

From exile to reform

(EDITOR'S NOTE: This is the 13th of 15 articles on crime and justice in America. The series was written by Courses by Newspaper, an extension program of the University of California, San Diego, and constitutes the textbook for an Oakland University course taught by Prof. Jesse Pitts.)

By DAVID J. ROTHMAN

The sight of the monumental walls and high towers of an American state prison conveys such an impression of fixity and permanence that one easily forgets that incarceration is a comparatively modern practice.

Penitentiaries do have a history. They have not always been with us. A sensitivity to this history, an understanding of the causes for their creation and perpetuation, can help to clarify for us what we can and cannot expect of these institutions.

Our colonial forefathers relied upon very different methods of punishment. Convinced that the threat of deviant behavior came mostly from outsiders, they guarded town boundaries with all the diligence we reserve for an international frontier.

To preserve their insularity, towns regularly banished or expelled suspicious characters and petty offenders. When neighbors committed minor offenses, the courts had recourse to fines or to the whip or, more commonly, to shaming the offender by displaying him in the stocks. Local jails served only to detain those charged with a crime until time of trial.

THE COLONISTS, as tough-minded Calvinists, did not anticipate the reformation of the criminal or the eradication of crime.

And they understood, too, how limited their powers were: If a whipping did not deter the offender, there was little they could do—little, that is, except have recourse to the gallows. The result was an unbalanced system, vacillating between harsh and mild punishments.

Such procedures could not survive the growth of cities, or the rise in the number of immigrants, and the frequency of migrations westward in the early 19th century.

With the insularity of the community destroyed, and with "the enlightenment and republican ideology" of "the capital punishment seem a barbaric remnant of a cruder age, some kind of new sanctions would have to be created.

THAT THE alternative became the penitentiary reflects the very special outlook of its founders, the Jacksonian reformers of the 1820s and '30s. These innovators shared grandiose ambitions. They would not merely deter but eliminate crime; they would not punish but reform the criminal.

The Jacksonians were the first to announce the theme that would persist to our day: Prisons should be places of rehabilitation.

These reformers were at once optimistic about the perfectibility of man and pessimistic about the ability of a democratic society to cohere. Criminal behavior, they reasoned, reflected the faulty organization of society.

Judging their own cities by exaggerated notions of the stability of colonial towns, they say the easy morals of the theaters and saloons replacing the authority of family and church.

To counter what they took to be this rampant disorder, they invented the penitentiary. It was to be a model, almost utopian community that would both inspire the society and, at the same time, instill habits of obedience and regularity in its inmates.

FROM THESE notions, the penitentiary took its first form. To isolate the inmate from all contaminating influences, prisons were not only located at a distance from the cities, with visits and mail discouraged, but prisoners, living one to a cell, were under strict rules of silence.

A bell-ringing punctuality prevailed.

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At the sound of a gong, inmates marched in lock step to work, then to eat, and then returned to their isolation.

As acute an observer as Alexis de Tocqueville concluded: "The regularity of a uniform life... produces a deep impression on his mind." If the inmate was not released an honest man, at the least "he has contracted honest habits."

IT DID NOT take long, however, for the good order of the prisons to degenerate.

By the 1850s, even more clearly by the 1880s, the institutions became overcrowded, brutal, corrupting places. State investigations uncovered countless examples of inhumane treatment—prisoners hung by their thumbs or stretched out on the rack. Clearly, incarceration was not reforming the inmate, let alone eradicating crime.

And yet, the system persisted. Part of the reason may reflect the seeming practicality of confinement; at least for a time, the incarceration of the offender protected society.

Further, the prisons were filled with immigrants (first the Irish, later Eastern Europeans, still later the blacks). The confinement of a group that was both "alien" and "deviant" seemed appropriate, no matter how unsatisfactory prison conditions were.

BUT SUCH FUNCTIONAL considerations were not central to the continuing legitimacy of incarceration as the persistence of reformers' hopes that prisons could rehabilitate the offender.

Each successive generation of well-intentioned citizens set out to upgrade the penitentiary. The problem was not

Prof. Pitts comments

Prisons not 'schools for crime'

By JESSE PITTS
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Among the reasons given by some for abandoning imprisonment as a form of punishment is the slogan: "Prisons are schools for crime." If we send in tender youth, they will come out hardened criminals and will wreak much more havoc on society—so goes the argument.

Then there is the "Harvard" argument: It costs as much to send a felon to prison as it costs to send a student to Harvard University.

First, that is not true; \$6,000 per year are the operating costs for keeping a felon in a Michigan correctional facility. Harvard is more expensive than that.

Furthermore, what is the alternative? Felons on the street must eat. A felon at liberty must steal much more than \$6,000 per year (retail) to pay for his keep; \$10,000 per year is probably more like it, plus the costs of police, locks, burglar alarms, insurance, mental anguish, etc.

Any way you look at it, boarding a thief in our correctional facilities for \$6,000 per year is a bargain. I know, this sounds insensitive. Well, try reading this statement after returning from vacation without having left a sitter in your suburban house.

AS FOR PRISONS being schools for crime, Michigan tried hard during the period 1961-73 not to send felons to prison. Although crime more than

with the idea of incarceration but with its implementation.

Thus, the Progressives in the period 1900-20 tried to "normalize" the prison environment. They abolished the rules of silence, the lock step, the striped uniform; they looked instead to freedom of the yard, prison orchestras, schools and vocational education to rehabilitate the deviant.

In the 1920s and '30s, psychologists urged adoption of more sophisticated systems of classification so that prisoners could be counseled on an individual basis. New modes of therapy would readjust the deviant to his environment.

Both groups of reformers welcomed the indeterminate sentence and parole. Rather than have a judge pass a fixed sentence at time of trial, the offender should enter a prison as a patient would enter a hospital. When he was cured, not before or later, he would be released.

AGAIN AND AGAIN, the translation of these programs into practice was disappointing.

No matter how keen the effort, prisons could not become normal communities. Classification schemes were not well implemented; parole became a guessing game, anything but scientific or fair in its decisions.

Nevertheless, each time a prison riot occurred or another example of brutality was uncovered, reformers insisted that the fault lay with the poor administration of the system, not the system itself.

Eager to do good, determined to rehabilitate the deviant, they continued to try to transform the prison into a place of reformation.

BEGINNING in the mid-1960s, a new

doubled during that period—in Detroit alone, robberies reported to police increased from 3,400 a year to 16,250—prison commitments in 1973 were not higher than they had been in 1961.

And what were the results of this humanitarian effort that denied our prisons many potential "students"? The crimes became more gratuitously violent, and they certainly did not decline in numbers.

In fact, a young felon will have to be arrested at least three times before he is finally admitted to jail or prison. And when he is admitted, he is extremely unlikely to be a basically conforming person, caught in an accidental web of temptation.

Sometimes one finds such persons among those guilty of assault or non-felony murder, or one time middle-class embezzlers. They are, in the prison argot, "Square Johns"; and often they stay in prison longer than average, two years being a common stay for people pleading guilty to manslaughter.

Yet these are the people most likely to go straight. Why? Because people will come out of prison pretty much as they came in. If prisons could change a person's outlook on life and his values in two years or less, it would mean that prisons can teach us professors a few tricks. It would mean that the correctional boarding "school" is much more efficient than the academic boarding school.

That is doubtful. OF COURSE, the counterpart to the

generation of reformers began to question the very idea of incarceration.

For the first time, well-intentioned observers began to wonder whether the basic concept of the prison was faulty. These reformers were frank about their inability to understand the roots of deviancy or to rehabilitate the deviant.

Armed with so few answers and suspicious of inherited truths, they contended that punishment should aim, not to do good but to reduce harm; that a system of sanctions should abandon grandiose goals and try to avoid mischief.

Perhaps sentences of short duration to the avowed goal of punishing the criminal would create a more just and no less effective system.

Clearly, this agenda is not a very exciting banner under which to march. Prior generations of reformers, after all, had promised to eliminate crime. And today's less idealistic outlook is particularly liable to misunderstanding: If we cannot reform the criminal, why not lock him up and throw away the key?

AN HISTORICAL analysis does not provide us with many clues as to how this latest reform effort will turn out. Indeed, an historical analysis does not offer answers as to how punishment should be meted out in our society.

What it does offer, however, is a dynamic as opposed to a static perspective on incarceration. Penitentiaries were the response of one generation to its specific problems, and later generations experimented with their own solutions.

If we now find inherited practices unsatisfactory, we are obligated to devise our own answers.

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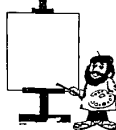
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