

PORTION OF THE FINAL REPORT OF THE SPRING TERM 1973 GRAND JURY
PERTAINING TO PROBATION AND PAROLE.

TO THE HONORABLE HAROLD R. VANN, CIRCUIT JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

It is with heartfelt regret that, after only thirteen sessions, we tender this report as the last act of this Grand Jury.

Although our term was aborted in its prime by an act which, to us, appears capriciously disdainful of juristic common sense, we have accomplished much which may be of benefit to our community depending upon the extent of its application.

WIRETAPPING

We have heard many hours of testimony; and Acting State Attorney, Mr. William A. Meadows, Jr., with the able assistance of Mr. James W. Matthews and Mr. Gay R. Shahan, have painstakingly followed up allegation after allegation in an effort to find evidence that widespread illegal wiretapping may exist in Dade County.

Our investigation has, thus far, revealed no such evidence; and we would urge our public officials to exercise restraint in the future before fanning the flames of public paranoia with uncorroborated allegations.

PROBATION AND PAROLE

We have also completed a rather exhaustive investigation into the Parole and Probation System and are pleased to report the following observations, conclusions, and recommendations:

The Grand Jury has studied the state correctional system particularly as it relates to Dade County and to parole and probation.

The present system does not work. Probation is meaningless; prisons are schools for crime. The responsibility for this situation does not rest with any one agency or branch of government. Rather the

system reflects the indifference shown by society to the entire question of correctional reform.

Many dedicated people have devoted great time and energy in the area of offender rehabilitation. The Jury would like to commend those individuals who have chosen employment in this field despite the frustrations of the system.

Pretrial Intervention

This is a new concept in the administration of criminal justice. A pretrial intervention program makes available to the youthful, non-violent first offender, during the period immediately after arrest and for three to six months thereafter, a complete diagnosis, intensive counseling and supervision, and the provision of a wide range of community services (such as narcotic rehabilitation, psychiatric treatment, vocational training and so on). During this period, the prosecution of the case, with the consent of the arresting officer or victim, is withheld and the outcome of the case is made to depend on how well the defendant responds to his pretrial program. The defendant must voluntarily consent to enter the program since he is still presumed to be innocent.

Most offenders in the category described above are released on bond or their own recognizance prior to trial and most are put on probation after trial. By providing such supervision immediately after arrest rather than waiting until after the trial, the motivation for rehabilitation is greater and the cause of the crime can be dealt with immediately and more effectively.

Following the period of deferred prosecution and program completion, a recommendation is made by the pretrial intervention staff to the prosecutor handling the case. The options are basically three:

(1) Revert the case to normal channels and prosecution where program participation has been unsatisfactory; (2) Continue the deferral of prosecution; or (3) Enter a dismissal of charges where program participation has been successful.

The last alternative, wherein the State Attorney does not file an information, based upon successful pretrial intervention participation, has several important effects: It diverts a case from an already overcrowded system with economic savings to all the elements in that system. It gives the youthful non-violent first offender the opportunity to earn a clean record without the stigma of a criminal conviction and, at the same time, permits the prosecutor and pretrial intervention to use the charge as an incentive to continued good behavior by making clear to the defendant the State's right to file the charge at any time in the future during the duration of the period of the statute of limitations should the need arise.

A Law Enforcement Assistance Administration funded pretrial program has been in operation in Dade County for over a year. This program was initiated pursuant to a grant secured by the Dade County State Attorney's Office. This program has been successful to date. Discussions are now underway as to whether the Parole and Probation Commission will establish a separate pretrial intervention program in Dade County or whether the current program will be expanded by a new grant now available.

Presentence Investigation

Under the present system, The Florida Parole and Probation Commission field staff conducts a pre-sentence investigation after a person has been found guilty, but before he is sentenced. This investigation is made only if the Judge requests it. Judges rely

on this investigation in imposing sentence.

The investigation includes interviews with the offender's family, neighbors, associates, employers, etc. It does not include any testing or psychological, medical or psychiatric evaluation of the offender. If a presentence investigation is not performed, the Commission will usually perform a post sentence investigation on a felon, for the purpose of future consideration of parole. The substance of the post sentence investigation is similar to that of a presentence investigation.

After an offender is sentenced, a much more complete diagnosis and evaluation is performed at Lake Butler Medical and Reception Center by the State Division of Corrections. The results of this evaluation are not available at the time of sentencing to the sentencing Judge.

Sentencing Alternatives

The sentencing Judge only has two real alternatives under the present system - prison or probation. In many instances the sentencing Judge would prefer to place the offender in a community correctional facility known as a "half-way in house" where he could continue to work. Such a facility would remove the offender from the environment which helped to generate the criminal conduct. The offender could receive more intensive supervision and counseling than he would receive on street probation. At the same time, he could continue to work to contribute to the support of his family, to help defray the cost of his subsistence by the State and to compensate the victim of his crime.

A greater variety of treatment facilities for specific types of offenders such as alcoholics, drug abusers or addicts, the mentally ill and emotionally disturbed, the sexual psychopath and the retarded offender are needed. Even if the causes of crime can be identified, little is being done to treat them. Judges and the Parole and Probation

Commission attempt to utilize community resources, but only on a case by case, patchwork basis.

Nothing is effectively done to classify and place offenders according to their potential for rehabilitation. Youthful, non-violent first offenders are now being placed with hardened criminals. The Legislature has tried to recognize the need for additional youthful correctional facilities and has appropriated funds in this last session for such a facility.

The trial Judge is also hampered in imposing sentences because he loses jurisdiction of the case after the time for appeal has run and he is unable to modify sentences after that time.

Sentence Review

There is no review by appellate courts or any other body of sentences imposed by a trial court except in the most extreme cases. As a consequence, similar individuals who committed the same crime under similar circumstances may receive different sentences. This disparity in sentences is unfair and creates bitterness among prison inmates.

Probation

Probation could be one of the most effective means of rehabilitating an offender and insuring that he is not involved in further criminal activity. However, probation is not effective in Dade County.

Probationers and parolees are supervised by the field staff of the Florida Parole and Probation Commission. Each probation officer in Dade County has a caseload of approximately 100-120. The recommended caseload ratio is one officer for every 35 to 50 offenders.

Probation officers spend most of their time handling paperwork.

The rest of their time is spent in court on revocation hearings, in conducting presentence investigation or in determining why a probationer has not reported to the officer as required. Little time is spent in counseling with the probationer, in providing positive programs for rehabilitation, in group sessions or in any other effort which could constructively assist the probationer.

The starting salary in Dade County for a probation officer is \$8,794. This is below that of law enforcement officers and other rehabilitative personnel. The annual turnover rate in Dade County for probation officers is 34%.

A probation officer is required to have a college degree. Such a degree does not appear to be necessary for the type of work probation officers are performing at the present time. The Commission, like society generally, seems to be placing undue emphasis on college degrees.

No sound training program is provided for probation officers. A preliminary course now given seems to place more emphasis on philosophy and forms than on the realities of how to be a good counselor. No in service training of consequence is provided for probation officers.

There are no "half-way in houses" or probationers residences in Dade County. However, a "Multiphasic Diagnostic and Evaluation Center" is being established by the Parole and Probation Commission on a pilot basis in Miami. There is a great need in the community for these residential facilities as alternatives to prison. Probationers often need more supervision than they receive on street probation, but they should nonetheless remain in their community and remain employed. "Half-way in houses" would serve such a need.

Judge Alfonso C. Sepe has initiated unusual, imaginative and

highly constructive programs as alternatives to prison. Under these projects, the offender is deprived of his free time. He must devote his free time to community service such as cleaning the Miami River, teaching retarded children to read, etc. These projects do not require additional funds, additional paperwork or additional personnel. The Parole and Probation Commission does not appear to have initiated such projects.

Current legislation provides no clearly defined standard as to who should be placed on probation and what the terms and conditions of probation should be.

Prisons

The State's prisons are overcrowded. As a result it is difficult to place prisoners in appropriate facilities. Violent, hardened criminals are placed with youthful non-violent first offenders; drunks are placed with armed robbers. The overcrowding makes it very difficult to provide adequate security against escape, contraband and violence in the prisons. Inmates in the prisons are not safe from attack by other prisoners. The overcrowding has caused general unrest in our prisons.

The State's prisons are usually located in isolated rural areas of the state. In this rural setting it is difficult to find meaningful occupation and employment within the prison or the community for the inmates, most of whom come from urban settings. Lack of such activity may contribute to the personal violence and attacks which are occurring in the prisons.

Because of the location and condition of the prisons it is difficult to provide meaningful educational and vocational rehabilitation for the offender while he is in prison.

Parole Procedure

Under the present system, the parole commissioners and hearing examiners interview inmates of the prison system. The commissioners do not meet together to decide who shall or shall not be paroled. The inmate does not appear before all the commissioners. Each commissioner examines the file and indicates his approval or disapproval by initialing it. Once three commissioners have approved or disapproved of the parole, the decision is final. There are no sound standards or written criteria as to who should or should not be paroled. There is no review of the parole decision.

The transition from prison to parole is abrupt in most cases. The person who will supervise the person on parole usually has no contact with the offender prior to his release from prison. Nothing effective is done to assist an offender going directly from prison back to the community, to find a job or decent housing or to help him get settled. However, the establishment of community correctional centers or "half-way in houses" offers splendid opportunities for gradually reintegrating an offender into the community in which he will live.

Community Correctional Centers

One of the most encouraging developments in the area of corrections is the concept of the community correctional center. One such center has been established in Dade County.

This center, one of the twenty-seven authorized by the Legislature in 1972, was established April 23, 1973, in two unused former barracks at Opa Locka Airbase. The Center is operated by the State Division of Corrections. The Center initially housed 19 inmates or residents. The number has now reached 87 as of July 17, 1973. These residents

come from throughout the state prison system and are serving time for a range of crimes. Only one person has escaped since the Center opened.

The Centers are half-way houses which assist the offender in gradually reintegrating himself to the community where he will reside after he leaves prison. Those at the Center, except for permanent maintenance residents, are employed in work release programs. Under these programs, the residents are employed by private employers outside the Center. Each day they go to work from the Center and return as soon as they have finished work.

This Center is designed to house 100 residents. They contribute \$3.00 a day to the Division of Corrections for their subsistence and \$1.00 a day for transportation to and from work if the State provides that transportation. No accurate statistics are available, but rough estimates indicate that the residents are paying for a significant portion of their upkeep. In addition, many send money home to their families.

The residents themselves have renovated the barracks. Although appropriations in this past session of the Legislature indicate a community correctional center will cost about \$410,000 in fixed capital outlay, this Center has been established at a cost of about \$100,000, plus \$16,000 annual rental to the County.

Residents pay for their own laundry, barbers, doctors, dentists and other day to day expenses other than room and board.

Permanent residents assigned from the prison system do almost all the cooking, baking, maintenance, electrical work, carpentry and other work required at the Center.

Fourteen Counselors are authorized for the Center. They are required to have two years of college, or a high school degree with

law enforcement experience. Counselors are encouraged to live at the Center so that they can counsel more effectively with the residents and by providing room and board, the Division of Corrections attempts to make the starting salary of \$132.00 a week gross, more attractive. The Center's director and his chief assistant are both retired military men who do not have college degrees.

Lack of Coordination in Criminal Justice System

The entire criminal justice system is fragmented and inefficient. There appears to be little coordination between prosecutors, probation officers and court personnel. None of these groups seem to coordinate their efforts to achieve the ultimate goal of the system which is to prevent crime. None of the groups seems to understand the problems or duties of the other.

The correctional system itself is badly fragmented. The Florida Parole and Probation Commission and the State Division of Corrections duplicate efforts, personnel and facilities. The Commission essentially has authority over offenders on the street while the Division of Corrections has authority over offenders in institutions. This fragmentation hampers sound planning for and management of a program of rehabilitation for any offender.

The rehabilitation of an offender requires gradual reintegration of the offender into society. As noted previously, it doesn't make sense to dump him from prison on to the streets. Yet, the involvement of two different agencies in the process causes confusion and inefficiency in the rehabilitative process.

Duplication and inefficiency exist in the case of presentence investigations made by the Parole and Probation Commission and the diagnoses and evaluations made by the Division of Corrections at Lake Butler; in data collection; and in planning.

Community Correctional Centers could be used as "half-way in houses" but such utilization is hampered by the split jurisdiction of the two agencies.

This split jurisdiction makes it difficult to pinpoint responsibility and to determine who is accountable for what in the state correctional system.

Various support facilities and the services of other agencies are not as efficiently utilized as they might be under one unified correctional agency.

RECOMMENDATIONS

The Grand Jury makes the following recommendations with respect to the State Correctional System:

1. The various agencies involved in the administration of criminal justice should coordinate more effectively. The State Attorney's Office should develop a procedure by which it effectively assists in revocation hearings.

2. The field staff of the Parole and Probation Commission and the divisions of corrections personnel should be combined into one unified correctional agency.

3. The Parole Commission should remain an autonomous, independent quasi-judicial agency charged with determining who shall be paroled. It should have a sufficient investigative staff to insure that it is adequately informed and that its decisions are properly implemented.

4. The Present IEAA funded pretrial intervention program in Dade County should be expanded wherever appropriate. Any new funds available for such programs should be utilized to expand this program rather than

create a duplicative program. The program should utilize all available diagnostic and evaluation services, residential facilities and other programs and treatment alternatives offered by the correctional agency.

5. All background investigations and diagnostic and evaluation efforts should be made and completed prior to sentencing so that the trial Judge will have as much relevant information concerning the offender as possible to assist him in sentencing. Such investigations and evaluations should be made on all offenders found guilty of a felony. Facilities at the Lake Butler Reception and Medical Center should be decentralized and should be available on a regional basis in order that they can be fully utilized as suggested.

6. Some method of sentence review should be established to insure that sentences imposed by Judges are equitable by comparison.

7. Greater alternatives for treatment and rehabilitation should be available to the sentencing Judge. Wherever possible the cause of crime should be identified and treated. Facilities for treating addiction, alcoholism, mental illness, psychopathic personality problems and conditions of the retarded should be available. Non-violent offenders with potential for rehabilitation should be separated from hardened criminals in separate institutions. "Half-way in houses" should be established and utilized to the fullest extent possible consistent with public safety to permit an offender to remain employed in the community so he will not be a burden to the community and so that he can be involved in some useful occupation. A maximum security facility should be available for dangerous criminals with no potential for rehabilitation and such offenders, estimated to comprise about ten percent of the prison population, should never be released from prison.

8. The sentencing Judge should have continuing jurisdiction over an offender so that he may modify his order according to how the offender responds to a particular program of correction.

9. The Legislature should appropriate sufficient funds to reduce the probation officer's caseload to the nationally recommended figure for such caseloads. Appropriate staffing should also be insured in the state correctional facilities. Caseload figures should be internally audited to insure that caseloads are figured on the basis of current, active cases.

10. Salaries and incentives for all state correctional personnel including probation officers and community correctional center personnel should correspond at least to those of law enforcement personnel in Dade County.

11. Educational requirements for employment as a probation officer should be reassessed. The Parole and Probation Commission should attempt to utilize high school graduates with an interest in the field of offender rehabilitation. The Commission appears to use a college degree only as a yardstick to measure motivation of the prospective employee. To a large extent, good probation supervision is a matter of common sense which can't be learned in college.

12. Sound training programs, both in service and preliminary, should be established by the Parole and Probation Commission with an emphasis on teaching techniques, such as the art of listening, used by an effective counselor.

13. The Parole and Probation Commission should develop programs and projects including group counseling and the community service programs.

14. Responsible and competent volunteers should be utilized

by the Parole and Probation Commission in the capacity of probation officers in appropriate cases. There are many bored, but intelligent people who do not know what to do with themselves. These volunteers could be "deputized" to supervise groups of probationers involved in community service programs. Volunteers could also be utilized on a one to one basis to supervise probationers.

15. Probation counselors should be freed of paperwork and put in the field working with their clients.

16. The Legislature and the Parole and Probation Commission should clearly redefine the standards, terms and conditions for probation as set forth in Florida Statutes 948.03 to recognize that probation is meant to provide a means of rehabilitating an offender.

17. The Legislature should do everything possible to relieve the overcrowding in the prison system. No future prison constructed in Florida should exceed the capacity recommended by the experts in prison administration. Prisoners should be classified and housed according to their potential for rehabilitation. The Legislature should provide appropriations for adequate security personnel in all prisons.

18. Vocational training and relevant education programs should be available in all prisons. Practical courses such as money management should be offered. Prisons should be located close enough to urban areas to enable prisoners to be utilized in meaningful community service and occupations that can occupy their time.

19. The Parole Commission should meet as a body in making parole decisions. Initial interviews could be conducted by hearing examiners to relieve the Commissioners of that burden. Written standards should be adopted to provide guide lines as to when a person shall be paroled.

The Commission's procedures should be spelled out in writing. These procedures and standards should be available to the public so that it will be informed as to how and why a person is being paroled.

20. Greater efforts should be made by the parole supervisor to establish contact with the offender prior to the time he leaves prison to provide for a more successful reintegration into the community.

21. Community correctional centers should be established and utilized whenever possible and the public officials of Dade County should cooperate in every way possible in appropriately locating such centers in Dade County. The utilization of pre-existing structures at Opa Locka should serve as an example of how these centers can be established relatively inexpensively.

22. Procedures should be established to insure that all offenders on probation, parole or work release programs should make fair and reasonable contributions to the cost incurred by the State for their maintenance and supervision, to their families, and to their victims. Work release programs shall be expanded whenever this can be safely done.

23. The unified correctional agency should develop sound statistics on recidivism so that it may be determined as soon as possible which rehabilitation programs are effective and which are not.