives form the basis for a constructive program that is expected to change the inmate into an acceptable member of society.

*Classification and custody.* It has always been difficult for proponents of liberal prison ideology to feel comfortable with the reality of custody—the deprivation of freedom. In the traditional, authoritarian prison this posed no serious problem because the basic purpose of the institution was accepted as punishment. But the liberal prison is ostensibly meant to be more like a hospital than a dungeon. Many supporters of the correctional prison feel a contradiction between its avowed goal (rehabilitating criminals to function in a "free" society) and some of its methods (the deprivation of freedom, tight regulation of the inmate's life). This contradiction is generally handled pragmatically by saying that prisoners are dangerous men and careful confinement is necessary for effective treatment. A complicated classification system is then created which attempts to assess the potential security risk of each prisoner and to assign him accordingly to a particular level of custody. Such evaluation and classification procedures attempt to give the prisoner "as much freedom as he can handle" and are thus part

of the general notion of fitting the treatment to the criminal.

In California these evaluation and classification procedures are an essential part of the operation of the prison system. Immediately after a prisoner is sentenced, he is sent to the "Reception-Guidance Center" (RGC), where he undergoes an intensive evaluation period. On the basis of the RGC recommendations, the new prisoner is sent to one of eleven prisons in the state, or to one of the many forestry or conservation prison camps. If the prisoner is a first-termer and is considered a minimum-security risk, he will probably be sent to a minimum-security prison or conservation camp. If he is considered a serious security risk and has served a prior prison term, he will probably be sent to one of the medium-close-security prisons (Soledad and San Quentin), or, if he is a security risk and an older prisoner, to Folsom, technically, the state's only maximum-security prison.<sup>4</sup> If he is diagnosed as having serious psychiatric problems, he will probably be sent to Vacaville. Prisoners may also be assigned to different institutions on the basis of the training programs available, although such considerations are generally given much less weight than simple security questions.

These gradations from minimum- to maximum-security institutions reflect significant differences in the conditions and regulations of confinement. In a minimum-security institution, prisoners are housed in dormitory fashion. There are no gun towers around the perimeter of the prison. Prisoners may move freely in the prison without passes. They may watch television and engage in other recreation in their free time with few restrictions. In a medium-close-security or maximum-security institution, on the other hand, inmates live in tiny cells in large cell

4. The distinction between a "medium-close-security" prison and a "maximum-security" prison is really a technical one. For all practical purposes San Quentin is a "maximum-security" institution.

blocks. Barbed wire covers the tops of the walls, and gun towers guard the perimeter of the prison. Prisoners need passes to move about the institution, and leisure time is carefully controlled.

Not only are the prisons graded from minimum to maximum security, but individual prisoners are classified from minimum- to maximum-security status within each institution. Shortly after he arrives from the Reception-Guidance Center, the new prisoner appears before the prison's classification committee. The committee reads through the evaluation of the RGC and then classifies the individual according to its assessment of the security risk he poses. These classification decisions are reviewed periodically. If the prisoner has not caused any trouble and has cooperated with the rules of the prison, then his custody level will eventually go down and his privileges correspondingly increase. If he has been involved in conflicts within the prison or is seen as a "management problem" by the prison administration, then his custody level is likely to increase and his freedom of movement to be restricted.

This system of graduated classification of both prisons and prisoners has a dual function. On the one hand, it is part of the rehabilitative notion of fitting the institution and program to the inmate. On the other hand, it is an essential part of the system of control within the prison.<sup>5</sup> Any prisoner knows that if he "causes trouble" he might get shipped off to a tighter-security institution or he might have his own security status increased. The pattern of security gradation is a pattern of privilege gradation, and the threat of withdrawing privileges is one of the primary techniques of control within the prison. This is a central contradiction of prison life: most programs and

5. See Chapter 15, especially pp. 326 ff., for a fuller discussion of the structure of control within the prison system. See also Messinger, "Strategies of Control," for an interesting discussion of the structure of social control in the prison system.

procedures that result from the rehabilitation ideology simultaneously serve as instruments of coercion and control. What seems to the outsider or the liberal prison administrator like a positive program that encourages change and development becomes a mechanism of oppression to the prisoner.<sup>6</sup>

The most humane supporters of the "enlightened" correctional prison philosophy hoped that the liberal, correctional prison would avoid the brutality and dehumanization of the traditional custodial prison. In actuality, many prison administrators have little or no faith in the ideals of rehabilitation penology. While feeling that it is politically expedient to use the language of the liberal prison, they continue to run the institution along traditional custodial lines. Thomas Murton, former head of the Arkansas prison system and a strong critic of current prison practices throughout the United States, has said:

There is no basic difference between the Arkansas prison system and the California prison system. The only difference between the primitive system and the sophisticated system is that the sophisticated system operates behind a façade of rehabilitation. The degradation of the prisoner in both systems is just the same. It doesn't make much difference to a prisoner whether he is being shot by a well-educated guard in California or a high school dropout in Arkansas. The only difference is that in the primitive system they are more honest about what they are doing. There is no hypocritical façade like in California.<sup>7</sup>

Euphemistic language and changes in official rationale for different practices do not necessarily reflect substantive change in

6. A full discussion of the meaning of this contradiction within the liberal, rehabilitative prison is presented in Chapter 7, "Liberal Totalitarianism in Prison."

7. Speech at a Prison Day Conference, sponsored by the Campus Committee for Prisoner Humanity and Justice, University of California, Berkeley, Feb. 26, 1971.

the practices themselves. The California "correctional officer" is still a guard; the "adjustment center" is still the hole; the "inmate" is still a prisoner; and above all, the "correctional facility" is still a prison.