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Politics, Priorities and Punishment:
Crowding within the American Correctional System

by

Kari Vanderzyl

Among the domestic crises facing the United States today, including an economic recession, the AIDS epidemic and widespread drug abuse, the issue receiving perhaps the least public attention is the current condition of the nation's correctional system. The majority of Americans fail to recognize the extent of the problem, remaining unaware of or unconcerned with the massive crowding besetting our country's prisons and jails. Intensifying in severity as a result of the ignorance clouding the issue, corrections congestion has become a national crisis demanding a remedy. Any solution to the problem of prison crowding necessarily entails consideration of the gravity of the problem, its source and fundamental justifications of incarceration.

The staggering statistics clearly reveal the seriousness of the crowding problem. Last year alone, state and federal systems contained 771,243 inmates in custody, with an additional 400,000 offenders populating local jails, creating a total of more than one million incarcerated individuals (Criminal Justice Outline, May 15, 1991, 1). This total reflects the fact that the country's inmate population has more than doubled since 1980. Even more alarming, the country's prison population continues to grow at a disturbing rate. Figures for the first six months of 1991 indicate a 4% increase in the number of state and federal inmates, representing an average growth rate of 1160 inmates per week (CJN, Oct. 15, 1991). According to the most recent reports from the Bureau of Justice Statistics, for the first time in our nation's history, a single state reached an incarcerated population exceeding 100,000 inmates, with California tallying 101,995 prisoners during the first six months of this year (CJN, Oct. 15, 1991). To accommodate the enormous influx of inmates, facilities are forced to operate at levels far beyond capacity. Within the Illinois Department of Corrections, last year's population surpassed the system's designed by over 5900 inmates (Illinois DOC, Population Projections, 8). Projections for future populations show no relief in sight. The federal prison population is expected to reach 95,000 by 1995 (CJN, Jan. 2, 1990, 4). This figure, added to an ever larger increase in state prison populations, reveals a disturbing trend in the United States correctional system.

A leader among nations, the United States possesses the highest incarceration rate in the world. For every 100,000 residents, 426 remain in corrections' custody (CJN, Jan. 16, 1991, 1). The statistics indicate the country's overwhelming reliance on incarceration. The implications of such a policy necessarily include financial considerations; thus, the costs of corrections must be identified and addressed.

The severity of the nation's corrections crisis becomes apparent when approached from a financial perspective. Last year, the cost of incarceration

exceeded \$60 million per day (Lauen 1). Average costs per inmate can total over \$40,000 per year (Lauen 39). These figures, however, represent underestimations of operating costs. Costs excluded in the estimations, such as staff pensions and other benefits, comprise approximately 20% of a facility's operating expenditures (Clear and Harris 39). In addition to exorbitant operating costs, building new facilities requires substantial funding. To finance the construction of three new prisons in the state, the Illinois General Assembly appropriated \$115 million (Illinois DOC 8). According to system insider Roger Lauen, the combined costs of constructing, owning, operating and financing a 500-bed medium security prison total over \$500 billion (38). Clearly, the United States' reliance on incarceration creates a serious financial burden. However, an equally important facet of the issue concerns the daily functioning of the prisons under congested conditions.

In addition to economic considerations, crowding within the system also presents implications for staff and inmate comfort and security. According to researchers, increased populations with limited inmate access to recreational programs due to the sheer volume of prisoners and budget cuts produce widespread inmate idleness. Double or triple celling results in privacy reductions among inmates. When the effects are combined, hostilities may be fueled and the threat of overt violence emerges. Evidence suggests that crowding induces anxiety and arousal within prisoners, enhancing the probability that violence will erupt and consequently, threatening the safety of inmates and staff (Paulus 85). Inmate health suffers under congested conditions, with prisoners in crowded facilities more frequently suffering from hypertension, more prone to psychiatric commitments and more vulnerable to contagious diseases than their counterparts in non-crowded institutions (Ingraham and Wellford 28). Thus, research indicates that current crowded conditions adversely affect both inmates and staff. Like the economic pressures, the factor of staff and prisoner safety remains tied to the foundations of incarceration theory and the dynamic social context in which corrections functions.

In providing an analysis of the issue of prison crowding, the source of the problem must be addressed. Many theories have been offered to explain the corrections crisis. The common sense explanation focuses on the crime rate, postulating that the higher levels of incarceration reflect an overall increase in criminality. However, the research fails to support such a hypothesis, revealing that most crimes committed remain undetected, so imprisonment rates do not provide an accurate measure of criminal activity. (Lauen 49). Thus, the presumed relationship between crime and imprisonment does not occur in

reality. Rejecting the common sense approach and examining the social context surrounding the correctional system provides a more accurate explanation.

The predominant political policies represent perhaps the most influential force in determining incarceration levels. Public officials set political agendas, deciding which issues receive legislative attention and which acquire low priority status. For politicians, corrections reform constitutes a popular election theme, as candidates for office appeal to the public's fear of deviant activity and adopt "get tough on crime" platforms. Once in office, policymakers tend to enact legislation requiring harsher sanctions for offenders, raising minimum sentences for particular crimes and thus, contributing to the crowding crisis.

A direct product of policymakers' efforts, mandatory and determinate sentencing laws offer the best explanations for prison congestion. Mandatory sentencing laws rigidly specify sentences for particular offenses, with the objective of delivering certain punishment to offenders and thereby deterring crime. However, according to a recent study conducted by the National Institute of Justice, rather than producing a deterrence effect, mandatory sentencing has served only to increase incarceration (Lauen 55).

A serious consequence of the rigid mandatory sentencing laws involves the treatment of offenders with varying classifications. According to Lauen, mandatory sentences create "a legal 'radar scope' of very wide dimensions," encompassing many more offenders within its range than with standard criminal laws (55). Ironically, while career criminals initially figured as the targets of mandatory sentencing, the majority of offenders the system penalizes are less serious criminals. However, mandatory sentencing represents only one dimension of the legislative source of prison crowding, with determinate sentencing forming the other crucial component.

In addition to mandatory sentencing laws, determinate sentencing plays a significant role in expanding prison populations. Determinate sentencing originated as a direct response to the disparities in inmate length of stay resulting from indeterminate sentencing. The determinate framework features narrow parameters for sentences and a fixed minimum period of time which all offenders are required to serve. Thus, an offense carrying a sentence anywhere from two to ten years becomes narrowed to five to seven years. With this system, discretion is transferred to lawmakers who establish the sentence parameters (Mullen 83). Legislators who seek to create harsher sanctions continually raise the fixed minimum sentence, sending more offenders to prison for longer durations, and consequently, contributing to corrections congestion (Blumstein 167).

Inflexibility, reflected in the system's inability to respond to crowded conditions, remains the primary flaw of the determinate framework.

Any viable solution for prison crowding must focus on reducing the number of offenders entering the system. Those remedies which only provide for accelerated releases or constructing additional facilities ignore the source of the problem: mandatory and determinate sentencing sending more offenders to prison for longer periods of time. Thus, to borrow Gottfredson's terms, "front door" policies, offering guidelines for decreasing the amount of offenders entering corrections, in combination with appropriate "back door" release mechanisms, represent the most effective measures for relieving prison congestion (143).

Currently, most approaches to the overcrowding crisis, reflecting deterrence and incapacitation philosophies, remain ineffective. The standard remedy consists of constructing new facilities to accommodate the overwhelming influx of inmates. In an effort to isolate offenders who pose threats to their communities and to deliver certain and severe punishment, new correctional institutions are created. Not only do fiscal constraints limit the long-term effectiveness of such a response, but without restricting the flow of additional inmates into corrections, in a matter of time, every existing facility will suffer from congestion.

Another approach to resolving the issue entails manipulating release mechanisms. These "trap door" policies, including parole and emergency release measures, temporarily relieve prison crowding. Some early release provisions implemented when populations exceed facility capacity feature administrative authorization to release enough inmates to return to capacity. By 1986, at least one-third of the states had established policies providing for early release under emergency conditions (mullen 101). Early parole remains an unpopular strategy since inmates released early are perceived as threats to society, despite evidence indicating that early parolees possess lower rearrest rates than those paroled according to schedule (Lauen 72). Increasing parole rates, however, result in heavier caseloads for already overburdened parole officers. Therefore, awards of credit for inmates' good behavior represents a more attractive alternative.

Emerging in the middle of the nineteenth century, the use of good-time as a means by which to regulate inmate behavior relies on the incentive of diminishing the length of inmates' sentences. Some states award good-time in the form of credits against time served where administrators revoke credits for inappropriate behavior. In other states, meritorious good-time offers rewards to inmates for good behavior, with lowered standards for conduct employed in

congested conditions. Illinois provides for a 50% sentence reduction for good-time, allowing up to a 180-day decrease to inmates with good conduct (CJN, June 3, 1991, 5). Although mechanisms such as good-time credits cannot eliminate prison congestion alone, when combined with efforts to reduce inmate intake, the crowding problem can be solved.

The most effective remedy for the corrections crisis is one which addresses the source of the problem. Thus, resolution of the issue requires changes in sentencing policies. Policymakers need to recognize that the present system fails to deter crime and adopt new mechanisms for dealing with offenders. The current system tends to overclassify offenders in attempts to preserve the illusion of protecting society by conservatively categorizing inmates. Overclassified inmates, receiving longer sentences, remain in the system longer, draining resources and contributing to prison congestion. A study by the Rand Corporation suggests that as many as 50% of the lower-risk inmates serve longer sentences due to misclassifications (Gottfredson 152). By classifying inmates according to severity of the crime and prior record, high and low-risk offenders can be identified and sanctioned accordingly. Based on a selective incapacitation rationale, this approach features longer sentences for inmates who pose the greatest risk to society. Lower-risk offenders can travel through the system more quickly, providing an efficient use of prison space.

Rational, uniform guidelines for sentencing offer the most effective, long-term solution to prison crowding. Policymakers need to consider the practical and normative implications of their efforts in revising corrections legislation, determining who should be incarcerated given limited prison space (Mullen 84). Coordinating with corrections officials and judges, lawmakers should enact legislation flexible enough to respond to problems arising within the system. Moreover, maintaining uniformity in determining reasonable inmate classifications and delivering appropriate sanctions would protect against future crises.

The Minnesota Sentencing Guidelines Commission, composed of community members, corrections administrators, judges and legislators, offers an exemplum of effective alternative sanctioning. In sentencing offenders, this system limits judicial discretion, providing judges with a narrow range of sanctions from which to choose depending on the offender's prior record and the severity of the current offense. In addition, practical considerations of prison space are reflected in the sanctioning options, with community-based programs representing alternatives to incarceration in some cases. As evidence of the

program's success, Minnesota prisons remain uncongested, housing primarily high-risk offenders (Lauen 63).

Community-based corrections, an essential feature of the Minnesota system, includes programs working to rehabilitate offenders within their social environment, providing alternatives to incarceration such as work release under supervised custody. By forming committees consisting of lay citizens and corrections administrators, community-based programs can be effectively monitored and maintained at the local level. In Delaware's successful Supervised Custody Program, selected low-risk inmates, following a strict screening process, participate in work release and regularly report to supervisors. Used in conjunction with sentencing innovations, these programs offer viable solutions to the crowding crisis.

A product of the widespread acceptance of the myth that incarceration serves as a deterrence mechanism, the condition of the United States correction system represents a persistent domestic crisis. Faced with an endless influx of prisoners, institutions are forced to jeopardize inmate and staff safety, while states must spend millions of dollars building new facilities in attempts to accommodate rising numbers of inmates. Policymakers' "tough on crime" campaigns, which typically result in establishing stiffer sanctions and longer sentences for offenders, contribute to the staggering incarceration rates. To relieve current congestion, emergency release provisions must be implemented; however, long-term remedies addressing sanctioning policies and promoting alternatives to imprisonment offer the only hope for eliminating such crises in the future.

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