

LAW ENFORCEMENT MANAGEMENT INSTITUTE

A PROPOSAL FOR A STUDY FOR THE REDUCTION OF RECIDIVISM
THROUGH INMATE ACCOUNTABILITY

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207

TABLE OF CONTENTS

INTRODUCTION 1
PRISON CRIME - WHO CARES 2
UNDERREPORTING PRISON CRIME 4
OVERCROWDING 5
CURRENT DISCIPLINARY PROCEDURES 7
SPECIAL PRISON PROSECUTION UNIT 8
HOLDING INMATES ACCOUNTABLE 9
IMPLEMENTING A NEW PROGRAM 10
CONCLUSION 11
END NOTES 12
BIBLIOGRAPHY 14

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INTRODUCTION

There is a major crisis in the State of Texas which affects every citizen to some degree. Most have heard of prison overcrowding but really do not understand what is occurring to society as a whole due to some of the problems and stresses of other criminal justice system components.

The intent of this paper is to compare the number and type of crimes committed in prisons with those crimes for which the inmates are serving time. There appears to be a common thread or belief by most persons not associated with law enforcement or the correctional system that once an individual is convicted of a crime and sent to prison, that individual does not normally commit crimes while incarcerated. Unfortunately, in many instances criminal behavior continues.

While attempting to obtain information concerning crimes committed by inmates, it was discovered that the Texas Department of Corrections does not have a comprehensive offense reporting system and normally maintains records of only the most serious offenses. It has been suggested that criminologists and policy makers who adhere to an "incapacitation" justification for imprisonment apparently do

not consider, or at least count, offenses committed by inmates as crimes.¹ This attitude, for the most part, prevails in the Texas prison system today. Underreporting of criminal offenses will not make the problems disappear.

Theoretically, with proper reporting and investigations of all crimes committed (and inmates held accountable for their crimes), a new attitude might prevail within the correctional system. A program could be implemented to collect data to determine the extent and nature of inmate criminal activity. This could contribute to professionalism in prison administration and possibly reduce the overall recidivism rate. This paper will explore the need for such documentation as well as current success in holding inmates accountable for prison crime.

PRISON CRIME - WHO CARES

U.S. citizens believe and generally support the notion that criminal laws are to be enforced throughout our nation for everyone, including prison inmates. Correspondingly, the American Correctional Association (ACA) has recommended that every adult correctional institution have a "written policy and procedure which provides that, where an inmate allegedly commits an act covered by criminal law, the case is referred to appropriate court or law enforcement officials for prosecution."² A close examination of criminal law violations within the Texas system suggests that ACA recommendations have

not been fully implemented in this state. In fact, in most instances only the most visible prisoner violence comes to the attention of senior prison officials. When certain prisoners suffer physical injuries, these incidents are almost always recorded and reported. But, much prisoner crime and violence escapes reporting by correctional officers. Even when officers suspect or observe criminal conduct and certain forms of inmate violence, it is sometimes not reported.³

During the course of this project several employees and correctional officers were interviewed about the extent and reporting of inmate criminal activity. The primary purpose of these interviews sought to locate and obtain specific information concerning violations of criminal law by inmates within the Texas prison system. It became evident during the course of these conversations that no accurate records are maintained and that correctional officials feel no one really cares. Who cares if one inmate steals another inmate's personal property, or if one inmate is controlling another inmate by violence or threats of violence. This same reaction can be seen in the comments of one California Deputy Attorney General who has pointed out: "Prison crime cases are not politically attractive...Most people in society think if it's one inmate assaulting another, well who cares? It's not like someone gets killed on the streets."⁴

The statement "who cares" is one of the explanations for not recording the sometimes minor day to day criminal

situations which occur within our prison system. Another indicator of this indifference to responding to prosecuting internal prison crime is the basic absence of any formal referral standards.⁵ Currently in Texas, the decision to refer a criminal offense to local police or prosecutorial authorities is left solely to the warden in the institution where the offense occurred.


UNDERREPORTING PRISON CRIME

It is no secret that the general public, as well as a number of correctional professionals, perceive prison environments as being too lenient and non-punitive.⁶ Before action can be taken to change this perception to one of accountability, offenses should be recognized as such, properly reported, and appropriate sanctions administered to the violators.

Inadequate enforcement of criminal law in prisons removes a deterrent to disruptive behavior. It also implies that the rule of law does not apply behind prison walls. It also can contribute to the release of some dangerous offenders, rather than extend their incarceration under a new sentence.⁷

Charles Terrell, Chairman of the Texas Board of Criminal Justice, stated:

"We are still being forced to release monsters back to our streets when they have served ridiculously low percentages of the sentences they were given. I'm not sure, today, even if our criminal justice reforms work, that we do not need 50,000 more prison



beds to protect our citizens - and our families from the violent and vicious among us."⁸

The non enforcement of criminal law both by underreporting and underprosecuting will indicate to inmates and the public a sense of not being held accountable for crimes committed in prison. It often seems that we, as the public, want both our retributive "pound-of-flesh" from the offender as well as a "corrected" individual at the end of the subject's period of incarceration.⁹ However, due to numerous circumstances, primarily overcrowding, this is difficult in today's correctional facilities.

OVERCROWDING

As noted in a conversation with Michael W. Moore, Southern Regional Director, Texas Department of Corrections, : "The crime rate from 1970-1990 has increased 94%. The inmate population during this same time frame saw an increase of 245%, while the length of the sentence given to inmates increased by 67%. Federal mandates brought about by inmate litigation has put a ceiling on facility capacities. The solution to overcrowding has been early releases for some inmates, which translated into a 64% reduction in the length of the sentences served. Parole has increased 2,123% as a result. California dealt with a similar problem by building 75,000 beds. As a result robbery decreased by 27% and those assaulted sexually decreased by 25%.¹⁰ Mr. Moore provided the above statistics from the Texas Department of Criminal

Justice, Management Services Institutional Division, Huntsville, Texas. In Texas, the average number of years served for fiscal year 1990 was 1.9 years for all sentence lengths. Also, for 1990, the percent of sentence served was 20% of the length of the sentence.¹¹

Recidivism has been defined in many ways. In this paper, recidivism means any readmittance to prison for any reason. Petersilia and others report recidivism rates as high as 70% for those released early from incarceration.¹² The Texas Board of Pardons and Paroles revoked 17,624 people who were on parole in fiscal year 1990.¹³ Also, during the 1990 fiscal year, 46,303 inmates were released from the Texas Department of Correction. Of that total, 14,563 have 1 or more prior incarcerations.¹⁴ Judith Telecky, Public Information Officer for the Texas Department of Criminal Justice, Austin, Texas, indicated that prior to January, 1990 the state did not maintain statistics on how many persons were revoked due to technical violations as compared to new offenses. According to the Federal Bureau of Prisons, for calendar year 1990, the figures for Texas Federal Parolees who were revoked totaled 443.¹⁵

The problem of prison crowding is one of the most vexing dilemmas facing the criminal justice system today. There is wide spread agreement that people who commit serious crimes must receive punishment and that people who do so as recidivists must be punished more severely.¹⁶ By "punished

more severely" criminal justice professionals normally support longer periods of incarceration for those reentering the system, and for those who are committing crimes and already serving time. One may hypothesize, when there is a lack of accountability for violations committed within the Texas Department of Corrections, there is a relationship to the incidence of recidivism which promotes overcrowding. It should be pointed out that it is much too early to support or reject this hypothesis due to insufficient data within the prison system.

CURRENT DISCIPLINARY PROCEDURES

The Texas Department of Corrections has printed a handbook titled TDC Disciplinary Rules and Procedures for Inmates. This book is provided to all inmates entering the correctional system and is printed in English and Spanish. The procedures for handling all types of criminal offenses and prison rule violations from murder to unauthorized piddling has been outlined. The maximum punishments are grouped in three levels as follows:

1. Level 1 - no limit on loss of good conduct time or reduction in time-earning class.
2. Level 2 - loss of not more than two years of good conduct time; reduction by not more than two levels in time-earning class.
3. Level 3 - loss of not more than one year of good conduct time; reduction by not more than one level in time-earning class.¹⁷

When a rule violation or criminal offense has been discovered, the incident may be handled informally if that

action is appropriate. If the incident cannot be handled informally a disciplinary report is filed with the officer in charge, usually a major or captain. An investigation is initiated and the offense is then classified as a level 1, level 2, or level 3 violation. A disciplinary hearing may follow and will be classified as a minor or a major hearing. The final decision as to whether a disciplinary hearing will be classified as major or minor will be made by the officer in charge. The decision will be based on the following factors:

- a. The nature and seriousness of the offense (e.g., a Level 3 violation is more apt to be processed pursuant to a minor hearing than a Level 1 violation).
- b. The inmate's disciplinary history.
- c. The period of time since the inmate's last rule violation.¹⁸

This procedure allows for an extreme amount of discretion on the part of the staff. What one guard may observe and pursue to a major disciplinary hearing, another guard may only reprimand or even look away.

SPECIAL PRISON PROSECUTION UNIT

As a result of the Ruiz decision concerning building-tenders, which consisted of inmates performing certain guard functions, the building tenders position was eliminated. This left a vacuum within the Texas prison system creating a power struggle among inmates who formed prison gangs for control and safety of gang members. Prison officials indicate that gangs

are responsible for over 90% of all prison homicides, and 60-70% of inmate assaults.¹⁹

In response to the explosion of violence occurring in the Texas Department of Corrections, the Special Prison Prosecution Unit was formed in November, 1984. The Unit's caseload grew to over 300 cases during 1985 when twenty-seven murders were reported within the system.²⁰ This program sought and gained capital murder prosecutions and convictions, with the death penalty assessed, for two Texas Mafia prison gang leaders. Since 1985, the Texas Department of Corrections has seen a significant decrease in the number of homicides. The Unit has since focused on other major criminal conduct and has a current caseload of 550 to 650 felony cases.²¹

HOLDING INMATES ACCOUNTABLE

The special Prison Prosecution Unit has been very successful in dealing with the prison gangs operating within the Texas Department of Corrections. J. Petersilia reported that inmates with prior prison commitments in California, Michigan, and Texas found no evidence that this group had unique treatment needs or problems. The conclusion was that correctional treatment should be based on actual behavior while in prison.²² One might also state that correctional treatment should be based on inmate needs which are influenced by prison behavior. This, along with a report on recidivism in the B. J. S. Data Report, 1989 demonstrates that prisoners

who have served more than 5 years have lower rearrest rates than did those who had served less.²³

IMPLEMENTING A NEW PROGRAM

Legislation should be enacted to provide for the funding, development, and research necessary to establish and maintain a program designed to establish accountability for all employees and inmates. Experts in longitudinal research designs should be employed from the beginning. Samples would consist of one or more units in all regions of the Texas prison system. New record keeping methods would be implemented to establish a data base that is non-existent at the present. This would consist of daily reports from all employees on all shifts of all crimes and rule violations committed by all inmates. This data base should pinpoint problem areas, problem inmates, and problem employees that may be targeted to eliminate the problem.

By identifying the problem inmates and assessing punishment, more room will be required for longer sentences being served by those involved in prison crime. When inmates realize the system will not tolerate rule infractions or criminal conduct, a new attitude might develop. This could possibly occur by holding the inmates accountable and possibly retaining them in prison past their normal discharge date.

CONCLUSION

In an effort to discover what crimes are being committed by inmates in Texas prisons, the answer was the same throughout the system--there are no records. There is an individual record maintained on each inmate, but not a daily or monthly report of over-all criminal activity. Due to the absence of record keeping, no data base is available to enable the prison system to identify and address problem areas. One has to wonder how much longer our current system can afford to turn a criminal out the back door simply to allow another to be locked up. At some point in time the system must make the criminal accountable for his actions as one step in possibly changing his/her behavior. Unless new principles and attitudes develop, Texas prisons will become less effective and the people they house will emerge damaged and embittered from their incarceration. The present mentality of "keep the lid on" will reap a horrendous cost to society both in terms of violence within the prison and from those creatures who will emerge from confinement without purpose and goals.²⁴ New Legislation directed at record keeping should be enacted as one possible means of identifying and addressing problem areas in the Texas prison system.

END NOTES

1. James B. Jacobs, "Enforcing The Criminal Law In State Prisons, 1987" TMs [photocopy], p. 3. New York University: School of Law, Center for Research in Crime and Justice.

2. Ibid., 5.

3. Dean J. Champion, Correction In The United States: A Contemporary Perspective, (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1990,) 230-231.

4. Jacobs, "Enforcing The Criminal Law In State Prisons," 19-20.

5. Ibid., 5.

6. Michael Braswell, Steven Dillingham, and Reid Montgomery, Jr., Prison Violence In America, (Cincinnati, Ohio: Anderson Publishing Co., 1985,) 159.

7. Jacobs, "Enforcing The Criminal Law In State Prisons," 8.

8. Jerry L. Hodge, Texas Department Of Criminal Justice 1990 Annual Report, (Huntsville, Texas, 1991,) II.

9. Braswell, Dillingham, and Montgomery, Prison Violence In America, 1.

10. Michael W. Moore, Southern Regional Director, Texas Department of Corrections, interview by author, 19 March 1991, Price Daniel Unit, Snyder, Texas.

11. Texas Department Of Criminal Justice Institutional Division, Management Services, 1990 Fiscal Year Summary, Huntsville, Texas, 1991.

12. Champion, "Corrections In The United States," 62.

13. Hodge, Texas Department Of Criminal Justice 1990 Annual Report, 91.

14. Ibid., 101.

15. Federal Bureau of Prisons, Key Indicators/Strategic Support System, Admission and Discharge Data, January through December 1990.

16. Max Bromley, James Halsted, and Leonard Territo, Crime And Justice In America, (St. Paul, MN.: West Publishing Co. 1989,) 452.

17. Texas Department Of Corrections, TDC Disciplinary Rules And Procedures For Inmates: English And Spanish, July 1986, GR-106, 10.

18. Ibid., 2.

19. B.N. Tucker, Jr., Origin And Operation Of The Special Prison Prosecution Unit, Paper presented as explanation of what the Special Prison Prosecution Unit consists of. Huntsville, Texas, 15 February 1991.

20. Ibid.

21. Ibid.

22. Richard A. McGee, George Warner, and Nora Harlow, The Special Management Inmate, (Cambridge: Abt Associates, Inc., March 1985,) 132.

23. Department Of Justice, Office Of Justice Programs, BJS Data Report, 1989, (Rockville, MD: Justice Statistics Clearinghouse, December 1990,) 88.

24. Braswell, Dillingham, and Montgomery, Jr., Prison Violence In America, 144.

BIBLIOGRAPHY

- Braswell, Michael, Steven Dillingham, and Reid Montgomery, Jr. Prison Violence In America. Cincinnati, Ohio: Anderson Publishing Co., 1985.
- Bromley, Max, James Halsted, and Leonard Territo. Crime And Justice In America. St. Paul, MN: West Publishing Co., 1989.
- Champion, Dean J. Corrections In The United States: A Contemporary Perspective. Englewood Cliffs, NJ: Prentice-Hall, Inc., 1990.
- Federal Bureau of Prisons, Key Indicators/Strategic Support System, Admission and Discharge Data, January through December 1990.
- Hodge, Jerry L. Texas Department Of Criminal Justice 1990 Annual Report. Huntsville, TX., 1991.
- Jacobs, James B. "Enforcing The Criminal Law In State Prisons." New York University: School of Law, Center For Research In Crime And Justice, 1987. (?) Photocopied.
- McGee, Richard A., George Warner, and Nora Harlow. The Special Management Inmate. Cambridge: Abt Associates, Inc., March 1985.
- Moore, Michael W. Southern Regional Director Of Texas Department Of Corrections. Interview by author, 19 March 1991, Price Daniel Unit, Snyder, Texas.
- Texas Department Of Corrections. TDC Disciplinary Rules And Procedures For Inmates - English And Spanish, July 1986. GR-106. 10.
- Texas Department Of Criminal Justice Institutional Division, Management Services. 1990 Fiscal Year Summary. Huntsville, Texas, 1991.
- Tucker, B.N. Jr., "Origin And Operation Of The Special Prison Prosecution Unit." Huntsville, Texas, 15 February 1991. Typewritten.

U.S. Department Of Justice, Office Of Justice Programs. BJS Data Report, 1989. Rockville MD: Justice Statistics Clearinghouse, December 1990.