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Nathan Leopold

Social Science Program, Department of Health, Commonwealth of Puerto Rico

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WHAT IS WRONG WITH THE PRISON SYSTEM?

Nathan Leopold* †

Before one can attempt an evaluation of the effectiveness of any machine or any institution, he must have clearly in mind its purpose—just what it is expected to accomplish. An airplane is judged by its speed, the amount of cargo it can carry, and its relative safety; a school is appraised by how well it prepares its graduates to meet the test of the next higher step in education or the demands of the adult world.

Just what is the purpose of our prisons? Just what do we expect them to accomplish? Most of us, I fear, are satisfied with the vague assumption that, in some way, they protect society. But just how is this protection brought about? Surely, in the case of an institution so costly to society in money, human misery, and waste of human resources we ought to be able to point out, clearly and specifically, just how protection of society is provided.

There is, first of all, the obvious fact that when a man is put in prison he cannot, for the period of his incarceration, commit further crimes. Even this is not completely true. Murders are committed in prison; so are thefts. Arson is committed in nearly every prison riot; sex crime runs rampant in many prisons. But, by and large, it is certainly true that incarceration sharply reduces the crime committing potential of the prisoner.

But surely this is not all we expect of our prisons. Sentences run out; prisoners are paroled; the median time served in prison is only about three years. The protection afforded society by the temporary seclusion of the criminal surely does not justify the enormous expense of prisons.

But perhaps imprisonment deters the individual from repeating his offense after release. The large proportion of recidivists in our prisons seems to disprove this hypothesis. Or perhaps the imprisonment of one individual deters others from committing crimes. The steadily increasing crime rate appears to belie this view. Deterrence, while an attractive hypothesis a priori, does not appear to work in practice.

* Research Associate, Social Science Program, Department of Health, Commonwealth of Puerto Rico.
† Mr. Leopold has incorporated here parts of his article entitled “Imprisonment Has No Future in a Free Society” which appeared in 2 Key Issues 24 (1965) published by St. Leonard’s House of Chicago.
Imprisonment actually appears to satisfy chiefly the natural desire for retaliation, for getting even with someone who has harmed us. Not for worlds would most people admit this; yet the man on the street seems motivated chiefly by this desire. Crime must be punished, he says. Why it must be punished—what purpose of value to society is achieved by imprisonment—he is at a loss to say. It simply appears axiomatic to him. But this is retaliation, nothing more or less.

There is, in fact, one purpose, of value to society, which might, ideally, by served by imprisonment: Rehabilitation of the prisoner. But not by our prisons of today. Not until radical changes are made in our philosophy of imprisonment and its implementation.

That the rehabilitation of the criminal offender would be of value to society is self-evident. The criminal harms society by his activities; the ideal way in which to safeguard society is so to change the offender that he will cease harming society, that he will conform to societal norms instead of contravening them.

But how can this be accomplished? Evidently, rehabilitation depends upon or consists in altering behavior patterns, and this, in turn, depends upon altering attitudes. The individual needs to be retrained, reoriented. Will punishment accomplish this retraining? Evidently not, or we should not have the high rate of recidivism we find in our prisons.

For centuries, before the time of Pinel in France, society treated the insane in very much the manner we treat the criminal today. He was loaded with chains and thrown into a dungeon. Today, our effort is to cure the patient suffering from mental illness in very much the same way we treat patients suffering from a physical ailment. We attempt to make him as comfortable as possible and to return him to his home in the shortest possible time. Indeed, in the past few years, since the advent of tranquilizing drugs, the vast majority of psychotic patients can be and are treated in their communities rather than in a mental hospital. Our mental institutions, once filled to over-capacity, are now largely empty.

This is progress! Progress in civilization, progress in alleviating the suffering of mankind, progress in the efficient functioning of society.

And how, fundamentally, did it come about? It came about through a basic change of attitude toward the insane and a basic change in the goal set by society in their treatment. In this case,
it was largely the work of one man. Dr. Pinel, too, was called mad when he proposed to take the chains from the insane. Dire results were predicted; his own safety was feared for.

But by steadfastly viewing the psychotic as a sick man, by steadfastly keeping before us the one goal of cure and reintegration into society, vast strides have been made.

A similar, fundamental revolution will have to take place in our thinking about criminals and especially about the goal to be attained by our dealing with them before much headway can be made either in the administration of criminal justice or in the operation of the penal system.

We must be clear in our thinking about just what it is that we desire our prisons to do.

And society, today, is not clear on this point. Rather, the penal philosophy of the mid-twentieth century is an odd melange of a number of different points of view. As a result, the administration of prisons is confused, inconsistent, and demonstrably ineffective.

Perhaps it is worthwhile to go a little more fully into the principal views currently held as to the purpose of prison and to evaluate them.

I. RETALIATION

The historical roots of all penal sanctions, including imprisonment, are to be sought, I think, in the principle of retaliation. And retaliation is a very human, very natural thing. Children, before they have been long subjected to the civilizing influences of society, tend to lash out at the person or the thing which has hurt them. Nor is this impulse confined to children. How many of us have not, at some time or another, kicked the chair against which we have barked our shins in the dark. But this type of behavior is not very rational, not very mature. It serves no purpose other than to release emotional pressure; it does not solve any long-range problems. It is hardly worthy to be codified and promulgated as the carefully considered action of a rational society.

Now this has not always been the accepted view. In primitive societies, the principle of exact retaliation was often the recognized form of punitive action. If a man killed another, the family of the victim was permitted—in fact, expected—to kill the murderer. And vestiges of this custom are to be found up to very recent times, as witness the blood feuds in Sicily, Corsica, and the Tennessee hills.
For injuries less than death, a very exact code of equivalences arose. If a man killed your cow, you were permitted to kill his. The *lex talionis* was accepted in so relatively advanced a civilization as that of the Hebrews 3,000 years ago: "An eye for an eye, a tooth for a tooth" was considered ethically worthy of inclusion in the Bible.

But as civilization advanced, man grew more squeamish. On the one hand, he realized the dangers of permitting each individual to exact his own retribution, and today a man may be imprisoned, or even executed, for "taking the law into his own hands." On the other, it came to be felt that for a man, personally, to kill the man who had killed his brother or to steal from the man who had stolen from him tended to place him on the same moral level as the original wrong-doer. So the right to exact retribution was withdrawn from the individual and vested in government.

No longer was a man permitted—and expected—to kill his brother's murderer with his own hands; society hired a public hangman. But the custom of attempting to inflict condign punishment, of "making the punishment fit the crime," has persisted to the present day. Until a very few centuries ago, it was interpreted very literally. It is not so long since we have stopped cutting off the hands of robbers, slitting ears, cutting off noses, gouging out eyes.

More recently, society has become too squeamish for these crude, brutal forms of retaliation. Nowadays, retaliation is left entirely to the State, and, except for a very few felonies (murder, treason, kidnapping, rape, bank robbery), it consists entirely of imprisonment. Physical retaliation is, at least under the law, restricted to a few jurisdictions which still retain the whipping post. In practice, imprisonment entails considerable physical torture in many jurisdictions, but this is carried out secretly, is considered a means of administrative discipline, and is often denied by its perpetrators.

Retaliation as the goal of imprisonment, it seems to me, is indefensible on at least two grounds. It does not achieve any purpose of value to society, and, ethically, it is not a worthy motive for an enlightened age. Mere "getting even" is not a very mature purpose; when we punish for the sake of retaliation, we place the State on the ethical level of the malefactor. Two wrongs do not make a right. And still, I am convinced that the basic, underlying motive of the vast majority of our citizenry, whether consciously recognized or not, is punishment for punishment's sake—retaliation. Especially is this true in the case of crimes highly
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publicized in the newspapers. Now the mob cries out for blood. How many of us stop to ask ourselves what we hope to accomplish for society by exacting severe punishment? At times of strong emotional stimulation we react with our emotions, not with our brains. We do not stop to think things through, to ask ourselves calmly and quietly how the punishment of the offender is to be of benefit to society; we are angry, inflamed, and all we want is to see someone punished—severely and at once. But how does this differ from kicking, and kicking hard, the chair against which you have barked your shin?

And we are not even consistent! If retaliation is our motive in imprisoning offenders, let us admit it, openly and honestly, and let us set about making imprisonment a much more effective kind of retaliation than it is today. We no longer chain prisoners in a dark cell with water up to their knees; we no longer restrict their diet to bread and water; we no longer whip felons (except in a very few jurisdictions.) Why not? If what we are after is retaliation, why not go about it vigorously?

The answer, I think, lies in two things. First, retaliation is no longer the frank and the only purpose of penal sanctions. Other factors—deterrence, rehabilitation—have become intermingled with our desire simply to punish. And the result is a muddled, heterogenous melange of motives, not clearly thought through. It results in a confused, contradictory, and ineffective penal philosophy.

The other reason is that society has advanced to a point where most of us, most of the time, simply will not tolerate the perpetration of cruelties which were commonplace two or three centuries ago. This, surely, is all to the good. But here, too, let us think clearly. If retaliation is to be the goal of imprisonment, let us be consistent and really retaliate. And if we are not prepared to go to such lengths, let us admit that, in a civilized society, retaliation is not a proper ground for imprisonment.

Retaliation is, to many, a harsh word—a word they do not care to use, a concept they do not care to entertain. And so they substitute the milder word expiation, a term with strong religious and ethical overtones. The concept, derived from our religious beliefs, and more specifically from our Puritan heritage, still so strong in our philosophy of law, implies that when one has sinned—has offended against the Deity—he must atone, he must expiate. In the application of the term to criminal justice, we speak of “paying one's debt to society.”

So strong is this identification of expiation with sin that
Job's friends of old, seeing him afflicted with one scourge after another, were convinced that he must have sinned and that his sufferings represented his expiation. They begged him to confess his sins and repent.

But atonement and expiation are an individual matter; they can be inaugurated and carried out only by the sinner himself. How does it help society to punish by imprisonment the man who has sinned against it? It can make him uncomfortable, it can hurt him, it can punish him, but it cannot make him repent.

To me, the word retaliation seems the more honest. And retaliation is not an ethical principle worthy of an enlightened society.

II. DETERRENCE

As retaliation, as a policy, fell into disrepute with an ever-increasing segment of the population, a second goal for imprisonment and for penal sanctions generally came more and more to the fore. This is the principle of deterrence.

Deterrence was the justification for punishment of the offender accepted as the central point of penology by most of the great criminologists and penologists of the eighteenth and nineteenth centuries. It is still held in high esteem by a large proportion of present-day thinkers.

And admittedly deterrence is an attractive doctrine; a priori, it seems extremely reasonable. Deterrence is held to operate in two ways. First, if an offender is punished, by imprisonment or otherwise, the deterrence theory holds that he will be so affected by the unpleasantness of his punishment that he will, in the future, be deterred from repeating his offense and so risking repetition of the punishment. He will be "taught a lesson," and next time, he will think twice before subjecting himself to punishment again.

This principle seems sound on first view. It is after all, merely another application of the tried and true conditioning process. Children are taught in this way. If a child does something he has been told not to do, he is punished. After one, or several, experiences of act-followed-by-punishment, the child will refrain from committing the forbidden act because of dread of the punishment associated with it. The burnt child shuns the fire.

White mice are trained to run mazes by application of the same principle. Every time the mouse makes a correct turn in the maze, he is rewarded with a piece of cheese; every time he makes
a wrong turn, he is punished by an electric shock. Soon the mouse learns to run the maze without making a wrong turn.

It seems reasonable to suppose that deterrence will act in a similar manner in the case of the criminal offender.

But the test of a social hypothesis lies, not in its logical reasonableness, but rather in its pragmatic effectiveness. And by this test, deterrence has simply not worked. A very large percentage of the inmates of our penal institutions are recidivists. On these individuals, previous imprisonment has failed to act as a deterrent to further criminal activity. Many prisoners are third offenders, fourth offenders, men with even more than three prior convictions. With these men, imprisonment has failed repeatedly to deter.

The second way in which the deterrence theory was believed to operate was in deterrence of others than the man punished. On seeing a man punished for crime, it was thought that his brother or his neighbor would be deterred by fear of a similar fate from himself committing a crime.

In England 150 years ago, this theory was given a full experimental trial. In those days scores of felonies were punishable by death by hanging. And the British were consistent in their application of the deterrence theory. Obviously, if the punishment of one man is to act as a deterrent on another, the latter must be aware of the punishment. Today, in America, we execute criminals behind locked doors in the dead of night, in the presence of only half a dozen official witnesses. But in those days the deterrence theory was given a fair try-out. Hangings were held in full daylight, atop a high hill. Enormous crowds assembled to witness the hanging; indeed, the event became sort of a gala occasion, to which whole families flocked, bringing their picnic lunch. Here, indeed, was a setting calculated to give deterrence a real chance to operate. Hundreds, or thousands, were actual witnesses to the grim lesson that the wages of sin are death.

One of the felonies punishable by hanging was picking pockets. The dense crowds which gathered offered a splendid opportunity for the practice of this particular crime, especially as everyone was looking up, straining not to miss a detail of the ultimate agony of the victim. There were always more pockets picked in the crowd watching a hanging than on any other occasion!

It might be supposed that the closer a potential criminal is to a person punished for crime, the more likely he is to be deterred by the example. In Chicago, in the years from 1910 to 1950, lived the O. family. The oldest brother, "Smiling Jim," was hanged,
around 1920, for the murder of a policeman. The next brother, Buck, after being confined successively in several juvenile institutions, served one term in Pontiac Reformatory and two successive terms in Joliet Penitentiary. The two younger brothers, Sandy and Ted, each served several terms in Federal and State penitentiaries.

Nor is this an isolated example. I have served time with dozens or scores of father and son combinations and with older and younger brothers. In one case, I have done time with a father and son and, some years later, the grandson! In these families the deterrence theory did not work.

In the application of the deterrence theory to imprisonment, too, we fail in consistency. If punishment does, indeed, deter either the individual punished or others who know of his punishment, then it may be presumed that the degree of deterrence will vary directly with the severity of the punishment. As I have said in discussing punishment as retaliation, we could be very much more harsh in the penalties we impose. We could make prison much more unpleasant than it is now; we could impose longer sentences. If the deterrence theory is sound, we should in this way obtain a greater degree of deterrence.

That increase of severity of punishment may not only fail to increase deterrence but have the opposite effect is, perhaps, illustrated by the experience of Illinois with the penalty for armed robbery. Until 1919, the penalty for armed robbery had been imprisonment in the penitentiary for a period of from one year to life. Immediately after the close of World War I, there occurred a sharp increase in the number of armed robberies. Newspapers and public were aroused; harsher penalties were demanded. Accordingly, the Illinois Legislature enacted a statute making the penalty for armed robbery ten years to life. A large number of men were convicted under the new statute, but in many cases juries simply refused to convict because of the severity of the penalty. Many juries felt that it was inequitable to send a man to prison for a minimum of ten years if the amount of money stolen was small. Finally, the State’s Attorneys’ Association itself sponsored passage of a new statute, changing the penalty back to one year to life.

The failure of imprisonment to act as a deterrent is surprising to many. I think it need not be. I think its failure is easily explicable on the basis of the individual psychology of the criminal. No one who intends to commit a crime believes that he will be apprehended. If he did, he would not commit the crime. But he
always feels sure that he, at least, and this time, at least, will not be caught. With this conviction, punishment loses its significance as a deterrent. If the man about to commit the crime feels sure that he will not be caught, then he will not be punished, and the thought of imprisonment is no deterrent.

But a priori theoretical considerations should really have very little to do with the case—whether pro or con. What matters, and all that matters, is the pragmatic test. Does imprisonment, in fact, act as a deterrent? Since it demonstrably does not, deterrence cannot be a sound reason for retaining imprisonment.

III. REMOVAL FROM SOCIETY

A third justification for imprisonment is sometimes advanced. By putting a man in prison, it is argued, society physically removes him from its bosom and, for the period of his incarceration, makes it physically impossible for him to commit further crimes. Even this is not strictly true. Crimes are committed in prison; crimes have been alleged to be committed by men serving time in prison, who managed to slip away at night long enough to commit a robbery or two, returning in time for the morning count. Whether this latter category is genuine or whether the stories are apocryphal, the former category is certainly valid. Robert Stroud, the famous “Birdman of Alcatraz,” who died recently after spending some fifty-three years in the Federal prison system, is only one of the many who have committed murder in prison. Hardly a prison riot occurs without the commission of arson and malicious mischief. Theft and assault are commonplace; in many prisons, sex crimes are of frequent occurrence.

But in general, to put a man in prison is to obviate the possibility of his committing further crimes during his period of incarceration. But that is a weak justification for imprisonment as a policy of society. It is analogous to holding a child’s arms while he is having a tantrum to prevent him from striking the holder. Effective, but very, very temporary. And that there are no enduring effects from the prison experience is shown by the high rate of recidivism, as discussed above, under deterrence. It is highly probable that the small number of individuals deterred by imprisonment from committing further crimes is outweighed by those who are furnished greater incentive to crime by embitterment—by a desire to get even with society—and by those who, while in prison, learn more advanced criminal techniques than they possessed on commitment and so do greater harm to society after release.
IV. REHABILITATION

A fourth justification for imprisonment is that it rehabilitates, or tends to rehabilitate, the offender. Here, at last, is an end to be accomplished by imprisonment which is worthy of adoption by an enlightened society. Rehabilitation of the prisoner is, after all, a form of training, of redirection, and rechanneling of his drives. All of us are in need of further training, from time to time; it is likely that with increasing automation and the resulting abolition of ever more types of jobs, more and more people will have to be retrained, perhaps a number of times, during their lifetime. The criminal is even more in need of basic retraining, of true rehabilitation, than the non-criminal, for his present drives are harmful to society.

So the end can be approved heartily; the only question which arises is whether imprisonment is an effective means to rehabilitation.

Of course it is not. It is just the opposite. Prisons, as now constructed and operated, simply do not rehabilitate. There are a very few individuals, I think, who are rehabilitated in prison; never, I believe, are they rehabilitated by prison. On the contrary, they are rehabilitated in spite of prison.

The entire organization of most prisons is such that it puts positive obstacles in the way of rehabilitation. One of the indispensable traits of a well-rounded, well-adjusted personality is self-respect; prison does everything possible to deprive the prisoner of his self-respect. From the moment he is received in prison, nearly every official action is calculated to deprive him of his individuality, to humiliate him, and to reduce him to a robot. His hair is shaved; a number is substituted for his name; he is subject at every turn to barked orders from surly, frustrated keepers.

A typical instance of what appears to be a calculated effort to deprive the man of his individuality is the custom in one Midwestern prison of prescribing the clothing to be worn on any given day. Inmates are issued blue hickory shirts, a light spring jacket, and a heavier coat for winter use. For many years it was left to the individual inmate's discretion which costume he would wear on a given day. But then, presumably in the interests of uniformity, a notice was posted on the bulletin board daily, prescribing whether shirt, jacket, or coat was to be worn. Trivial, but, I think, important.

If prison is to rehabilitate, among the things it must help to do is to buttress the individual's decision-making faculty; it must
help to mature the individual, to make him self-reliant. In fact, it does just the opposite; the inmate's every decision is made for him; he is permitted no latitude in making up his own mind.

One of the most important elements tending to foster rehabilitation is the maintenance of family ties, of peer group relations, of a sense of belonging. Most prisons make it totally impossible for the inmate to maintain relationships with those outside. Visits are strictly limited; letters are permitted only to selected, approved individuals, and then only weekly, biweekly, or even monthly. A man is sent to prison in his late teens or early twenties. His peer group moves ahead in the social scale. His friends enter business, marry, have children. The prisoner is entirely cut off from development of any kind. When he is released, seven or eight years later, his erstwhile friends have progressed beyond him; they have become strangers. He no longer has an in-group; he belongs nowhere. Imprisonment, in a word, maximizes social severance. And social severance works against rehabilitation.

Work, in prison, if indeed work exists at all, tends to be uninteresting, soul-deadening drudgery, with no application to modern methods of manufacturing. In one prison a large group of prisoners was kept occupied for months moving a large pile of sand from one side of the prison yard to the other in worn-out roasting pans from the kitchen. Once the pile was moved, the prisoners moved it back again to where it had originally been. This type of task is not conducive to rehabilitation.

Discipline in prison is maintained by force, fear, and threats. More locks, more bars, more machine guns are the universal answer to every problem. This may reduce the number of riots and exact a surly, superficial obedience to rules; it certainly does not tend to rehabilitate.

In every prison there do exist rehabilitative forces. They may be institutions, such as a school or a library; they may be the personalities of individual employees: chaplains, teachers, etc. But these are sparse oases in a vast desert.

And rehabilitation does occasionally take place in a prison. I repeat that it is never because of the prison environment; rather, it is in spite of it. The fact of arrest and trial is a truly traumatic experience to many first offenders. They are brought up sharp and forced to face reality. Often this experience in itself is enough to bring a man to his senses—to rehabilitate him. Many of these young criminals could safely be released from the police station. Few are. In the case of some, if they are sent to prison and not kept there too long, the chastened state of mind persists,
and they are released “rehabilitated,” and unlikely to recidivate. But if the incarceration is unduly prolonged, the chastened emotional state wears thin, hatred and a desire to get even are engendered, social severance occurs, advanced criminal techniques are acquired from fellow inmates, and the individual is released determined to wreak vengeance on society.

Rehabilitation of the offender, then, is a laudable end. Indeed, it is the optimum and perhaps the only logically defensible purpose of prison. But imprisonment as practiced today is not a means to bring it about.

How, then, can we change our penal philosophy and our prisons in such a way as to increase the likelihood of rehabilitation of the inmates? Let me say, parenthetically, here and now, that in my personal opinion prisons will never become very effective instruments of rehabilitation. I believe that there are better means—non-institutional means. I think our emphasis needs to be, first, in isolating individual factors and complexes of factors which increase the likelihood of groups, or classes, of delinquents committing offenses. I do not believe that there is a single cause of crime; indeed, I think that attempting to class all convicted felons under a single stereotype, the criminal, is self-stultifying. But I do believe that the delinquent population can probably be subdivided into a number of sub-groups, each of which will have a certain degree of psychological homogeneity. And I think it may be possible to discover groups of factors which are connected with the several groups of offenders. If this proves possible, then our best attempt at solution lies in remedying those factors found to increase the likelihood of crime. But this should be done in the community, where crime is spawned, before it occurs, not in institutions.

However, such non-institutional methods of control of delinquency do not form the subject of this paper. Our problem here is to seek to find means of bettering our prisons. And I believe that, with radical changes in philosophy and administration, prison could be moulded into a far more effective instrument than it is today.

The fundamental change must come in our basic philosophy of crime and of penology—a change very similar to that we have undergone in our thinking about and treatment of the insane. We must stop thinking of the criminal as a person “possessed of a malign and wicked heart,” as used to be alleged in criminal indictments. We must begin to think of him as a person who, for one or another reason, has been unable to make a satisfactory adjustment to society. A sick person, in this wider sense of illness.
And, above all, we must adopt the principle that the maximum degree of rehabilitation is the only goal of penology. We must put aside vindictiveness and the desire to punish; we must concentrate on rehabilitation and rehabilitation alone. But this implies that every single step in the penal process must be oriented toward therapy and not punishment. Every expedient we employ must be demonstrably geared to therapy; those which do not have therapeutic value must be ruthlessly eliminated. But this is very vague and general. How can it be put into practice? What specific, concrete changes must be made in prisons as they exist today?

First, let us consider the physical plant. Prisons must not be as large as they are today. The maximum number of prisoners confined in a single institution should never exceed 500. The mammoth institutions of today, some of them housing 3,000 to 5,000 men are unmanageable. They tend to become amorphous, sprawling monsters, where the daily task of just keeping the prison running and the inmates not running is about all that can be accomplished. There can be no classification of inmates in such giant plants. The usual story is that a state plans a prison with a capacity, let us say, of 1,000 men. But before it is even finished, the number of men convicted has grown so enormously that 2,000 have to be confined there. Overcrowding is definitely not a means of therapy. All attempts at classification and segregation of differing sorts of inmates have to be abandoned in face of the more pressing necessity of merely finding a place to house the prisoners.

In large prisons it is impossible for the warden and other top personnel to have any personal knowledge of individual inmates. Psychiatrists in such huge institutions have their hands full if they manage to hold a perfunctory, routine interview with each inmate at the time of his admission and another when he is due to have an appearance before the parole board. Anything more than diagnosis—and superficial diagnosis, at that—is not even to be thought of. Psychotherapy, under the circumstances, is totally impossible.

But size alone is not the only consideration in building a better prison of tomorrow. Even the architecture of the prison enters into the matter of rehabilitation. So long as we cling to the traditional grim fortress type of prison, with its high walls, its gun towers, its narrow slits for windows, its overall depressing grayness, we are saying, symbolically, to the inmates: You are enemies of society; we are here only to keep you confined, ready to shoot you like dogs at the slightest sign of attempt to escape. We
will make your life as uncomfortable as possible. We are not in-
terested in your future possible reintegration into society; we are
interested only in seeing to it that you serve the last day of your
sentences. But this—the safe confinement of the inmate popula-
tion—strikes me as far below the minimum we should demand
of our prisons.

How, then, should prisons be constructed? Should they be-
come pleasure palaces? Certainly not. They must continue to be
functional in design, and one of the fundamental functions of a
prison is to keep its inmates confined. But here the construction
of more numerous small institutions would make possible differ-
entiation in the amount of security necessary to build into them.
For it would be possible to classify the inmates into groups, ac-
cording to the escape risk they represent. Those institutions
which contain offenders judged less likely to escape need not
bristle with gun emplacements and be surrounded by a high wall.
Under present circumstances, with enormous prisons—whole cities
—containing all types of offenders, the security regulations must
be effective enough to meet the requirements set by the most
dangerous of the inmates—usually only a handful.

Much progress has been made in the past generation in the
direction of decentralizing our prisons and in diversifying the types
of smaller institutions built. Much remains to be accomplished.

And the physical plants must make possible ordinary decent
living. Such facilities as flush toilets and running water, essen-
tials for cleanliness, health, and self-respect, are still lacking in
some prisons, though fortunately, in less every decade.

It should be possible, too, to find some workable compro-
mise between the exigencies of surveillance for security and the
fundamental right of every human being to privacy. Cell houses
constructed like vast goldfish bowls, in which the prisoner's
every action is visible to everyone else in the cell house, are not
conducive to the building of self-respect.

Factories and other buildings designed for the work to be
carried out by the inmates should meet ordinary minimum require-
ments with regard to light and air. In some prisons, even today,
they resemble more closely the sheds in which animals are housed
than buildings intended for human occupancy. Provision should,
of course, be made for ample space for recreational activities, in-
door as well as outdoor. The facilities need not be elaborate or
expensive; they should, however, be large enough to permit every
inmate an opportunity for exercise and participation in games.
Important as are the physical surroundings in prison, they pale into insignificance in comparison with the human components of the system. The warden and his principal assistants must be men of the highest caliber. They should be educated men, trained specifically in the field of penology, and, above all, individuals with humanitarian orientation and a sincere belief in the feasibility of rehabilitation. This presupposes, of course, an adequate scale of remuneration, calculated to attract into the field of penology men of outstanding capabilities.

Too often, even today, these requisites are not met. Federal wardenships have, for some time, been allotted under civil service and on the basis of competitive examinations, and this, or similar systems obtain in some state jurisdictions also. But in all too many of our states, a prison wardenship is still regarded as a political plum, awarded to that one of the party faithful who has been best able to deliver the vote. This practice entails disastrous consequences. For, often, the office of warden comes to be considered a sinecure, and the man to whom it is awarded may have no interest or qualifications in the field of penology. He may accept the position and the emoluments it carries but leave the actual administration of the prison to subordinates.

Penal administration needs to be upgraded as a professional career. It must carry sufficient social prestige and sufficient pecuniary inducements to attract men of top executive ability and to make it worthwhile for such men to train intensively in their prospective career.

Nor is it the warden of a prison, alone, who needs to be a trained professional. His chief subordinates, too, must be capable, trained men. The assistant wardens, deputy wardens (who often have far more direct contact with the prisoners than the warden), superintendent of industries, medical director, and others, should be selected on the basis of training and ability. Some general screening and accrediting system should be instituted for their selection.

But the necessity for ability and training on the part of the personnel does not stop even here. It is the prison keeper or guard who is, day by day, in the closest contact with the prisoners. He is, in a very real sense, the representative of organized society in the eyes of the men under his supervision. It is highly important to rehabilitation that he be a fair representative. He must be the type of person who can command respect from his charges. Too often, in the prisons of today and of the recent past, he is not.

Here, too, it is probably the economic motive which is com-
pelling. In most jurisdictions, the wage scale for prison guards is extremely low. It is only some thirty years ago that, in one jurisdiction, the wage of prison guards was ninety dollars a month. And this for a twelve hour day and a six day week! Is it any wonder that bright, ambitious men were not, as a rule, attracted to this service? Indeed, it is almost wholly men who could not find employment anywhere else who served in the capacity of guards. Many were completely illiterate; others could do no more than sign their names. Yet this is hardly the type of man we should set before the prisoner as a paradigm.

The thought, apparently, was that almost anyone could serve as a prison guard. The physical duties involved are not arduous; most guards do no more during their working day than unlock a series of cells, march a line of men to breakfast and to their work, bring them back at noon, and repeat the performance in the afternoon. The rest of the day is spent sitting in a chair raised high above the floor, from which they can survey the entire workshop, or in walking the floor to relieve the monotony.

Almost anyone can discharge these duties. But to have no minimum standards for prison keepers is to set a very low value on rehabilitation of the prisoner. For it is in the company of his keeper that the inmate spends most of his time. If the keeper's duties are exclusively custodial, then we are assuring only that the inmate will not escape—that and nothing more. Is this what prisons are for?

All complex organizations must have rules, and prisons are certainly no exception. But the rules governing the conduct of prison inmates should be as few in number as possible, and each rule should have a rational justification—should really be necessary and have a well-defined aim. This is not the case in many institutions today.

In many prisons, the inmate, on admittance, is given a card or a booklet containing a multiplicity of rules and regulations. These are usually all phrased in the negative; they are a long, complicated series of thou-shalt-not's. And many of them are a little hard to view as necessary to the smooth functioning of the institutions. In some prisons there is a rule against the possession of writing materials; in some, turning one's head while marching in line is mentioned as an offense. Nowhere is there anything constructive, anything positive, anything, in a word, aimed at the goal of rehabilitation.

Rules there must be, and those on the books must be rigidly enforced. But the prison of the future should seek to keep their
number to a minimum and to see to it that each rule retained contains some logical basis and is really necessary. An attempt should be made to turn some of the rules into positive, constructive injunctions and so to avoid a long, monotonous, often trivial list of prohibitions.

In general, far greater emphasis should be laid on positive, constructive elements in prison life. Prisons are traditional institutions par excellence. Too often a procedure becomes viewed as essential and important solely on the ground that it has always existed. There is great resistance to change of any kind—especially to change of a positive nature. In one Midwestern penitentiary there had existed for many years a “store,” from which the inmates were permitted to make purchases once a week. The list of items sold was very restricted and had not been changed for years. An inmate was permitted to purchase four sacks each of two brands of bag tobacco weekly, four plugs of chewing tobacco, a pound bag of candy (at nineteen cents a pound), and a toothbrush, toothpaste, and a comb. Matches were not permitted. A new warden took office and proposed to introduce a “commissary,” from which the inmates would be permitted to buy a much larger choice of items, though the total spent by each inmate weekly was to be restricted to three dollars. Fresh fruit was to be introduced, cheese, canned sardines, crackers, and a variety of other items.

The proposal met instant opposition from the deputy warden and the old line officers. Such luxuries were unheard of and would spoil the prisoners; make such things as apples, oranges, and candy available, and the older prisoners would make use of them as bribes to induce the younger men to commit acts of sex perversion. This type of thinking is all too typical of many prison officials who have spent long years in the service. There seems to be a fear that giving the prisoners any new privilege, relaxing the severity of repression in the slightest degree might prove to be the opening of a tiny crack in the dyke, which would be enlarged and enlarged, until the sea poured in and engulfed the entire institution. There is an almost morbid insistence on keeping the pressure on, an almost pathological fear of any type of change or progress.

The opportunities for a prisoner to maintain his contacts with the outside world ought to be increased enormously. These consist of his writing privilege and his visiting privilege. The rules governing these privileges vary widely from institution to institution. But, in general they are very restrictive. In most prisons, a man, upon admittance, is required to list the people with whom he will correspond, and from whom he will receive visits. In most
institutions the number he is permitted to list is small—four or six. In others, the correspondents and visitors must be close relatives.

The frequency with which letters may be written also varies greatly from institution to institution. In some, the prisoner is permitted one letter a month, in others, one every two weeks, in still others, one every week. The letters are strictly censored; any sort of comment about the institution or its personnel is prohibited. In some institutions, the censorship rules are so rigorous that it is virtually impossible to comment on anything but the state of one's health (and there must be no complaints!) and the weather.

But if rehabilitation is the goal of imprisonment, it behooves us to keep an eye on the future. Except in the case of the relatively small number of prisoners who will die in prison (something under eight per cent), these men will all, one day, be released. The days immediately following release will be among the most difficult in the ex-prisoner's life. It is then he will need the support and the aid of his friends. But if a lengthy period of time has elapsed since he has been permitted to communicate with anyone, will he have any friends left? Will he be able to find them? If he has not been allowed to communicate with former employers, can he hope for reemployment or for help from them in finding new employment? Family, friends, and religious advisers are the people most likely to aid and support the prisoner morally; they are among the most powerful agencies which exist for remoulding the prisoner's attitudes.

When we deliberately curtail the extent of the inmate's communication with the outside world, we are isolating him, severing him from his social milieu, and increasing enormously the difficulty both of reorienting himself in a desirable direction and of reintegrating himself into society on the day of his release.

What has been said about the writing privilege holds also in the matter of the visiting privilege. If a man is fortunate and has, in general, been worthy of their loyalty, some of his friends will wish to visit him in prison. Not only will this increase his morale and encourage him to remould his thinking, but it will enable him to keep alive during his imprisonment at least some of his contacts, so that when the day of his release arrives he will not step out alone into a world of strangers but will have someone at hand to ease the transition. Far from restricting the prisoner's visiting privilege, one ought to encourage as many people of good repute as possible to keep alive their interest in the prisoner.
V. WORK

As has been stated above, what passes for work in some prisons borders on the ridiculous. Much of it is contrived ad hoc, merely to have something to keep the men busy. But the normal person will rebel against working at an obviously useless task. He may submit in the face of superior force, but he will submit with hatred in his heart. Certainly such practices do nothing either to increase the vocational skills and therefore the potential earning power of the inmates or to inculcate in him that self-discipline which makes for a good workman.

Even where factories of a kind exist, they usually lag years behind modern industrial development and so do little to prepare the inmate for remunerative employment upon his release. In part, this is due to the conflict in the market between goods manufactured in prison and those produced by free labor. The feeling on the part of labor organizations has always been that the products of prison labor compete unfairly with those of free labor—that the articles manufactured in prison reduce the market for those manufactured in the free world, and so reduce the number of jobs available. And labor organizations form powerful pressure groups; prisoners are nobody's constituents. The result has been that more and more restrictions have been placed on what may be manufactured in prison and how it may be marketed. Federal law makes it impossible to sell prison-made articles outside the state where they were manufactured; in many jurisdictions only articles for use by the state, counties, or municipal governments may be made in prison. As a result, such industries as license-plate factories are overrepresented in prisons. But, while there may be justification for the complaint of free labor, it is certain that good work habits and industrial skills are both important elements in rehabilitation. If we want our prisons to rehabilitate, some solution must be found which will permit modern manufacturing methods, requiring sound work skills, to be introduced into them. Much crime is caused, in part, by economic pressures; much recidivism can be traced to inability of the released prisoner to find work. A way must be found to increase the wage-earning potential of the prisoner.

VI. EDUCATION

Perhaps nothing is more important in increasing the likelihood of a prisoner's rehabilitation than education in the broadest sense. Indeed, rehabilitation consists in education, re-education, and redirection of the individual's drives. It might be said that a prison is intended to be an educational institution, a place where
a man's character will be remoulded and where he will be taught attitudes which are in keeping with the goals of society rather than running counter to them.

Education, and I repeat that I mean education in the broadest sense, must be the central theme of the prison, its raison d'être. And yet how little effort is spent in education in the prison of today. Ordinary academic education, such as the inmate might have acquired in the regular schools of the free world, must be made available and attractive. There should be expertly taught and expertly organized grade schools for those men who have not completed the grades before coming to prison. Perhaps attendance at such schools should be compulsory, for the person without even an elementary education is at a hopeless disadvantage in the economic competition of the free world.

Most prisons today boast an elementary school, though this was certainly not the case thirty years ago. But few are at all ably staffed. Those inmates who have had as much as a high school education before coming to prison might, with very little training, be made into adequate, even able, teachers. Teaching materials and textbooks, in many prisons, belong to a bygone age. They should be brought up to date.

But the most serious difficulty with most prison grade schools is that school is made a prison assignment, like the carpenter shop or the kitchen. Attendance at school implies that the student is assigned to a school division. To the layman this fact presents no difficulties; it is, indeed, the logical arrangement to follow. But in prison, as outside, society is highly structured. There exists a rather high degree of social stratification. And status in this stratified microcosmic society depends to a very large extent on the inmate's assignment—his prison job. Many jobs carry specific advantages and privileges. The men who work in the warden's house can keep clean, have white clothes, which are washed and pressed for them, eat from the warden's table; assignment to the kitchen or dining room often means a little better or more food than that which comes to the generality of prisoners; office jobs often carry "details," i.e., permission to stay out of the cell later than the main body of prisoners; work in one of the industries often carries a small, but highly important wage.

Now the school division usually stands at the very bottom of the heap as regards privileges and social status. The prisoners who come from the most underprivileged homes and neighborhoods are, by and large, the ones with least education. Most school divisions contain a disproportionately large percentage of
Negroes and foreigners, for it is precisely these groups who have had least opportunity for elementary education. Often attendance at school is for only half a day. Where this is the case, it is the school division which draws all the most disagreeable tasks in the free half day: unloading coal cars, repairing sewers, and the like. If there is a difference in the desirability of the various cell houses, it is a safe bet that the school division will be housed in the most disagreeable. The school definitely stands at the bottom of the totem pole.

Now consider the case of a young inmate received at the prison, who has completed only the fifth grade in school. He may be quite willing, even anxious, to obtain further education. But he has heard all about the school division from men who had previously been in prison and whom he has met in the county jail while awaiting trial, and from fellows in the neighborhood who have done time. Further, he knows that a friend of his from the neighborhood is working in the tin shop. He hopes to secure an assignment there, too. So, when asked about his education, he lies and says that he has finished the eighth grade. Usually there is no attempt to check the accuracy of the educational information supplied by the inmate. And, knowing how unpleasant conditions are in the school division, knowing the social stigma attached to the assignment, he would have to have unusual strength of character to put the advantages of further education ahead of the fleshpots of Egypt. He should not be confronted with the choice!

Either the conditions surrounding assignment to the school division should be improved to compare with those of other assignments, or inmates who are to attend school should not be segregated in one group. It would be quite feasible to allow inmates from all assignments in the prison to attend school for half the day without forfeiting their assignment. In this way, the school would comprise a cross-section of the general prison assignments, and attendance would not entail either loss of privileges or of social status.

Academic education should not stop with the grades; there should be a good high school available also. Again, the high school should probably not form a separate prison assignment, though the problems of social stratification on this educational level would be less than those of the grade school, since the men who could qualify educationally for secondary education would, presumably, not overrepresent, to the same extent, the most disadvantaged sections of the prison population.
But there are other methods of administering the high school. As in the case of the grade school, attendance could be part time, and inmates from any assignment in the prison could be permitted to attend. Or the high school might be conducted by correspondence, with the men doing their school work on their own time in their cells. Such a correspondence high school was established successfully in the 1930's in the Illinois State Penitentiary. The instructors were all inmates, chosen for their ability and academic background, and trained intensively in their duties before being qualified as teachers. The school successfully trained a number of men for admission to college, and its services were, at one point, extended to qualified inmates of nineteen other penal institutions. Incentive for study might be supplied by letting it be known that an inmate's application to study and progress in school would form one point to be considered by the parole board in its hearings.

The attitude of the custodial personnel toward education for the inmates must be modified and made more favorable. Perhaps because many prison keepers are themselves men without much formal education, there is often antagonism on their part toward education for their charges. This attitude is well epitomized in the remarks made to me by the deputy warden a few months after I entered prison. Some of the inmates asked me whether I would be willing to instruct a class in French. I agreed willingly, on condition that the authorities would consent. After one of the men requested permission to form such a class the deputy warden called me to his office, showed me the letter containing the request, and said: "Now there's no call to learn them guys anything like this here French and such. You learn them to read a little and to figger a little and to write a little. And not too much of that. We don't want to be making forgers out of them."

High school should not be the limit of academic education in prison either. In some states the state university supplies faculty members to visit the prison and hold classes; in many others penitentiary inmates are accepted by the university as correspondence students. Both practices should be encouraged and extended, for there exists a positive correlation between academic preparation and earning power and a negative correlation between earning power and recidivism.

Even more important, perhaps, than academic education is sound vocational training of prisoners. If men can be trained to be skilled artisans while they are in prison they will find it far easier to find agreeable and remunerative employment upon their re-
lease. Most institutions have some sort of program called vocational training. But in the vast majority of cases the program is only an empty name. It is here that we need diversified vocations, modern equipment, and skilled instruction. Usually one or all of these are lacking. Setting up an adequate vocational training program would be expensive, both in original capital outlay and in continuing expenses. But I believe it would, in the long run, pay off handsomely, even in financial terms, by the number of released prisoners it would prevent from recidivating by increasing their chances of being able to earn a living.

VII. PSYCHIATRIC SERVICES

As I have said above, education should be the keystone of the prison. But as I mentioned also, this must be education in its broadest sense. Academic instruction is aimed at intellectual development; vocational training contains a large element of manual skills. But an even more important type of education lies in the field of the emotions. And here we enter the domain of the psychiatrist. Most prisoners would not be in prison were they emotionally more mature and better oriented. If prisoners, as a class, differ significantly from the free community, it is precisely with respect to emotional development. It is in this field that the greatest strides toward rehabilitation are possible.

The undertaking would be expensive. But it must be attempted if society is to make a serious attempt at systematic rehabilitation of the delinquent.

At present, the ratio between prisoners confined in an institution and psychiatrists serving them is so high as to preclude psychotherapy completely. This must be changed. The professional psychiatric staff must be increased enormously; the size of the individual institutions must be reduced. Inmates should be intensively studied upon their admittance to the institution and classified according to the urgency for psychiatric help. Some inmates may be found to need relatively little reorientation; many will probably require very basic, very fundamental retraining. But by first understanding the individual inmate's problems and then bringing the inmate himself to an understanding of them and of possible ways of solving them we would be taking positive steps toward rehabilitation—rehabilitation of the kind that hopefully would be lasting and would reduce the number of recidivists.

Various shortcuts to the traditional methods of psychoanalysis might be found, as, for example, the use of narcosynthesis. And deep psychiatric treatment could be supplemented by the use of
individual counseling and by systematic group therapy. A trained professional staff of counselors and group therapists would be required. Some institutions have programs of this nature, but most do not, and even those in which such services exist need much greater elaboration and wider extension of the program.

VIII. SELF-GOVERNMENT

The inmates of our prisons were, before their incarceration, citizens of a democracy; when they are released, they will once more become citizens. One of the goals we desire to attain is to make them responsible citizens, with an active and intelligent interest in the democratic institutions of America. But then we should take advantage of the period of incarceration to awaken and develop this interest.

The procedure in most prisons today points in the diametrically opposite direction. Prisoners are allowed no opportunity to make their own decisions; everything is decided for them. No attempt is made to encourage self-reliance and a sense of responsibility; the organization of the prison discourages it or makes it completely impossible.

One method of fostering the desired qualities would be to introduce into our prisons as large a degree of self-government by the inmates as is feasible. Attempts have been made in this direction as long ago as half a century. Thomas Mott Osborne introduced a very large degree of self-government into Sing Sing in the second decade of the century. Osborne was an extremely controversial figure, and his experiment became a political football and was eventually discredited. Whatever may have been the facts in the New York case, certainly, the idea has merit and should be tried, in varying degrees, everywhere. In this way we could inculcate into the inmates a sense of responsibility, the ability to work with others, and a sense of participation in their own welfare. Surely we cannot hope to foster and encourage qualities of character by sternly forbidding them. Rather, we must attempt to produce a climate in which it is possible to develop and use the very traits which we should like to see the released prisoner possess.

IX. SUMMARY

The prisons of today are a failure, for they are not effective instruments of rehabilitation of their inmates. To remedy this failure requires a complete revision of our penal philosophy and a firm adherence to rehabilitation as the only function to be served.
A number of concrete changes might tend to increase the probability of rehabilitation, viz:

1. Prisons should be small, never housing over 500 inmates.
2. Classification of differing types of prisoners should be much more intensively carried on.
3. Penal administration must be upgraded, financially and socially, to attract qualified professionals. Careful screening of prison personnel is necessary, from top to bottom of the scale.
4. Prison rules should be simplified, greatly reduced in number, and only those which have a rational base should be retained.
5. Outside contacts for prisoners should be encouraged and an effort be made to reduce social severance to a minimum.
6. Work in prison should be made meaningful and be carried on by modern methods.
7. Education, in the broadest sense, should become the keystone of the prison. Good facilities should be provided for both academic and vocational training.
8. Psychiatric diagnosis and therapy should be enormously increased.
9. Counseling services and group therapy should be widely employed.
10. Self-government should be instituted as a practical means of developing democratic citizenship.