

CORRECTIONS REFORM: WE ARE OUR BROTHER'S KEEPER

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The bulk of the state correction buildings ought to be leveled to the ground. I not only have to hold my nose, I have to anesthetize my conscience to send men to the department of corrections.¹

Today in America, our prisons, jails, juvenile training schools and probation and parole machinery constitute what may be termed our correctional system. This system can best be described as a confused morass which inflicts great present harm, and poses a frightening, imminent threat to American society. "It would be difficult to devise a better method of draining the last drop of compassion from a human being than confinement in most prisons as they exist today."² It is evident that little improvement has been made in the 25 years since George Bernard Shaw wrote:

Imprisonment as it exists today is a worse crime than any of those committed by its victims; for no single criminal can be as powerful for evil, or as unrestrained in its exercise, as an organized nation. Therefore, if any person is addressing himself to the perusal of this dreadful subject in the spirit of a philanthropist bent on reforming a necessary and beneficent public institution, I beg him to put it down and go about some other business. It is just such reformers who have in the past made the neglect, oppression, corruption and physical torture of the old common gaol the pretext for transforming it into that diabolical den of torment, mischief and damnation, the modern model prison.³

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The author wishes to express his appreciation to Edward B. Deutsch for his assistance in the preparation of this article, which is not intended to be an in depth elucidation of corrections reform, but rather to provide an overview of the newly created Commission's proposed program.

¹ Testimony of Plummer M. Shearin, Montgomery, Maryland Circuit Court Judge, before the state's Criminal Justice Commission, October 2, 1970.

After three years of exhaustive research, the Joint Commission on Correctional Manpower and Training has concluded that our correctional system suffers from multiple problems: apathy, piecemeal programming, totally inadequate funding, and lack of public support and understanding. Corrections today is characterized by overlapping jurisdictions, diverse philosophies, and a hodgepodge of organizational structures which have little contact with one another. Legislators continue to pass laws and executives mandate policies without insight and coordination, causing large sums of money to be spent on ineffective corrective methods.

² R. CLARK, *CRIME IN AMERICA* 214 (1970).

³ G. B. SHAW, *THE CRIME OF IMPRISONMENT* 13 (1946).

Chief Justice Warren E. Burger has focused upon the tragic shortcomings of our system of criminal justice, concluding that, while we have gone far to correct procedural inequities in the fact-finding and litigation processes, we must now pay more attention to what happens afterward to those found guilty. He challenges the social utility of any system of justice "which allocates, as we do now, a disproportionate amount of our resources to the techniques of trials, appeals, and post-conviction remedies while it gravely neglects the correctional processes which follow a verdict of guilt."⁴

The American Bar Association has decided to confront this problem rather than continue the century old tradition of avoiding it. Mindful of the exhortation of the Chief Justice, the President of the ABA initiated a number of meetings to determine how the Association could best play an important and meaningful role in the corrections field. The conclusion was that enough *reports* on standards for improvement already existed,⁵ and that the ABA's efforts in this area should be directed toward an *action* program.

Having arrived at this conclusion, and aware of suggestions that the Association's entry into this field should be an interdisciplinary effort involving non-lawyer experts, the ABA Board of Governors passed a resolution creating a four year Commission on Correctional Facilities and Services, of which the author was privileged to have been appointed chairman.

In cooperation with state and local bar associations, organizations in the correctional field and other interested groups, the Commission will strive to arouse public attention and foster public pressure to improve the nation's correctional system through every possible medium. It will document and widely publicize the enormous waste of money caused by present correctional deficiencies, and perhaps institute legal action to implement the improvement of correction and rehabilitation procedures. While reforms may require greater initial expenditures, long term savings will ensue in monetary and human resources. An inventory of correctional services and studies as they currently exist will be undertaken, and from the findings the Commission will recom-

⁴ Address by Chief Justice Burger, ABA Annual Meeting in Dallas, Aug. 1969.

⁵ In appointing a White House Task Force in 1969, President Nixon called for the immediate and dramatic reform of our failing correctional system. He asked for complete planning and consolidation of existing systems, more money for treatment and non-institutional programs, special facilities and new jail concepts, and better training for correctional personnel. The ABA is in complete agreement with the findings of the Task Force that there is a plethora of studies concerned with correctional reform which overflow with excellent ideas that have never been implemented or even tested.

mend and implement specific measures for improvement, including the further development of correctional procedures alternative to incarceration. From these efforts and by assisting and supporting public and private agencies in the promotion of correctional reform, the modernization of our outmoded correctional system will be accomplished.

Any correctional system must serve two functions: it must punish the offender by segregating him from society, thereby protecting the latter from the former, and it must seek to restore that individual to society as a productive member. This nation must conclude that rehabilitation rather than retribution is our primary concern. Only a full scale assault on the present punishment/segregation oriented system will achieve equitable treatment for both the offender and the public.

That the present system is not responsive to today's society is manifested by the high rate of recidivism. A study recently concluded by the FBI revealed that 65 percent of all federal prisoners released in 1963 were rearrested within a succeeding six year period. Of those released under 20 years of age, 74 percent were rearrested; of those between 20 and 24 years of age, 72 percent; 69 percent of those between 25 and 29 years of age were rearrested within that same period.⁶ Many other sources place the general recidivism rate for those once incarcerated at anywhere from 50 percent to 85 percent.⁷ Since well more than one half of those having served prison sentences may return to prison, it is safe to say that a successful rehabilitative effort would quickly arrest our soaring crime rate.

In addition to recidivism's effect on public safety, its most pervasive consequence is the monetary cost to the public. The comparative obscurity of the correctional system belies its size, complexity and crucial importance to the administration of justice. In 1965, correctional institutions received approximately 2.5 million persons as inmates, probationers or parolees; the average daily population handled by the entire correctional system was almost 1.3 million. The total cost of maintaining the system that year exceeded a billion dollars.⁸

The projection for 1975 is that the average daily population in

⁶ CRIME IN THE UNITED STATES, UNIFORM CRIME REPORTS 1969, at 34-40 (1970). See also Zuckerman, Barton & Whittier, *A Follow-up Study of Minnesota State Reformatory Inmates*, 43 J. CRIM. L.C. & P.S. 622 (1953), where a six year follow-up period was determined to be statistically reliable.

⁷ It is impossible to determine an overall rate of recidivism, since current figures were compiled under varying definitions of that term.

⁸ THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: CORRECTIONS I (1967). As a tragic consequence, an additional 5.8 million family members were affected. See Survey, *Correction in the United States*, 13 CRIME AND DELINQ. 230 (1967).

corrections will approach two million,⁹ with an obvious corresponding increase in costs. The national crime rate since 1960 has more than doubled,¹⁰ while recidivism has maintained a startlingly high rate. After considering the number of offenders and costs that run as high as \$12,400 per year for an offender,¹¹ one ought not be surprised by author Dale Hardman's conclusion that next to defense, the cost of crime and delinquency in this country is the largest single item in our national budget.¹²

The cost to society of inferior correctional procedures should not be measured merely in dollars spent. No one can calculate the "cost" to the family of a child murdered while incarcerated.¹³ What is the cost to an individual who is sexually assaulted or must spend months in degrading and dehumanizing conditions?¹⁴

There is little doubt of the ineffectiveness of our present penal system; the people of this nation feel that our society has been unable to deal successfully with the problem of crime. Yet, the correctional system remains "a world almost unknown to law abiding citizens, and even those within it often know only their own particular corner."¹⁵

⁹ TASK FORCE REPORT: CORRECTIONS, *supra* note 8, at 7.

¹⁰ CRIME IN THE UNITED STATES, UNIFORM CRIME REPORTS 1969, at 5 (1970).

¹¹ To keep one person in prison normally costs four or five thousand dollars a year, not to mention the welfare obligation for the prisoner's family. Rhode Island reports that it costs \$12,400 a year to keep one youngster in a state training school, and also acknowledges a recidivism rate of 75 percent among youngsters released from that institution. The TASK FORCE REPORT: CORRECTIONS, *supra* note 8, at 28, states that the average state spends about \$3,400 (excluding capital costs) to keep a youth in a state training school, while it costs only about one tenth of that to keep him on probation.

¹² Hardman, *Corrections and the Community: A View Through a Crystal Ball*, 34 FED. PROB. 19, 26 (Mar. 1970).

In 1963, Hardman conducted intensive interviews with twenty members of juvenile gangs in a small midwestern town of 36,000 residents. At that time, nine of the twenty were incarcerated, and simply considering *known* costs and recidivism rates of 1963, he calculated a cost of \$236,000 for the care of these twenty juveniles. Hardman predicted that two of the twenty would spend their lives behind bars at an additional cost of \$175,000 to the taxpayer. Multiply this by the hundreds of thousands of youths in similar situations throughout the country and the economic argument for rehabilitation is complete.

¹³ See N.Y. Times, Jan. 28, 1971, at 15, col. 1.

On January 26, 1971, seventeen year old Cloyce Cook was murdered while incarcerated as a juvenile runaway. Young Cook had no criminal record but, through what officials admitted was an error in "common sense," was placed in an 18-by-36 foot cell with 19 cellmates who were jailed for crimes ranging from murder to peddling drugs. During the night, the boy was found lying on the concrete floor with a braided rope around his neck and a knotted towel over his mouth.

¹⁴ See, e.g., Hirschkop & Millemann, *The Unconstitutionality of Prison Life*, 55 VA. L. REV. 795, 804-12 (1969).

¹⁵ TASK FORCE REPORT: CORRECTIONS, *supra* note 8, at 1.

This is clearly the part of the administration of justice least visible to the public, not only because it is difficult to see but because society has traditionally been reluctant to look at it. Since the criminal offender has no political or economic power he can do little, if anything, for himself. This inability to develop "leverage" in society explains, in part, the general lack of concern for his plight.

The basic problem seems to be the complete inconsistency between two of the most dominant political pressures in our society. As public concern over crime rises, elected officials continually cut prison budgets.¹⁶ "[W]hen it gets down to the hard fact of *who* is going to pay for improved correctional rehabilitation programs, the public balks. By 59 percent to 33 percent (with 8 percent not sure) the public is not willing to see taxes raised to pay for better programs."¹⁷ Even when it comes to the allocation of already existing funds, the percentage for corrections is still the first to be trimmed.¹⁸

Some encouragement may be taken from the fact that an increasing level of resources is being provided through the various federal funding programs such as the juvenile delinquency and vocational rehabilitation programs of the Department of Health, Education and Welfare; the Model Cities Program of the Department of Housing and Urban Development; the manpower programs of the Department of Labor; and the law enforcement assistance program of the Department of

¹⁶ R. CLARK, *CRIME IN AMERICA* 216-17 (1970). For example, the best leaders in the California prison system resigned after Governor Ronald Reagan cut already inadequate budgets while he sought increases for the state police. The Federal Bureau of Prisons is responsible for all 20,000 federal civilian prisoners. Yet its budget for 1968, including the cost of owning, maintaining and operating expensive prison facilities, was \$77 million while the FBI, one of the more than twenty substantial federal investigative and enforcement agencies, had a budget of \$200 million. Every year, the prison budget is the first of those in the Department of Justice that Congress cuts.

¹⁷ JOINT COMMISSION ON CORRECTIONAL MANPOWER AND TRAINING, *THE PUBLIC LOOKS AT CRIME AND CORRECTIONS* 1 (1968).

¹⁸ R. CLARK, *CRIME IN AMERICA* 217-18 (1970).

During Congressional consideration of the Omnibus Crime Control Act of 1968 designed to provide federal funding for state and local criminal justice needs, the issue of corrections caused a major battle. Nationwide, corrections receives about 25 per cent of all funds provided for the criminal justice process. Self-styled tough crime fighters like Senators John McClellan of Arkansas and Strom Thurmond of South Carolina wanted to limit funds available for corrections under the bill to 5 per cent. They joked in public hearings about raising it to 7½ per cent. Could the reason have been that they knew the jails and prisons of their states and many others are full of Negroes? Fortunately, such a tragic limitation was avoided. Instead, up to 20 per cent of the grant funds were expendable for corrections. This compared with a 30 per cent allocation for police to combat organized crime and an additional 30 per cent for police to control riots. Corrections remains the stepchild of the criminal justice process. The hard-liners have no interest in corrections. They want punishment.

Justice. The Commission recommends that Congress, in considering legislation and appropriations affecting these agencies, give special consideration to the needs of the correctional field.

Implementing reforms requires manpower; it takes people to change people. The corrections profession is currently suffering from a severe manpower shortage; some estimates are that the number of personnel should be two to three times as great as it is presently.¹⁹ As in all other fields of employment, correctional institutions can recruit only those people who are willing to be employed. "[A]nswers to such questions as: what are the pay scales, where are the jobs, what are the prospects for career development, . . . what are the opportunities for continued educational or professional growth," and how does the public value the work, will determine recruiting success.²⁰ We must make the pay competitive to related fields, and provide advancement and education which leads to self-esteem and pride in one's work.²¹

Having once assembled competent staff members, it is vital that their skills be used effectively. Sixty-eight percent of correctional employees are employed in institutions, while only 30 percent work in probation, parole and juvenile detention programs.²² A massive expansion of probation and parole programs is imperative. Whenever and wherever possible, field supervision should be employed to effect re-socialization without incarceration. The utilization of community based correction programs, and volunteers and para-professionals in probation and parole, can be combined with the upgrading of present facilities to provide an inexpensive yet more effective rehabilitation resource. Again, adequate financing is the essential element, but a slight increase in the amount allocated per parolee coupled with a reduced case load per field worker will result in the reintegration of the offender into society with the least difficulty and with the optimum chance of rehabilitation, making him a taxpaying citizen rather than a tax burden.

The major problem facing any recruitment program is the traditionally low pay scale of workers. The economic reason of low pay is most commonly given by employees leaving correctional work. Curiously, working conditions and work load were reasons least given for

¹⁹ See TASK FORCE REPORT: CORRECTIONS, *supra* note 8, at 99.

²⁰ STAFF REPORT OF JOINT COMMISSION ON CORRECTIONAL MANPOWER AND TRAINING, PERSPECTIVES ON CORRECTIONAL MANPOWER AND TRAINING 119 (1970).

²¹ According to the President's Task Force, "[l]ess than 40 percent of the custodial personnel in detention homes, for example, were covered by an organized merit system in 1965 and slightly less than half the probation officers." See TASK FORCE REPORT: CORRECTIONS, *supra* note 8, at 94-96.

²² FINAL REPORT OF JOINT COMMISSION ON CORRECTIONAL MANPOWER AND TRAINING, A TIME TO ACT 11 (1969).

leaving.²³ The Commission will encourage the development of standards and incentives for the recruitment, training, compensation and retirement of correctional service personnel. Legislation and other measures that will provide career attraction for the professional, medical and psychiatric officers and employees involved in treatment and rehabilitation of offenders will be fostered. We will, furthermore, encourage a merit system for the selection and tenure of correctional service executives, parole board members and probation officers.

Once the recruitment and retention of the proper manpower is under way, the Commission's specific recommendations, which are being currently compiled, may be achieved. We plan to establish the most practical standards for correctional institution administration.

It must be recognized that almost every prisoner eventually returns to society. Capital punishment or life sentences constitute an infinitesimal percentage of the total number of sentences. If these people are to be successfully restored to productive lives, they must be given the tools of survival: education and vocational training. Prevocational rehabilitation must start at a very basic level. The schooling characteristics of prisoners in 1960 were: 37 percent grade school dropouts; 46 percent high school dropouts; and only 17 percent high school graduates. Of that prison population, however, on a male occupational distribution, 68.6 percent had been laborers and 6.5 percent were managerial, professional or technical personnel, compared to 38.4 percent and 26.7 percent, respectively, for the general labor force.²⁴

Examples and studies of correctional education programs are legion and diverse.²⁵ What must be remembered is that the standard

²³ *Id.* at 17.

²⁴ Unpublished pamphlet compiled by United States Department of Labor, entitled *Offender Rehabilitation*, on file U.S. Dept. of Labor, Washington, D.C.

²⁵ Short-term educational programs have been attempted on a limited basis in several jurisdictions. One of the most successful has been conducted in New York, where the White Plains Board of Education was given funds for implementing various basic public education programs. It was decided that one of the programs was to be operated at the county penitentiary, an institution typical of those to which first offender misdemeanants are sent. The recidivism rate is high; during the program, 32 percent of the inmates were there for the first time, while 25 percent had ten or more previous commitments. Yet, while these inmates received no special rewards from the program, the average academic growth of inmates with a sub-eighth grade educational level was one year and one month in two months of classroom attendance.

The inmates received training in the fundamentals of reading and writing. Eventually they were taught things practical to them and their release into society, such as how to apply for a job or even endorse a paycheck. They were taught with a sincere interest, the first many of them had ever experienced. The childish picture and word methods used in elementary schools were to a large degree abandoned, and learning material with a more mature content was substituted. The inmates were generally not stigmatized by levels of

methods are unacceptable when the student reaches this level of physical maturity but remains intellectually immature. He must get personalized if not individual attention; he must be encouraged to overcome his fears and the ridicule of other prisoners. Simply teaching a vocation is not enough. Since many of these inmates have a much higher I.Q. than their scholastic accomplishments might indicate, training him to perform menial tasks will never displace his frustration and feelings of failure. He must be at least fundamentally educated and then vocationally trained before any feelings of accomplishment or reward will replace the feelings of despondency, inadequacy or bitterness.

There is little dispute that vocational and prevocational training with the assurance of decent jobs for released offenders must be a cornerstone of the rehabilitation process. In the vocational aspect of the rehabilitation program, the overriding concern should be that the training of the offender must directly correlate to the work he can reasonably be expected to obtain upon release. All too frequently prison work is merely aimed at keeping the inmate occupied and the custodial expense of the institution at a minimum. It has been shown that "free" prisoner labor and the goods manufactured in prisons can be of great benefit to society, but many states, prodded on by private interest groups and some unions, have passed legislation refusing to permit most prison made goods to be sold to the public in competition with private enterprise.²⁸ Lawmakers find themselves in a very difficult position; these private interest groups have great political sway while prisoners constitute no one's constituency.

For the most part, the only job for which the inmate is prepared is one where there is little competition in the outside marketplace. The tools, machinery and other equipment that are used in teaching the inmate some vocation are usually so outdated that upon release he finds himself, for all intents and purposes, still vocationally untrained.

education or literacy. The personalized attention proved inmates do see the value of education, will attend classes, and do learn. See Drucker, *Short-term Education in a Short-term Penal Institution*, 12 CRIME AND DELINQ. 58 (1966).

²⁸ See, e.g., the California restriction:

All articles, materials, and supplies, produced or manufactured under the provisions of this chapter shall be solely and exclusively for public use and no article, material, or supplies, produced or manufactured under the provisions of this chapter shall ever be sold, supplied, furnished, exchanged, or given away, for any private use or profit whatever, except that, to avoid waste or spoilage and consequent loss to the state, byproducts and surpluses of agricultural and animal husbandry enterprises may be sold to private persons, at private sale, under rules prescribed by the Director of General Services.

CAL. PENAL CODE § 2709 (West 1970). See also MICH. COMP. LAWS § 800.305 (1948); N.Y. CORREC. LAW § 170 (McKinney 1968); OHIO REV. CODE ANN. § 5147.02 (Baldwin 1964). These comport with 18 U.S.C. § 4122 (Supp. V, 1970), which deals with federal prison industries.

The present system is self-defeating in keeping these people in the least competitive employment position, thus increasing the temptation to return to crime. Most crimes reap small financial gain. The educated and vocationally trained citizen will be much less wont to commit an illegal act, thereby risking a respectable job, than the chronic unemployed or the employee whose menial task barely provides him a subsistence living.

Even if the offender is properly educated and trained to compete successfully in the job market, he still faces public and private discrimination that is more than likely to discourage and frustrate even the best educated and most well meaning ex-convicts. Therefore, some type of organized release program must be established to reintegrate the inmate into society. An overwhelming majority of the public feels that not enough aid is given to people who are released from prison in getting psychological help, finding a place to live or work, or simply remaining within the law.²⁷

The Commission will initiate a massive effort with regard to pre-vocational, technical and vocational training of offenders, with reasonable incentive provisions, in order to hasten the reentry of such persons into a useful place in society. In support of that effort, we will foster a program of aftercare and community involvement including work release programs. The Commission will appeal to state and local governments to modernize civil service laws and procedures to permit and encourage employment of the released offender, and to convince employers, and the business community in general, that employment of the rehabilitated offender is essential.

The successful reentry of the offender into society must be preceded by adequate preparation of both the inmate and the community.²⁸ Such is the function of the various pre and post-release programs.

²⁷ See *THE PUBLIC LOOKS AT CRIME AND CORRECTIONS*, *supra* note 17.

²⁸ Two basic methods of preparing the community prevail: The approach that the work release program is the law, like it or not; and the spending of considerable time in explaining the methods and aims of the release program to the community. See Ayer, *Work-Release Programs in the United States: Some Difficulties Encountered*, 34 *FED. PROB.* 53, 54 (Mar. 1970). Whichever method ultimately proves more successful, and undoubtedly it will be the latter, reintegration programs have been shown to enjoy great support by the general public. For example, the idea of halfway houses was thought to be a good idea by almost eight out of ten of the people questioned in a recent survey. See *THE PUBLIC LOOKS AT CRIME AND CORRECTIONS*, *supra* note 17, at 15-16. As of late 1968, 28 states had legislation authorizing work release programs. Of those states, 23 had actually implemented programs which consisted of prisoner enrollments ranging from none in Alaska, to four in Colorado, to 979 in North Carolina, with the average, excluding North Carolina, being only about 37 inmates per state. Johnson, *Report on an Innovation—State Work-Release Programs*, 16 *CRIME AND DELINQ.* 417, 419 (1970).

For the purpose of this article, only pre-release programs need be discussed. Whether the offender is reintegrated into society just before or after his sentence ends, the same basic principles are applicable.

Pre-release programs, which are usually thought of in terms of assisting the inmate in his transition from incarceration to freedom, are referred to by various titles and include various methods. Work release programs, halfway houses, outmate programs, work furloughs, day passes or paroles, weekend sentences, and home leaves all may vary somewhat in accomplishing this common goal.

There are, however, numerous difficulties encountered. The legislative limitations which pervade the present system make no exception for pre-release programs. Where they exist, there are undue restrictions on when the inmate may enroll. Should he be allowed to participate, or is it even beneficial, at three months prior to release; why not six or ten months? There are also certain "criminals", *e.g.*, sex offenders and drug addicts, who should not be treated in prison. Frequently, they are not even allowed to participate in pre-release programs. Employers must be watched to make sure that they pay a legal wage and do not take unfair advantage of the offender.

The real problem is enlightening the lawmakers, the public in general and the particular community involved. Initial impetus and long-term follow through must emanate from concerned organizations or groups. The American, state and local bar associations, through a sympathetic and committed news media, can promote and marshal community groups toward facilitating and encouraging such programs. There are many persons in jail, particularly women and children, who do not really need to be confined for the safety of the public. Every warden and prison administrator knows of many inmates who could have been handled more effectively and with greater eventual safety to the public by some type of disposition other than incarceration.

Any attempt to make rehabilitation a primary objective for *all* offenders creates certain difficulties. Not every person whose conduct is deemed criminal is in need of rehabilitation. As George Desion pointed out, "The repressive sanctions of criminal law are and will continue to be applied not only to those who should by anyone's standards be considered dangerously unfit for society, but also to those whom organized majorities may choose at any time to treat as so unfit." Organized majorities (or sometimes organized minorities) may decide that conduct which, in other places or in other times, is legal shall henceforth be criminal; homosexuality is an example. No sensible, scientific treatment program can be devised to change the character of such persons, whose behavior is criminal

only because the law chooses to differentiate them from other citizens.²⁹

No one wants an individual released while he still may present a threat to society. Where, however, it has been shown that the offender's chances for rehabilitation are maximized when he is treated in the community in which he will be released, that substantial cost reductions are effected, and that 40 percent of those incarcerated may be able to participate in such a program, it seems absurd and archaic to keep pouring millions into the simple *storage* of human beings.

There are a great many resources that a good probation officer in a massively expanded probation system can bring to bear upon the rehabilitation of his charge. Almost any community of any size has more resources for the education, training and employment of these probationers, as well as other services that might be needed, than the best equipped institution.

In the area of probation, the Commission proposes to undertake a vigorous program of action to bring about the improvement and expansion of services and resources. As deficient as our prisons and jails are, few people recognize that the field of probation is in even worse condition. In many parts of the country probation either does not exist or exists in such rudimentary form that for all practical purposes it cannot be relied upon by the courts as a useful alternative to incarceration. As a result, judges often institutionalize offenders who should more properly be placed on probation; this is the most expensive and the least promising alternative in terms of rehabilitative potential. This problem is not regional or sectional, but is prevalent throughout the United States. The Commission will furnish technical assistance to states, counties and municipalities in refining their procedures to eliminate the use of institutions wherever feasible and consistent with the public safety. The Commission will further encourage the establishment of state and local bar committees on correctional facilities and services; it will cooperate with those committees in seeking correctional reform, initiate a widespread series of visitations by local bar association members to all institutions, and enlist support from the legal community and the public, encouraging them to bring to bear their full weight for needed change.³⁰

²⁹ S. RUBIN, *THE LAW OF CRIMINAL CORRECTIONS* 667 (1963). See also Dession, *Psychiatry and the Conditioning of Criminal Justice*, 47 *YALE L.J.* 319, 335-36 (1938).

³⁰ See Jacob & Shafrin, *Justice After Trial: Prisoners' Need for Legal Services in the Criminal-Correctional Process*, 18 *KAN. L. REV.* 493 (1970), for an in depth study of the need for providing this type of legal service to offenders, the judicial and administrative ramifications, and present practices, programs and prospects for the future.

Recognizing that any reform will be of limited value if inmates continue to be denied certain constitutional rights, the Commission will provide each prisoner, upon confinement, with a complete legal checkup to assure that only those constitutional rights specifically lost by operation of law are denied.³¹ This program will go beyond the questions of the legality of conviction or confinement and deal with the full range of legal services required by prisoners. Assistance will be provided in the areas of domestic relations, employment, welfare, consumer credit and other problems. Our program will also provide the desperately needed provisions for effective communication with the courts, police and correctional administrators.

This nation must realize we *are* our brother's keeper. As Chief Justice Burger stated:

[W]hen a sheriff or a marshal takes a man from a courthouse in a prison van and transports him to confinement for two or three or ten years, this is our act. We have tolled the bell for him. And whether we like it or not, we have made him our collective responsibility. We are free to do something about him; he is not.³²

³¹ See generally Hirschkop & Millemann, *supra* note 14. See also Jacob, *Prison Discipline and Inmate Rights*, 5 HARV. CIV. RIGHTS-CIV. LIB. L. REV. 227 (1970); Note, *Constitutional Rights of Prisoners: The Developing Law*, 110 U. PA. L. REV. 985 (1962); Comment, *The Prisoner's Right of Access to the Courts*, 4 CALIF. W. L. REV. 99 (1968).

³² W. Burger, "No Man Is an Island," 56 A.B.A.J. 325, 326 (1970).