

“Hold the Key to your Cell:” The Use of Incentives in Prisons.

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“The prisoner should hold the key to his own cell” is a well-known phrase coined by Captain Alexander Maconochie in the 1830s, before he embarked for a historic assignment at the Norfolk Island colony, where he invented parole and established the world’s very first prison incentive system. A subtitle of a recent book about Maconochie (Morris, 2002) alludes to “the roots of modern prison reform.” The phrase is apt, because the prison reward system that was invented by Maconochie and endorsed by others led to the central theme of the penal congresses of Cincinnati in 1870 and London in 1872. The 1870 Congress’ Declaration of Principles thus demands in obviously Maconochian terms that “the prisoner’s destiny, during his incarceration, should be placed, measurably, in his own hands.” This adage has been only slightly rephrased in the highly influential Inquiry known as the Woolf Report (Woolf and Tumim, 1991), which postulated that “it should be possible for each prisoner to have the incentive of knowing that he or she will build up a record of activity and behaviour during his time in prison which increasingly allows him greater freedom and greater opportunity until such time as he is discharged” (para. 14.46).

Bosworth and Liebling (1995) confirm that Maconochie’s incentive system was not only “greatly admired at the time” but “was highly influential in prison reform in Europe and the United States until midway through this century” (p. 1). An amazingly faithful application of the model was the progressive regime of the English Borstal system for young offenders. Precisely as Maconochie had suggested, Borstal youths were dealt with under an indeterminate sentence, and “had to ‘earn’ their way through the institution, ultimately achieving the goal of supervised release”.

In the 1980s, the British Home Office created a group called the Control Review Committee (CRC), which concluded that “the best approach to control is to build incentives into the system” (cit. Bosworth and Liebling, 1995, p. 7). The same premise inspired a more contemporary policy initiative called the Incentives and Earned Privileges (IEP) policy, which was promulgated for English prisons and young offender institutions in 1995 (Bottoms, 2003, p. 109). The document announcing and describing this policy initiative was Prison Service Order 4000 (as amended, HM Prison Service, 2000). This Order defined the policy as a “commitment to a system of structured incentives based on prisoners’ behaviour and willingness to cooperate [which] seeks to ensure that prisoners earn privileges by responsible behaviour and participation in hard work and other constructive activity” (p. 1). There is clear overlap between this definition and Maconochie’s original dictum, but some nuances have been changed in transit. The Order talks of “privileges,” for example, but not in terms of increments of freedom. The theme of choice and progression has also somehow lost its advertised salience. In its stead, the Order talks of advantages that can be earned through conformity to rules.

Competing Incentive Systems

According to Norval Morris (2002), when Maconochie announced the notion of promotional opportunities for inmates, “mockery [by others] knew no bounds (p. 26).” Morris speculates that Maconochie may have been accorded his assignment to set him up (p. 26), but if so, the strategy clearly boomeranged. Conditions at Norfolk Island were so unspeakably desperate that they presented an ideal opportunity for a liberal prison reformer. There was transparently no way to go but up, and Maconochie’s ideas were the only show in town. He instituted a number of ameliorative reforms, and Morris (2002) suggests that these may have upstaged the “Marks” System in the eyes of the convicts. At least, he has a fictional Maconochie pose the question, as follows:

If, then, the Marks System, was not the explanation of the superiority of my regime on Norfolk Island over that which went before—and I have no doubt at all of that superiority—what was the explanation? Merely an insistence on a more humane regime, more fairness, more control of previously unfettered brutality. But if that was all, would I have been here? (p. 151).

Unlike the situation that faced Maconochie at Norfolk Island, in today’s prisons, in most parts of the civilized world, a variety of privilege and progression arrangements are routinely in place. Any newly instituted incentive system must accommodate such arrangements, and inevitable overlaps between systems can create confusion and frustration, especially for their presumptive beneficiaries. The IEP system supplements any preexisting arrangements by setting up three privilege levels (basic, standard, and enhanced) in each prison. An inmate who may have worked his or her way up to a self-defined sinecure may be demoted, or discover that his or her promotion rests on a new set of criteria. A prisoner facing a disciplinary proceeding may find that as an add-on penalty, a lower-reach-of-hell level has been introduced in disciplinary segregation settings.

Cambridge-University researchers studying the English IEP System encountered inmates for whom the system spelled loss of privileges, who “felt they had ‘earned their way’ from a closed prison to an open prison, and should not have to ‘start earning again’ once they arrived there” (Bottoms, 2003, p. 137). At the other end of the incentive range, differentiations in administrative segregation settings have bordered on the grotesque. While gradations of punitive conditions may be advertised as promotional opportunities for segregated inmates, prisoners typically testify that what really matters in their lives are substandard entry levels which have somehow been defined as baseline incentives (Toch, 2002).

Reliability and Transparency

Maconochie and his disciples understood their incentive systems in a context of indeterminate sentencing and graduated release. This fact becomes dramatically obvious with the Irish or “intermediate” version promulgated by Maconochie’s disciple Sir Walter Crofton, whose core stage involved residence in a halfway house or work release. For Maconochie, a benefit of his own system was that it enabled release decisions to become transparent and reliable. John Barry (1956) points out that

Maconochie’s emphasis was always upon the desirability of a prisoner knowing where he stood, and what he had to do to earn his liberty. I do not think he would have cared for a system where time of release depends, not upon a

prisoner's own efforts, but on a tribunal's estimate of the significance of those efforts, and of various other considerations which may not be known or disclosed to him (p. 160).

The Marks System rested on a published rate of exchange—or rather, on two published rates of exchange. The tasks to be rewarded were listed, as were the amenities the prisoners could purchase if they had acquired sufficient credit. The most important of these benefits was that accumulated marks could buy time reduction. The rate of exchange for time was 10 marks per day, which happened to be the prevailing minimum daily wage.

In allocating behavior ratings, Maconochie was a stickler for reliability checks. According to Barry (1956), Maconochie “contemplated that marks should be affixed daily by various goal officials, acting separately, for various aspects of a prisoner's conduct and labour. In this way he considered that the dangers of abuse of discretion would be lessened” (p. 159). Maconochie seemed to feel that there was strength in numbers, and may not have shared Morris' (2002) concern with the fact that “he was largely at the mercy of and the integrity of the guards” (p. 147). Maconochie appeared less concerned than Morris about unfettered exercises of discretion, given shared rules and criteria. He may also have anticipated the presumption that “just as staff-prisoner relationships are at the heart of any regime, and are central to control, they are likely to be the key determinant of the success or failure of any scheme of incentives” (Bosworth and Liebling, 1995, p. 110).

The IEP System in England inherited Maconochie's expressed interest in transparency and reliability. The Prison Service Order which set up the system specified that

Each establishment's local incentives and privileges scheme must set out a statement which includes details of the criteria for the earning and retaining of privileges... If an incentive system is to operate effectively and consistently, in ways perceived to be fair by all who have an interest in it, the standards expected of prisoners, and the consequences of meeting or failing to meet them, must be clear (p. 39).

The absence of consistency, and specificity can lead to suspicions of unfairness. The converse, however, does not thereby follow. Standardized incentive systems prevent perceptions of unfairness, but also invite such perceptions. In general, bureaucratic procedures are apt to be impersonal, and risk making clients feel that they are being treated like assembly-line products. Such impressions especially matter with incentive systems. Most of us enjoy being rewarded for personal accomplishments that have been discerned and appreciated by others. The experience is different from receiving structured feedback, such as via a form (the IEP Order mentions a “tick box format”) featuring pre-coded lists of approved behaviors. Bureaucratization of assessments can also lead to their routinization, as in most personnel evaluation systems. Morris (2002) has his fictional Maconochie testify, in retrospect, that “I had to admit that my reckoning of marks for each convict has lapsed largely into routine... The overwhelming pattern was a steady accumulation of day-by-day allocation, signifying very little about the progress of the prisoner toward fitness for greater freedom” (p. 151). In its English application, the marks system was abandoned when it became obvious that “prisoners were routinely awarded

marks to progress to superior stages unless they engaged in forms of extreme misconduct” (Bosworth and Liebling, p. 2).

A more serious danger of standardizing assessments is that it can center attention on form (through application of criterion definitions to discrete behaviors) over underlying behavioral substance. A prisoner being rated is very unlikely to get a sensible answer if he asks, “Do you really believe that I am accomplishing something that we agree is worthwhile?” The IEP Order recognized this contingency. It acknowledged the difference between holistic and atomistic ratings by specifying that what must be rewarded (or discouraged) are *patterns* of behavior. Definitions of patterns are ultimately necessarily holistic. Characterizations of behavior patterns do not emerge ready-made through statistical summations of behavior descriptions. Patterns emerge through systematic study of such inventories, via case conferences in which prison staff pool and discuss the available information and draw inferences from it. Inmates can profitably participate in such sessions, and gain some insight by helping define their own patterns of behavior. (Toch and Adams, 2002).

In the title of an earlier paper (Toch, 1988) I referred to the dispensation of “rewards” in prison. Reward and incentive are not the same concepts, though they look equivalent. According to the dictionary, a reward is “something that is given for...some service or attainment,” but an incentive is “something that incites...to action.” Incentives are therefore future-oriented: an incentive is as an incentive does. Rewards can of course function as incentives, but to be incentives they must have motivating potential. In other words, even if rewards are proportionate, equitable and satisfying, that does not qualify them as incentives. If a reward is to become an incentive, it must be given for behavior that shows promise and demonstrates initiative, and it must inspire, support and facilitate constructive behavior.

If one wants to operate a system to promote offender advancement, as Machonochie suggests, one must track behavioral progress over time, and credit changes engendered along the way. The role of incentives would be to enhance the inmate’s autonomy and increase his or her opportunities when the inmate shows progress, thereby accelerating his or her progression. But what if the prisoner shows no progress, or behaviorally regresses? The last thing we would want is to accelerate the inmate’s downward spiral by reducing the range of opportunities we make available to him. Even more self-defeating would be a system that prescribes the cumulative application of disincentives for patterns of degenerating misbehavior.

Prisoners who behave very badly need especially to be given remedial opportunities, rather than demotions to sterile, stripped-down environments. Experience has demonstrated the silliness of the belief that if we increase the discomfort level of a disgruntled person he or she will be inspired to shape up, as opposed to inventing new ways to demonstrate his or her well-established nuisance value. And even if disincentives miraculously worked, they would leave a dysfunctional individual on his own with a newfound beneficent resolve. To be effective under the best of circumstances, a disincentive system has to go hand in hand with regenerative opportunities, which critics can define as privileges.

Keeping One’s Eyes on the Goal

Assuming that as an inmate an incentive system credits me with having demonstrated Behavior X, and assuming I discover that another prisoner who has been similarly credited is allowed a phone call to his ailing wife, I may protest the prison's failure to award me a phone call to my healthy or nonexistent spouse. Such envious bids can result from the emphasis on the equitable distribution of privileges as proportionate rewards. This emphasis can lie at the core of incentive systems, and invite a good deal of legalistic quibbling.

It helps if one heavily relies on individualized arrangements, for example, on compacts (as provided for under the English IEP Order). However, the reason such arrangements may not solve the problem is because compacts can be legitimately viewed as contracts, even though—as in the IEP Order—instructions specify that “compacts are not contracts—words and phrases with legal meaning must be avoided” (p. 18). Compacts happen to be signed documents that can be pointed to, providing a fertile arena for indignant legalistic disputes.

In designing an incentive system, the last thing we should want is to promote an obsessive concern with penny-ante benefits. What we should want is to motivate personal involvement by offering to prisoners what they regard as interesting, relevant opportunities. Such opportunities can include those facilitated through increments in freedom, including accomplishments available on work release and supervised temporary releases, which provide reliable tests of coping capacity. Bosworth and Liebling (1995) also point out that “the ‘whole regime’ may be more significant to prisoners than single variables such as home leave” (p. 139). All sorts of environmental modifications can thus be used as incentives. Decent quality of life, however, should never be negotiable. When Maconochie abolished whipping posts at Norfolk Island, he did not offer freedom from whipping as an incentive.

Another concern relates to “Godfather strategies” of extending offers prisoners could not refuse. Early release contingent on program involvement, for example, is an incentive which raises doubts about the sincerity of resolve and the spontaneity of motive of program participants. Such doubts are reinforced by questions about the value of constrained participation. Fortunately, the impact of experiences is not contingent on the purity of intentions. One does not win races depending on how one feels at the starting gate. Substance abuse treatment that is involuntarily undertaken can be effective, for example, because motivation of patients changes in the course of treatment.

Questions can also arise with regard to the behaviors that are rewarded. Under an undiluted control strategy, one rewards law-abiding behavior and conformity to rules. But even if that is the restricted option one exercises, it should not imply a disdain for the welfare and interests of prisoners, either as individuals or as a community. Conformity is not a zero-sum game. Prisons can obviously benefit when they improve conditions for their inmates, and clearly, vice versa.

Robert Johnson (1996) has suggested that prisons might encourage and reward “mature coping,” which he defines as “dealing with life’s problems like a responsive and responsible human being, one who seeks autonomy without violating the rights of others, security without resort to deception and violence, and relatedness to others as the finest and fullest expression of human identity” (p. 98). The IEP Order concurs, noting that “the broad principles of good behaviour and performance underlying an orderly prison society are similar to those generally expected of members of society outside prison” (p.

40). This communality makes it appropriate to offer incentives in the prison for behavior patterns reflecting "civility," "mutual respect," "treating others with justice and fairness," and "due regard for others' health and safety," as well as for "effort and achievement in work and other constructive activities," and "non-violence" (pp. 40-41).

Sentence and Career Planning

The Control Review Committee of the 1980s mentioned the deployment of "sentence or career plans" in incentive systems. A distinguishing feature of sentence plans is that they "always deal with the entire term of imprisonment" (Bosworth and Liebling, 1995, p 97). The same holds true of career plans, but the concept is more distinctive, in that a career is defined (according to Webster's Dictionary) as "a field for, or pursuit of consecutive progressive achievement." The term "career planning" thus implies that one would plan for progression or advancement over the length of the prisoner's sentence, especially with long-term prisoners and lifers (Toch, 1977, Flanagan, 1995). The idea, in practice, would be disarmingly simple:

Where prisoners have access to educational opportunities, [there is] no reason why such opportunities cannot involve progressive attainments for bright or talented prisoners. There is also no reason why vocational training cannot continue to enhance the competence of prisoners who have the requisite skills and interests. The remaining question is whether one can provide long-term prisoners with increasing opportunity to apply knowledge and exercise skills, to expand the range of contributions they can make, and to receive commensurate increments in status, responsibility and recognition (Toch, 2002, p. 254).

To talk of "increments" in "status, responsibility and recognition" is to speak of rewards and incentives that are routinely experienced in free-world careers. We could assume that long-term prisoners might be no less responsive than are long-term civil servants and tenured academics to enticements such as promotions and accolades—provided these are convincingly based on documented achievements. We could also assume that there is no reason to believe that the long-term prisoners would be less capable of experiencing intrinsic task-related satisfactions, once afforded meaningful responsibility and opportunities to do interesting work.

The IEP Order specifies that "prisoners may find non-material incentives more motivating than material ones" (p. 32); for example, prisoners could be afforded membership in committees or opportunities to contribute to the community. It is understandable, though, that incentive systems gravitate to rewards such as pellets for laboratory rats, i.e. those that are tangible and handy to allocate. In prison, one thus starts by taking inventory of available standard amenities, and one offers commodities such as extra phone calls, more time out of cell, and private trainers. But whatever the advantages of such enticements, by placing them in the foreground we cannot help communicating the expectation that rats should want pellets—that prisoners should center their lives on the pursuit of fringe benefits. Arguably, our system may thus detract from the serious motivation that we seek to engender in our prisners.

The use of career ladders can reduce the danger, because the rewards that would be largely on offer would consist of enhanced opportunities for making contributions to the world. These opportunities, in principle, can range widely, but they can include

opportunities to make contributions to the world of corrections. A Task Force on Long-term Offenders of the Correctional Service of Canada thus proposed the creation of paraprofessional career ladders for inmates. In a summary of its Report (Task Force, 2000), the group wrote:

The Task Force looked at ways to achieve better sentence planning and make more constructive use of time for all incarcerated long-term offenders. The concept of long-term offenders participating in correctional careers offered a constructive alternative to allowing offenders to possibly drift within the system for ten or fifteen years before they become the focus of real attention immediately prior to their release. These offenders could support and assist staff in the conduct of their correctional work while at the same time contributing significantly to their own personal growth (p. 5).

Increments of Freedom as Incentives

Norval Morris (2002) points out that an "essential element" in Maconochie's prescription was "increasing autonomy within the prison, as marks accumulate" (p. 162), up to and including "the requirement of graduated release procedures, including supervision within the community, leading to ultimate freedom" (p. 195). If the inmate has behaved satisfactorily under given degrees of freedom, we can expand the range of his freedom another notch, to see how well he handles fewer restrictions or additional options. In this way we can progressively test our preconceptions about the coping capacity of individual prisoners.

Increments in autonomy can function as tests, but also allow for rehearsals of behavior. Success achieved under structured conditions can turn to failure under unstructured conditions, which the offender may experience as confusing and overwhelming. The shock of experienced abruptness and disjuncture can be ameliorated by offering manageable tasks under increasingly challenging conditions. Graduated experiences of success can lead to enhanced demonstrations of competence, including social or interpersonal competence. Johnson's "mature copier" can gain maturity with opportunities for increased association under decreasingly supervised conditions.

Participatory Incentive Systems

Observers have noted that prisoners often demonstrate a strongly-developed sense of justice, or of injustice (Woolf and Tumin, 1991). One of the sources of this ethos is the fact that most staff-inmate transactions are heavily parental, featuring routines such as, "I need--you can't have," "you must do--I won't," "why?--because I said so," and "I gotcha!" Even carefully devised incentive systems can add fuel to the unconscious resentments these quasi-parental transactions may evoke. The contingent dispensation of rewards by staff uncomfortably replicates early experiences such as "if you eat your spinach, you may have ice cream," or "if you finish your homework you can go out and play." Such experiences are emotionally loaded, and the experiences related to disincentives (go to your room," "you are grounded," "no, you can't have the car keys") are even more blatantly infantilizing, and predictably humiliating (Sykes, 1958).

Due process can ameliorate feelings of injustice, but may not be able to mitigate resentments that are colored by patronizing treatment. Enlightened documents that are

shared with prisoners may be written in off-putting administrative language. Feedback to the inmates can consist of redundant boilerplate formulations. The challenge is to attenuate rather than to accentuate inmate-staff caste differences—to enrich due process by introducing what transactional analysts call “adult-to-adult transactions,” at as many junctures as possible.

Incentive systems are not customarily designed by their beneficiaries, but it is customary to provide some form of representation, as occurs in contract negotiations that determine pay increases. It is inappropriate for beneficiaries to assess their own performance, and to specify one's own rate of compensation. We do expect to select the areas of endeavor that we find congenial and for which we feel qualified, and this means that a choice of activities to which incentive systems apply can be up to the individual.

Sophisticated managerial strategies can provide for a variety of collaborative incentive arrangements. One set of fashionable strategies is that of Management by Objectives (MBO), which are “systems of joint target setting and performance review designed to increase a focus on objectives and to increase the frequency of problem-solving discussions between supervisors and subordinates and within work teams” (French and Bell, 1999, p. 224). Maconochie anticipated the interaction of work teams, by enabling “convict groups to work together with the incentive that each in the group could thus earn more marks than each working separately” (Morris, 2002, p. 162).

The English IEP Order states that “in the interest of natural justice the prisoner must be involved throughout the decision making process” (p. 42). The examples cited in the Order in support of this point include the rights to a hearing and to have adverse decisions appealed. Such provisions are generous, but do not exhaust the range of possible “involvements throughout the decision-making process.” More direct opportunities for inmate input seem to be available through the negotiating process whereby personal compacts are arrived at, and through sentence planning sessions. It is in these encounters that prisoners can verbalize their goals and predilections, and gain commitments of support from staff for conjointly selected courses of action.

Though prisoners (with the possible exception of inmates in Norwegian prisons) have no prisoner trade unions, inmate representatives might profitably contribute to discussions about local rosters of incentives, since they may be in a better position than staff members to specify the rewards their peers might find especially attractive, or to rank-order rewards in terms of their likely importance to inmates. As one outcome of such discussions some amenities might be deleted from incentive rosters because they ought to be widely available as a matter of course. This is an option it is important to exercise in a prison system such as the English, which prominently values natural justice.

Maconochie arranged for prisoners to have a choice of rewards by letting them exchange any marks they had earned in a limited variety of ways. The same arrangement became prevalent in token economies, and lends itself to adaptation wherever points are assigned in rating behavior. Where incentive systems are qualitative and less quantifiable, different arrangements have to be introduced so that prisoners can express preferences, or make choices of rewards. A catalogue approach is one possibility: Such an approach was taken in a prison with a large and elaborate library of educational videos, which made provision for individually self-programmed cell-study courses, designed by inmates at intake. Computer programs are available that enable prisoners to

make “reservations” for program assignments, taking into account such variables as projected classroom capacity and staffing patterns (Toch, 1995).

Coda

We have known all along that if prisons are to ever transcend the uninviting task of warehousing embittered recidivists, they have to actively encourage offender development. One way to do so—in the 1840s, and now—has been to invent innovative ways to encourage and support self-motivated change in imprisoned offenders, which is what Captain Maconochie told us when he said that “the prisoner should hold the key to his own cell.”

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