

PRISON REFORM IN A FEDERALIST DEMOCRACY

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Politicians are responding to perceptions of a primitive, bloodthirsty electorate by advancing proposals for harsher and more austere prisons. However, studies show the public to be decidedly optimistic about the prospects for change during incarceration, particularly as a result of hard work and self-discipline. In this context, long-term inmates pose the biggest challenge for correctional administrators. A "career-planning" model, centered around notions of advancement, progression, continuity, choice, and achievement, is advocated. Six essential elements of "career planning" for inmates are proposed.

In 1831, Gustave de Beaumont and Alexis de Tocqueville arrived on American shores to inspect our penitentiaries. After casing the joints, so to speak, the young Frenchmen published their monograph on the *Penitentiary System in the United States and Its Application in France*. Among other observations, de Beaumont and de Tocqueville reported that

there are in the United States a certain number of philosophical minds, who, full of theories and systems, are impatient to put them into practice; and if they had the power themselves to make the law of the land, they would efface with one dash, all the old customs, and supplant them by the creations of their genius, and the decrees of their wisdom. Whether right or wrong the people do not move so quickly. They consent to changes, but they wish to see them progressive and partial. This prudent and reserved reform, effected by a whole nation, all of whose customs are practical, is, perhaps, more beneficial than the precipitated trials which would result, had the enthusiasm of ardent minds and enticing theories free play. (p. 52)

De Beaumont and de Tocqueville concluded that "whatever may be the difficulties yet to be overcome, we do not hesitate to declare that the cause of reform and progress in the United States, seem to us certain and safe" (p. 52).

We latter-day philosophical minds are reconciled to the fact that the enthusiasm of our ardent minds and enticing theories does not have free play.

By the side of one state, the penitentiaries of which might serve as a model, we find another, whose jails present the example of everything which ought to be avoided. Thus the State of New York is without contradiction one of the most advanced in the path of reform, while New Jersey, which is separated from it but by a river, has retained all the vices of the ancient system.

Ohio, which possesses a penal code remarkable for the mildness and humanity of its provisions, has barbarous prisons. We have deeply sighed when at Cincinnati, visiting the prison, we found half of the imprisoned charged with irons, and the rest plunged into an infected dungeon; and are unable to describe the painful impression which we experienced, when, examining the prison of New Orleans, we found men together with hogs, in the midst of all odors and nuisances. In locking up the criminals, nobody thinks of rendering them better, but only of taming their malice; they are put in chains like ferocious beasts; and instead of being corrected, they are rendered brutal. (pp. 48-49)

De Beaumont and de Tocqueville saw advantages in a system that, they noted, provides to each state "a more prompt and energetic progress in the direction which it follows freely and uncompelled" (p. 50). They advanced the further presumption that progressive developments in such a system would be emulated elsewhere. In the words of the dynamic French duo:

The impulse of improvement is given. Those states which have as yet done nothing, are conscious of their deficiency; they envy those which have preceded them in this career, and are impatient to imitate them. (p. 52)

There is no provision in this dissemination scheme for states that might imitate states that save money (or garner votes) by firing teachers or selling off gymnasium equipment. Moreover, if one moves in that direction, one can anticipate a situation in which foreign observers will survey American prisons to inventory things they must try to avoid. With respect to developments such as supermaximum security prisons, this situation is already at hand.

De Beaumont and de Tocqueville had faith in American public opinion, and our own legislatures must learn to do likewise, rejecting caricatures of primitive, bloodthirsty electorates. Studies using focus groups show a public that differs refreshingly from such caricatures. With respect to prisons, the public's view has been consistent over time. It is a secular version of the Puritan ethic that envisages redeemability through works and reassimilation into the community. It is an optimistic, almost-anyone-can-make-it,

facilities, who will pay the heaviest price for welfare reform). It may be worth considering how to respond to long-term confinees.

To what others say on this subject, I add my customary plea for career planning or sentence planning. My concern here is congruent with that of Beto, who said that "to tell a young man in his mid-twenties, full of the juices of life, that regardless of his behavior, he must spend the next twenty or more years of his life in prison, not only removes hope but creates a serious management problem." We must thus try, in Beto's words, not to make sentences "hope destroying."

When I first talked about this subject decades ago, my point was simple: Long-term prisoners live in the prison. Portions of prison life are, or ought to be, careers in the same sense in which they are, or ought to be, for the rest of us. Careers presuppose advancement, progression, planful continuity, choice points, and valued achievements along the way. Can careers be engendered in the prison? I believe that they can, because I have been exposed to a prison system that has approximated the model and is refining it. Essential elements, as I now see them, are the following:

1. The career model presupposes case management. A staff member of the prison must work with the prisoner to help him or her formulate short-term and long-term plans that are congruent with the prisoner's interests. Such plans should include activities that yield meaningful products and develop skills that can subsequently be rehearsed. Case managers must arrange for placements through which plans can be implemented. This includes mobilizing resources and services and relevant learning opportunities, as well as keeping in touch with the inmate and those who work with the inmate. It also includes keeping a cumulative record, which ensures continuity as the torch is passed from case manager to case manager.
2. The model presupposes opportunities for consultation and choice. The prisoner must be able to review his or her career to date and decide whether to continue on a given path or explore new and different options. Choice points should occur at the inception of confinement, at the transition from early career to midcareer segments, and as the prisoner moves from midcareer to a late-career or prerelease stage. Choice points should also occur if and when the prisoner is transferred from one institution to another.
3. The model presupposes a sequence of settings that is congruent with phases of the prisoner's career. The Scottish Prison Service in which the scheme I referred to has been implemented has introduced an orientation setting for long-term prisoners. The system also has midcareer settings and permeable institutions for prisoners approaching release. It also has provisions for prisoners with special needs who have difficulties coping with mainline settings.

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