

Alternatives To Incarceration

By Alan McGregor
and Libby Lewis

“There has been a tendency to overuse prisons, making prison the first choice instead of the last choice. By last choice I mean a conscious decision made about the needs of the offender, the community and the resources available. If any sentence other than imprisonment is appropriate, it should be used.”

**Amos Reed, Secretary
North Carolina
Department of Correction**

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“**T**he kids were responsible and reliable,” says David Nickell. “They performed the work we asked them to do. And they worked hard.” Nickell has the quick, temperate voice of someone accustomed to efficiency. He has just completed moving the Durham County Library’s 80,000 volumes to a new home on North Roxboro Road.

“I spent more time with the kid who couldn’t read than with the others,” says Nickell. “He was rude and rebellious at first. Then I found out he was embarrassed. He couldn’t shelve books because he couldn’t read. He was in for truancy. He skipped school all the time.”

When Jerry Smith (not his real name) came before a Durham judge for truancy, the judge did not send Jerry to a correctional institution. Instead, the judge assigned him to Offender Aid and Restoration (OAR), which supervises the Durham library project. Like other non-profit agencies participating in the community service program, OAR serves offenders of all ages but primarily young offenders who have little if any criminal record.

“Sure, the community service program takes work,” says Nickell, explaining the demands and benefits for the library and the offenders. “During the move, we had him (Jerry) clean books instead of shelve.”

“It’ll be more difficult to find that kind of job now,” says Nickell as he prepares to install the fire alarm system, one of the last steps in the move. “But the library is committed to helping keep people out of jail. It’s worth it.”

Commitment to corrections alternatives, like OAR’s community service program, is growing in North Carolina — and not only on the local level. At a February press conference, Governor James Hunt boasted the success of another alternative which allows non-dangerous offenders to repay crime victims for stolen or damaged property, instead of serving time in prison. In this program, called restitution, offenders work at their regular jobs — the unemployed are aided in finding jobs — and make regular monetary payments until full remuneration is met.

In 1977, the General Assembly funded restitution officer positions so that the program now operates statewide. In January, 1980, offenders in these programs returned over \$320,000 to more than 13,000 individuals and businesses. More than \$3 million has been paid since the 1977 legislation passed.

The Governor’s acclaim for restitution signals a top-level nod to what was once a hypersensitive subject in state corrections policy. The handful of judges and district attorneys who used restitution before the 1977 law was enacted find themselves suddenly in vogue.

“I’ve been using restitution for years,” says District Court Judge Milton Read of Durham, “but there has been more attention paid it in the past six months than

ever before.”

Secretary of Corrections Amos Reed agrees. There is a “broader consensus among administration officials that alternatives to incarceration are increasingly acceptable and necessary,” says Reed.

But Hunt’s and Reed’s pronouncements are only a beginning. Thus far, the state has made a minimal commitment to alternatives. The Salvation Army and other private groups, for example, operate all six of the halfway houses in the state, which focus on counseling and getting jobs for offenders. Other approaches such as dispute settlement centers and youth alternative programs rely on private funding and volunteer support. Aside from restitution and probation, official support for alternatives has depended mostly upon individual efforts such as those of Judge Read, some district attorneys, and officials at the Department of Crime Control and Public Safety, which is separate from the Department of Corrections.

Even so, corrections reform advocates welcome the new wave of support for restitution and other community-based programs. “We’re not used to having so many allies in high places,” says Lao Rubert, director of the Prison and Jail Project of North Carolina, a Durham-based group working for alternative sentencing. “But recently, when we talk about community-based corrections,” says Rubert, “we find a lot of powerful heads nodding in the affirmative.”

What is the impetus for this growing acceptance of corrections alternatives? And how can community groups and state policy makers build on the successes of the limited initiatives to date?

Today, North Carolina’s 81 state prisons are holding some 5,000 prisoners over the system’s normal capacity of 10,900, an overcrowding rate of 35 percent. Such numbers severely affect minimal comforts, quality of services, and self-respect, says Pauline Frazier, director of Offender Aid and Restoration of North Carolina. “But it usually takes a tragedy — an Attica or a New Mexico State — for the public to see these,” says Frazier.

In 1968, a riot at Raleigh’s Central Prison left six inmates dead and 77 persons wounded. In 1975, a protest at Women’s Correctional Center in Raleigh brought out guards in riot gear, resulting in injuries but no deaths. During this period, officials were attempting to streamline administrative procedures and improve mail delivery, food quality, library access, and other minimal services. Public attention on the inequities for women in the prison system was beginning. And occasional rehabilitation efforts — work release, high school equivalency, and vocational training — were being tried. But the local tragedies and minor reforms did not divert officials’ attention from a single preoccupation: solving the problem of overcrowding.

In 1974, corrections officials requested major capital construction funds from the General Assembly. The Legislature then created a Commission on Sentencing, Criminal Punishment, and Rehabilitation, headed by Charlotte Senator Eddie Knox, and charged it to develop "a comprehensive long-range policy recommendation setting forth a coordinated state policy on correctional programs."

In 1977, the Knox Commission reported back with a number of recommendations and a warning that sobered the lawmakers. "Unless immediate action is taken," the Commission reported, "it is likely the Federal courts will intervene in the operations of North Carolina's prisons."

The specter of federal court intervention did what violence at Central Prison and the crush of inmates in facilities throughout the state had not. It prompted some official support from the Department of Corrections for alternative sentencing programs. And most dramatically, it was the catalyst within the General Assembly for a massive \$103 million appropriation for prison construction. "It's much easier to get dollars from the General Assembly for new prisons than for alternatives," says OAR Director Frazier, who serves on the Corrections Planning Committee, the official advisory board to the Department of Corrections. A traditionally conservative legislature has led the state to rely heavily on prison construction, Frazier believes.

The Knox Commission report also resulted in the 1977 passage of the Local Confinement Act, which was designed to place short-term misdemeanants in

city and county jails rather than in state prisons. Placing over 1,000 misdemeanants into local jails in 1978 reduced the state prison population that year. But the number in local jails rather than state facilities has stabilized at about 1,300, and the state prison population has since expanded back to the pre-1977 levels.

Another Knox Commission initiative may soon have some effect on the overcrowding problem, but perhaps to make it worse rather than better. The presumptive, or fixed, sentencing bill which takes effect this summer, is designed to reduce disparity in sentencing from judge to judge. While the legislation will make sentences more uniform, some crimes will carry longer sentences than many judges presently render. Moreover, the legislation has replaced the parole system, an important instrument in controlling prison population levels, with a standardized good behavior system. Some corrections experts worry privately that presumptive sentencing might contribute to overcrowding.

State officials project more growth in the prison population through at least 1985. In addition to funding construction projects, from the \$27 million Central Prison complex to the field units being built in various locations, the state must also absorb increasing maintenance costs, now nearly \$7,000 per prisoner each year.

"The state has felt for some time that it is running a few steps in front of the federal courts," says Frazier. "But it has not been able to substantially reduce overcrowding."

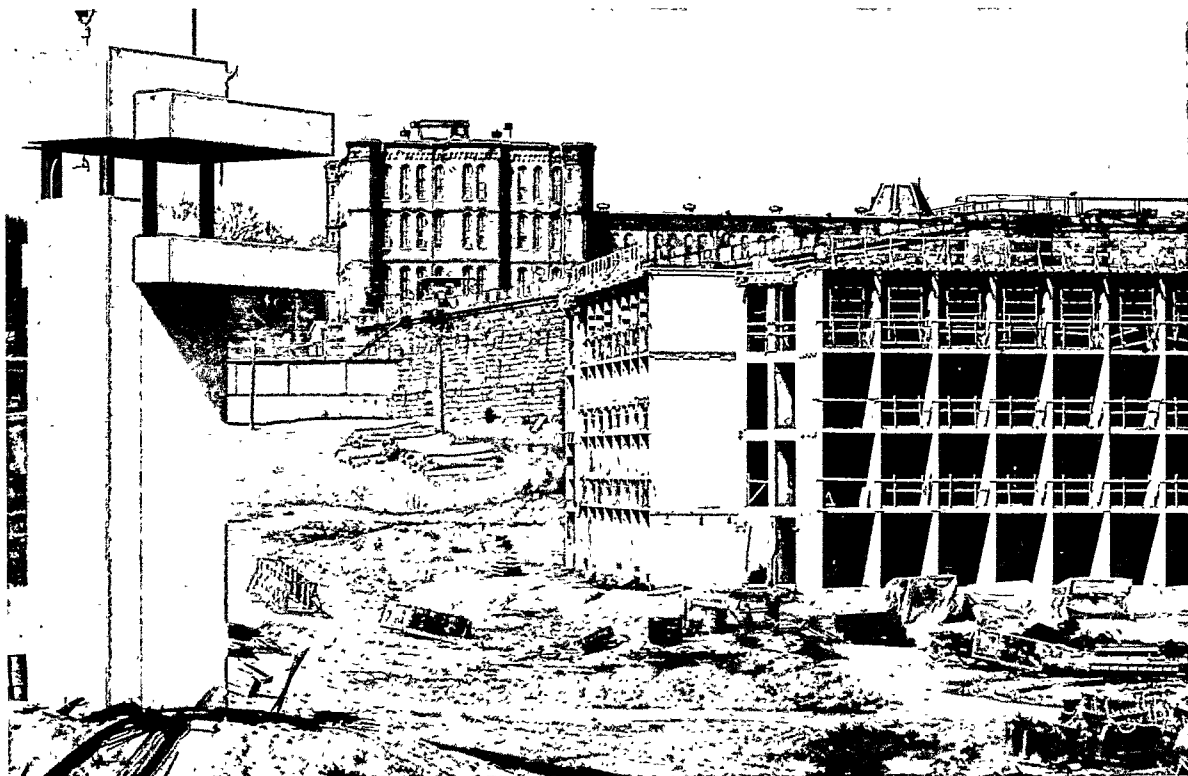


Photo by Jackson Hill

Central Prison complex in Raleigh — old and new.

Who Goes to Prison in North Carolina?

In 1978, North Carolina ranked seventh in the nation in the percentage of population in prison. The state's prisons and jails held 310 of every 100,000 people — even though the state had one of the nation's lowest rates of non-violent crimes. More populous states like Massachusetts and Pennsylvania had far higher non-violent crime rates but less than half the number of prisoners.

Sentence length has contributed heavily to this pattern. In 1969, the average sentence in North Carolina was 2.7 years. After a decade of toughening attitudes on crime, that average has nearly doubled.

A description of the state's prison population suggests that the criminal justice system has filled the prisons with people who have the least power in the society, with little regard for whether prison is the appropriate form of punishment. Moreover, as Pauline Frazier, a member of the Department of Corrections official advisory board puts it, "Discrimination exists in every stage of the criminal justice system."

*Two out of every five prisoners are under 25 years of age.

*Three-fourths of those in state prisons have not graduated high school. Almost half of those admitted to prison left school before the 10th grade.

*Over 50 percent of the state's prisoners are black or members of other minority races. Less than a quarter of the state's population are minorities.

*One of every 20 minority men in North Carolina is either imprisoned, on probation, or on parole. The figures for white males are five times lower.

*About 50 percent of the people in prison were convicted of economic or victimless crimes. Twenty percent of those admitted to prison are charged with forgery, passing worthless checks, traffic violations, crimes against morality, and drug offenses. Only one of every five prisoners was convicted of a physically violent or dangerous crime.

Amos Reed predicts the prison population growth rate will decrease if alternatives are "systematized" and "if people understand that the actions of criminals are being properly addressed by the new programs."

Alternatives, if properly supervised and utilized, can do more though than keep people out of jail. "We told one youth who couldn't read or write about the literacy programs in the area and showed him that the library has materials for him too," says David Nickell.

Four of the six youths who helped Nickell move 80,000 volumes in Durham had never been inside of a public library before. "They got a chance to really know the place," says Nickell. "They checked out films, cassettes, books, and school catalogues." One of the youths serving time in the library applied for a full-time job there after his sentence was fulfilled.

But local successes like the library program are still the exception. Successful alternative programs demand extensive resources, funds, and people from the community in which they operate — for counseling, tutoring, monitoring, finding jobs, providing transportation, and other services. Placing responsibility for corrections in the community is not only difficult but also unfamiliar. Incarceration has always provided local citizens, as well as state officials, a quick, convenient solution to crime.

Isolating offenders from community view prevented people from having to understand what prisoners must go through or to face what problems the prison system creates for the larger society.

Corrections experts like Frazier realize that acceptance and involvement in community-based programs will not be automatic. "Alternatives will have to be sold to the community," says Frazier. "So far, no one is claiming responsibility for doing the selling." The authority for developing alternative sentencing programs is dispersed through a number of state, local, and private agencies. These programs depend on the coordination of district attorneys, judges, social service agencies, the Department of Corrections, volunteer groups, and private organizations.

A strong impetus from the community is necessary for so many different groups to work together effectively. At the same time, funding, technical assistance, and cooperation is essential from the state. The legal community, the judicial system, the General Assembly, and the Department of Corrections are as important actors in alternative programs as the Durham County Library, the YMCA, the Salvation Army, and other agencies involved in community corrections.

More and more advocates are emerging to assist



Photo by Lao Rubert

Troy House, in Durham, is a ten-year-old therapeutic community for criminal offenders.

Frazier, Rubert, Reed, and the others. The North Carolina Council of Churches, the Presbyterian Synod of North Carolina, and other denominational agencies have undertaken education campaigns. The Governor's office has proposed an in-depth study of alternative corrections. The Prison and Jail Project of North Carolina is organizing a blue-ribbon citizens committee to prepare an action plan for the 1981 General Assembly.

Even with the support of these diverse groups, developing programs that merge restitution, justice, and rehabilitation will be difficult. As alternative sentencing becomes more prevalent, new problems may emerge.

Additional alternative programs will be dealing with more and more people who have not completed high school or can't even read. (See box describing the state prison population.) David Nickell, for example, had to devise a special task for the youth who couldn't read well enough to re-shelve books. A great deal of imagination — and funding — will be necessary to meet the needs of large numbers of people who have similar problems.

Official expansion of alternatives could also be accompanied by the same racial imbalance found in the current patterns of imprisonment (see box). "It is

likely that alternatives will suffer a similar bias," says Frazier. "Whites may be referred to alternative programs more than blacks." The only way to prevent discrimination from seeping into alternatives may be through close monitoring by citizens' groups, private agencies, and local and state government officials — another form of community commitment.

The long-range challenge for alternatives to incarceration — creating programs that provide restitution and at the same time attack the causes of crime — makes equal demands on state officials, like Governor Hunt and Secretary Reed, and on community leaders, like Pauline Frazier and David Nickell. If state and local officials as well as community groups respond to this challenge, North Carolina can move closer to the new corrections philosophy espoused by Reed: "If any sentence other than imprisonment is appropriate, it should be used." But the state has much to do before it can claim Reed's statement as current policy. State officials are standing at a crossroads. Will they choose to continue supporting expensive construction projects, which do not guarantee a solution to overcrowding? Or will they give substantial backing to programs that can make prison the last choice instead of the first? ■

Alternatives That Are Working

Community Service Restitution Project

Begun in 1979 under the sponsorship of Offender Aid and Restoration of Durham, this program has already diverted 75 offenders from the court system in Durham County. The District Attorney's office, judges, and more than thirty public service agencies including the YMCA, Salvation Army, and Durham County Library have cooperated to launch this program. Non-dangerous offenders are assigned for up to 60 hours of labor. For many first offenders, successful completion of their community service results in charges against them being dropped so that they will not retain criminal records.

Court Youth Alternatives Program

Since its inception in 1978, more than 150 youthful offenders have participated in the Court Youth Alternatives Program (CYAP) in Raleigh. All participants in the program, sponsored by Re-Entry, Inc., must work or go to school full-time. Each youth must also do 75 hours of community service work under the sponsorship of one of some 50 cooperating non-profit agencies in Wake County. One-to-one support is provided to each participant by volunteer sponsors. By completing the program successfully, 80 percent of the youths avoided further prosecution.

Dispute Settlement Centers

In Wilmington and Chapel Hill, local district attorneys are referring cases to Dispute Settlement Centers where a trained mediator can best deal with the case away from the costly and formal proceedings of the courts. The mediator helps community members solve problems arising from the case, including conflicts between family members, customers and businesses, and neighbors. Resolutions often occur before the need for criminal prosecution. Offender Aid and Restoration of North Carolina operates the Wilmington center; the Dispute Settlement Center of Chapel Hill operates the Chapel Hill center.

Halfway Houses

Over the last two years, 75 men have been housed at Troy House, a ten-year-old therapeutic community for criminal offenders in Durham. Men come to Troy House under federal and state programs. Some residents are under active prison sentences under contract from the Federal Bureau of Prisons or the state Department of Corrections. Others are on probation or have been sentenced directly to the halfway house. While in residence at Troy

House, the men benefit from counseling programs aimed at coping with vocational, personal, and family challenges. Jobs are mandatory for the residents and no less than one-half of their income is kept in savings for use after their release.

Re-Entry's halfway house in downtown Raleigh has housed more than 175 men over the last three-and-a-half years. Life at Re-Entry is much like that at Troy House. Counseling and jobs are integral to the program.

There are four other halfway houses in North Carolina. Houses in Charlotte, Winston-Salem, and High Point are operated by the Salvation Army. The fourth is operated privately in Sanford.

Extended Work Release Program

The South Carolina Department of Corrections uses this program, which William Leeke, the director of the South Carolina system, calls the "most progressive program we've got going." When an individual has been on work release two months and has met other criteria, the person can then live in a sponsor's home while serving the balance of the sentence. Participants pay \$5.00 a day for their own supervision. "This decompression chamber approach has given us a lot more flexibility in taking people from confinement and helping them to work their way back into the community," says Leeke.

Ralph Milliken, a resident of Troy House.



Photo by Lao Rubert