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ABSTRACT

This document contains seven papers from the ninth World Conference of Therapeutic Communities (TCs) that deal with drug abuse and the criminal justice system. Papers include: (1) "Some Characteristics of the Social Structure & Social Organization of the TCs" (Lewis Yablonsky); (2) "Therapeutics & Incarceration: They Said It Couldn't Be Done" (Ron Williams) and Sonjia E. Paige); (3) "TC's Role in the Privatization of Corrections" (Harry Wexler); (4) "Private Therapy & Public Control in Germany" (Burkhard Dammann); (5) "Two Alternatives for Drug Addicts [in Italy]: Prison or TC" (Guido Neppi Modona); (6) "Drug Abuse in Colombia" (Irma Mora-Grandas); and (7) "The Counselor's Guide to Confidentiality: A Review" (Rene Fiechter). (NB)

CHAPTER 7

DRUG ABUSE & THE CRIMINAL JUSTICE SYSTEM

SOME CHARACTERISTICS OF THE SOCIAL STRUCTURE & SOCIAL ORGANIZATION OF THERAPEUTIC COMMUNITIES

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Cross-comparisons of the Social Structure of "Therapeutic Communities" and Traditional Correctional Institutions: Prisons and Hospitals

In order to fully understand the structure and organization of therapeutic communities, it is useful to cross-compare their organization with the traditional institutions devoted to resocializing deviants. Most traditional therapeutic structures have a two-tier caste system of organization. There are the "doctors and the "patients"; the "correctional officers" and the "prisoners"; the "healers" and the "sick." This caste-like division is based on the premise that if the patient follows his doctor-therapist's instructions, he will get well. Most correctional organizations reflect this type of medical model.

In a prison or a hospital, the assumption is that if the prisoner-patient follows the rules of the institution, and properly interacts with his therapist, he will change and become a better citizen who can function more effectively in the larger society.

These caste-like we-they medical model institutions have been dramatically changed by the innovative "therapeutic community." This point may be best made for our purposes by the following closer examination of the differences between the social structure of TCs and traditional institutions for deviant behavior change.

Most offenders have a close familiarity with traditional "correctional' systems. He has learned how to do time in reformatories, prisons, jails, mental hospitals, addict hospitals. Even at his first arrest, he is already equipped with a set of attitudes for handling encounters with society's law enforcers. He learns the proper set of attitudes and responses on the streets, and these are reinforced in the institution.

The "bad guys" are the cops, squares (non-addicts), judges, jailers and administrators. On the right side of the fence are "righteous dope fiends" and "stand-up guys." The offender learns quickly to trust the "right guys" and to hate and distrust the correctional officials.

In the traditional institution, if he's a right guy, he lives according to inmate rules. He believes "Thou shall not squeal," engages in petty larceny and gets some homosexual kicks from the prison punks. If he is a "solid" member of the inmate in-group, he cons the staff members whenever he can. They are the enemy inside the walls who represent the enemy (square society) outside the walls of the institution.

Almost all members of hospital and prison officialdom are stereotyped by the inmate code--at best as inept, at worst as proper targets of extreme rebellious hatred. For most inmates, they are objects to be manipulated for quick release, or they are tricks to beat for small scores to relieve the boredom and monotony of custody. In the chess game of manipulation, the institution's officials are pawns. This inmate code tends to confirm and reinforce criminal-addict ethics and behavior. The code reinforces lying, manipulation and sociopathic behavior.

In contrast, the offender entering a TC is usually baffled by what he encounters in this different social system. Everyone is a "right guy," including the administrators, most of whom were in his position at one time. If he tries to play his usual institutional games, he is laughed at. He has difficulty having the officials in a TC, because they are people like himself, or people who have experienced his position in life.

If he wants to break out (a common subject of conversation in most institutions), he is invited to get lost by the TC staff. At every turn he discovers new responses to old situations and, most important, other people who know how he feels and understand him. Instead of receiving a callous reaction, he is told, "I remember how I felt when I first got here," and this is often followed by as detailed description of the precise feeling he is experiencing at the time. This is often disconcerting and frightening, because it is a new and strange situation. Yet, at the same time, the sight of others like himself who "made it" gives him confidence. He has role-models, people he can emulate, unlike the therapists he has known in most custodial situations.

In a TC he finds a new society. He encounters understanding and affection from people who have had life experiences similar to his own. He finds a community with which he can identify, people toward whom he can express the best human emotions that are in him, rather than the worst. He finds friends who will

assist him when he begins to deviate or fall short of what he has set out to do--to develop and mature. In the new society of the TC, he finds a vehicle for expressing his best human qualities and potentialities.

Caste and Stratification

The inmate subculture develops within any custodial institution, producing a "we-they" attitude between the professional administration and the inmates. The underground inmate society has norms, patterns of behavior, and goals different from and usually in conflict with those of the overall institution. This is partly due to the fact that inmates cannot rise in the status system and become staff.

The inmates and officialdom are divided into two segregated strata. The inamtesmay, in one context, be viewed as a caste of untouchables. They are restricted to an inferior position in the hierarchy, and in prison there is no possibility of their moving up. It is conceded by most correctional administrators that this inmate-administration conflict situation contradicts and impedes therapeutic progress for the inmate.

The inmate subsystem helps the patient or inmate cope with the new set of problems that he finds in most institution. He feels rejected by the larger society and tries to compensate for this rejection. One way he does this is to reject and rebel against the administrators of society's rejection--the custodial staff.

A true TC does not have a "we-they" caste system. It provides an open-ended stratification situation. Upward mobility is distinctly possible in the organization, and in fact, upward movement in the system is encouraged. As on TC leader told a newcomer during an indoctrination session, "In a couple of years...you just might be a big shot around here and have my job." Not only is upward social mobility possible in a TC, but healthy status-seeking is encouraged. This type of upward mobility is not possible in a traditional institution.

A TC organization assumes, with some supportive evidence, that a person's position in its hierarchy is a correlate of social maturity, "mental health," increased work ability, and a clear understanding of the organization. Another assumption is that the social skills learned in a TC structure are useful within the larger society. The reverse appears to be true of the "skills" learned in custodial institutions. The "we-they" problem does not exist in a true TC structure since the administration and the "inmates" are one and the same, and upward mobility is encouraged in this open-end stratification system.

Personality Change in a TC: Eliminating the "Criminal Mask"

Most drug addicts and criminals who enter a TC have a tough facade or a "criminal mask" that they developed in their deviant lifestyle to survive on the streets. A postulate in a TC is that this face to the world must be changed and a new one developed. This involves a 180-degree turn from the offender's past patterns of behavior. In a TC, criminal language, jargon and values are viewed with disdain and extreme disapproval. The newcomer may hang on to his past destructive mold for a brief time. In short order, however, new words and behavior patterns are ruthlessly demanded in an effective TC.

Charles E. Dederich, the founder of Synanon's TC work, made the following cogent remarks on this issue. Dederich described part of Synanon's resocialization process as follows:

> "First you remove the chemical. You stop him from using drugs and you do this by telling him to do it. He doesn't know he can do it himself, so you tell him to do it. We tell him he can stay and he can have a little job. We tell him we have a lot of fun and might get his name in the newspapers. We say, 'People come down and you can show off and have a fine time as long as you don't shoot dope. You want to shoot dope, fine, but someplace else, not here.' Then you start working on secondary aspects of the syndrome. Addicts live by the discipline of narcotics; therefore, they talk about this all the time. They discuss petty theft and short con; none of them is well enough for a big con. Addicts never pull any big scores; they can't--they're sick people. They talk about this.
>
> "The next thing you do is attack the language. Eliminating their criminal language is very important. We get them off drugs by telling them, 'Live here without using drugs and you can have all this.' We get them off the negative language by initially giving them another. Since there is some vague connection between their personality problem and the social sciences, we encourage them to use this language. The language of psychology and sociology is great stuff. Whether or not the recovering addict knows what he's talking about is exquisitely unimportant at this time.
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> "Very quickly, in a matter of about ninety days, they turn into junior psychiatrists and sociologists. They become familiar with the use of a dozen or twenty words and misuse them. Who cares! It doesn't make any difference. Now they're talking about 'the unconscious,' 'transferences,' 'displacement,' 'primary and secondary groups.' This is all coming out, and they're not saying drugs, 'fix, fix, fix' all the time. 'I used $100 a day.' 'Joe went to jail behind this broad.' 'Where did you do time?' and all that. They get off that, and they talk about ids, superegos, and group structure.
>
> "They make another set of noises, and their criminal facades drop away."

Language is, of course, the vehicle of culture and behavior; and in a TC, it is instrumental in shifting the behavior patterns that the addict has used in the past. He begins to use a new, still undeveloped set of social-emotional muscles.

TC members are not identified as wards, prisoners, or patients, and this also makes a big difference in their self-identity and outlook. The person can identify himself with the constructive goals of the organization for which he works. He automatically becomes an employee in the TC organization, at first on a menial level. Later on, he is encouraged to take part in the TCs management and development.

In the traditional institution, the inmate feels helpless and hopeless about his destiny. He has limited power in the institution, since it is run by administrators who are indifferent to his opinions about its management. Moreover, as we have noted, prison administrators are seen as representatives of society's rejection of the inmate, and this sets up additional blockades to his progression in the custodial institution. Inmates have a clear authority object for their frustrations and hatreds--the custodial staff. In a TC, there is no such split, since the administration consists of co-workers and colleagues. There is no "they" to hate within the organization.

Involvement in a TC helps to foster empathy in a person whose basic problem is alienation from society. Identification with the TC involves feelings of concern for the other members and for the destiny of the totality of the organization. The development of these empathic qualities reverses the person's past sociopathic lack of social concern and has a real impact on positive personality change. Vital to this personality change are various group processes.

Group Psychotherapy in Correctional Institutions and in a TC

All TCs have some form of regular group process built into their social structure. One significant major difference between TC group therapy and the usual institutional forms of group psychotherapy is that the TC sessions are not usually directed by professional therapists. There is considerable evidence that inmates participate in group psychotherapy with an eye on the gate leading out of their prison or hospital. Consciously and unconsciously, the inmate may verbalize "insights," seemingly indicating therapeutic progress, in an effort to convince the therapist and custodial officials that he has changed and is ready for release. At a group therapy session I observed in a California prison, several inmates made a great show of getting wonderful insights, and as one fellow put it, "This program really makes me see life more clearly." But several inmates admitted in private, "Of course, I want to look good to get out of this joint."

TC sessions are more closely related to the real life and work problems that confront the members. Given the lack of caste division, lines of communication are open throughout the organization. This, plus a goldfish bowl atmosphere, is conducive to a more extensive examination of underlying problems. TC group sessions make intense efforts to surface all possible data about member since this is vital to the protection and growth of both the person and the TC organization. Since all TC members work for the organization, many real on-the-job problems are funneled into the TCs group psycho- therapy. All of these factors give a TCs group process a reality not found in the closed-off social systems of custodial institutions.

In summary, the following elements reflect the significant difference between the social structure and organization of effective TCs and traditional correctional institutions:

* There is a qualitative difference between indoctrination in TCs and in other settings. The contractual arrangements for therapy and the prospect's expectation of success are different. The indoctrination of the prospect by people who have themselves been in his shoes and succeeded appears to be a significant element, providing the newcomer with a role model of what he can become. Also, the "indoctrinator" sees where he was when he looks at the newcomer, and this is valuable for reinforcing his personal growth.

* TCs provide the possibility of upward mobility, whereas most institutions are caste systems. Becoming a TC member provides incentive for changing one's criminal motivation to anticriminal motivation. The TC resident can actually achieve any role in the organization. In contrast, in the custodial institution, an inmate or patient is locked into the inmate position.

* There is a qualitative difference between the TC and the form of group therapy carried on in prisons and hospitals. This is partly a function of the described differences in the overall social system context. The TC resident, as a voluntary participant, has little to gain from faking progress, whereas in other institutions, the appearance of being "rehabilitated" may be rewarded by an earlier release from custody. The TC person is encouraged to reveal and deal with his problems honestly by others who have traveled the established TC route to recovery.

* The TC subculture is integrated into the larger societal structure in a way that traditional institutions never are. The flow of members of the community through a TC and the participation of TC members in the larger society place it closer to the reallife situations of the outer world than the artificial communities of the traditional institutions that attempt personality change.

* The work assigned in a TC is real work, unlike the often contrived jobs in prisons and mental hospitals. All work serves the real needs of the organization. This includes the functions of the procuring of food, an office staff, maintenance and service crews, automotive crews and the coordinating staff. Everyone in a TC should have meaningful work to do.

There has been attempts at self-government in prisons and hospitals. In these settings, however, the inmates recognize that final decisions on important policy matters remain with the administration. In a TC,

perhaps for the first time in his life, the member assumes a significant role in controlling his future. Leadership in a constructive situation is a new experience for him, and it appears to develop personal responsibility. The residents of a TC, unlike patients and inmates, are involved with the growth and development of their own organization. Because there is a generally held belief by the residents that "the TC saved our lives," the esprit de corps in the organization is quite powerful. Few inmates would give three cheers for a hospital or a prison, but in a TC, people seem to enjoy praising the organization that saved their life. They work hard for its growth and development.

THERAPEUTICS & INCARCERATION: THEY SAID IT COULDN'T BE DONE

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Stay'n Out Criminal Justice Program is a modified TC operating within prison walls for the New York State Department of Correctional Services: Arthur Kill in Staten Island for males and Bayview in Manhattan for females.

Among its accomplishments are: first program to establish a TC in a Corrections facility for men and women; first program of its kind to be completely funded by New York State Department of Correctional Services; first program of its kind to endure within the New York State Department of Correctional Services for 2 years; first program which is not a part of New York State Department of Correctional Services to be allowed to hire graduated program participants (ex-inmates) to work in the same facility in which they were previously incarcerated; first program granted permission to employ parolees (ex-inmate program participants as staff in Correctional facilities) and; first program to show a recidivism rate of less than 10%.

As early as the 1970's and even around the world today in certain areas, the word is that "therapeutics" and "prison" can't mix. It is said that "it will not work." For eight years now the Stay'n Out Criminal Justice Program has been blending therapeutics and incarceration with success.

In the year of its inception, 1977, there were 17,000 plus inmates incarcerated in New York state, about 700 of whom were females, and about 65% of all were incarcerated for substance abuse and/or drug related crimes. This year, 1985, eight years later, there are 35,000 plus inmates in New York state. The female population has increased to approximately 1200 and the percentage of individuals incarcerated for substance abuse and/or drug related crimes has also increased to approximately 68%.

Stay'n Out Criminal Justice Program offers the incarcerated men and women an opportunity to spend their time in treatment and re-entry settings designed to relieve their disabilities.

Stay'n Out delivers quality treatment to its population, reducing slowly the growth of the prison system by salvaging motivated individuals, thereby lowering the recidivism rate and producing productive citizens returning to local neighborhoods.

The Stay'n Out Criminal Justice Program's existence for eight years has thoroughly proven the viability and effectiveness of its model.

THE TC'S ROLE IN THE PRIVATIZATION OF CORRECTIONS

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The privatization of corrections may hold a key to meaningful prison reform which has been eluding policy makers for a long time. The issue is overcrowding; if we keep "locking them up" without considering alternatives and how to decrease recidivism rates the cost of warehousing prisoners will continue to skyrocket and become intolerable. Recently, many government officials at the local, state and federal level have turned to the private sector to find the resources and technology to solve correctional problems.

Therapeutic Communities have had notable success in treating criminal justice clients within the community and have shown promise as an effective modality for prison-based treatment. There is a unique role for the TC in private prisons that needs to be recognized and integrated if privatization is to facilitate meaningful rehabilitation that can reduce recidivism rates.

An overview of recent privatization developments and recent issues indicate the effectiveness of the therapeutic community approach for prison inmates. The therapeutic community can play a productive role in the privatization of corrections.

PRIVATE THERAPY AND PUBLIC CONTROL IN GERMANY

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Since 1982 the German Controlled Substances Act (Betaubungsmittelgesetz, cited BtMG) has recognized privately run drug treatment programs as an alternative to imprisonment, thus making drug treatment a part of the system of criminal sanctions. The legal basis for this treatment is a private contract in which the drug user must give his consent to the therapy. The law, however, gives preference to prison-like treatment programs and, indeed, many therapies entail severe restrictions on the client's constitutional rights, such as restrictions on freedom of speech, freedom of movement and the right to privacy. Because these restrictions make therapy almost indistinguishable from punishment, there is no real choice between therapy or punishment at all, and hence the contract fails to meet the "freedom of choice" standards necessary for a valid contract under German constitutional law. I believe that a statutory solution to these problems, which would spell our the rights of the client while undergoing therapy, can only provide temporary alleviation. In the long run decriminalization of drug offenses would seem to be a more effective guarantee of the drug offender's rights.

Therapy in the place of punishment has been advocated in the USA for a long time now. This discussion has lead, especially here in California, to many varied forms of social-therapeutical services in public, semi-public and private programs. In Germany, the search for alternatives to the normal methods of punishment is also being intensified. Such alternatives are most easily introduced, as well as being most sorely needed, in those areas in which the traditional criteria for medical or psychiatric treatment are evidenced, i.e. precisely in those areas in which the advantages of criminal punishment are minimal. Treatment of drug users is increasingly being recognized as just such an area.

Historical Background

Up until the present there were about a dozen ways of bringing drug users into custody in order to begin therapeutic treatment. One is very similar to the Lauterman-Petris-Short Act of the California Health services Code, which permits taking drug users into custody if they present a danger to themselves or others. Other possibilities include a declaration of mental incapacity or, with juveniles, a delinquency proceeding. Such proceedings must be brought before the guardianship courts. In criminal proceedings the courts could always suggest therapy for drug-related crimes in cases where probation was appropriate. This followed in accordance with the German Penal Code (Strafgesetzbuch) and encompassed treatment in a psychiatric hospital, an institution for drug and alcohol treatment, or a therapeutic institution.

The provisions of the newly revised Controlled Substances Act, which expressly adopts the principle of "therapy instead of punishment" for drug users, changes all this. This new law permits the court to disregard a prosecutorial complaint or to suspend the criminal proceedings temporarily if the accused can prove that he has been undergoing treatment to help rehabilitate him, for a least the last three months, because of his addition. The court can also set aside the sentence or suspend the remainder of the sentence with probation, taking into account the time spent in treatment. The precondition for the state's nonprosecution requires that the accused be unertaking therapy because of his addiction and that this therapy aides his rehabilitation. The term "therapy" includes only a stay in a state-recognized institution that serves to end the addiction or to counteract a renewed addiction. An Amendment to the Controlled Substances Act now permits treatment in private facilities as an alternative to the public ones.

Structure of Therapy: The Therapeutic Community as Prototype for German Facilities

Anyone scrutinizing the therapy scene in Germany cannot help but notice the structural similarities of most facilities. They orient themselves to the prototype of a "therapeutic community" but still exist essentially as professionalized facilities. "Therapeutic communities" make up the lion's share of the treatment facilities offered in Germany insofar as the need is not covered by private or public hospitals. The methods applied vary essentially between psychotherapy, social-therapy, work therapy and social-pedagogical approaches whereby different approaches are frequently applied next to or mixed with one another.

Normally a certain lifestyle and form of social behavior go hand in hand with the therapy. Frequently the clients of the TC are exposed to a hierarchical relationship with strict rules of conduct and a differentiated system of reward and punishment. In addition to working out those difficulties connected with their drug consumption, the individuals should as a rule also learn, anew or once again, to organize their everyday lives (work/apartment/free time/etc.). The different forms of activities offered (individual or group settings, work duties, etc.) have to be seen in this light. After all, we are dealing here with a concept that aims at a fundamental change in behavior through a continual round-the-clock process. For this reason these normative-oriented facilities are also characterized as "secondary agents of socialization" and with a view towards their structure as "collective therapists."

The Legal Relationship between Client and Therapeutic Facility

Precondition to admission to treatment is customarily an application by the drug addict to the therapeutic facility in which the program is to be completed. In addition, the client must sign a declaration of voluntariness and at the same time subscribe to the written and unwritten rules of the facility. Because of the duty to register the clients place upon these facilities, the client must also release his therapist from his privilege against disclosure.

A cursory look might suggest that even with the indirect participation of state agencies, the client and the therapeutic facility come into contact as private individuals. The client reaches a contractual agreement with the facility that covers room and board, also frequently medical services, as well as the "presence of the proper social-therapeutic milieu," i.e. the therapeutic programs necessary for successful treatment. The facility in no way obtains any sovereign authority through this contract. It cannot, for example, take any measures against the client's will that entail restrictions on his freedoms. Therapeutic facilities are thus left with only one possible sanction for continual violations of house rules: the revocation of the private contract for treatment or the threat thereof. Hundreds of convicted drug users subject themselves time and time again to grevious invasions of their right to privacy through the rules that result from these private contractual agreements. One asks, "Why?"

Drug Therapy: Serving Time in Private Institutions?

There are several points that give cause to question the private character of this form of treatment. They are to be found in those paces in the Controlled Substances Act in which the therapeutic facility is the direct recipient of statutory duties through this legislation. For example, a judicial order requiring therapeutic treatment is directed at the convicted drug user whereas BtMG required that "the person applying treatment or the facility inform the authorities of a break in the treatment process." The statute thus contains a legal duty, which the treating person has to obey, even though he is in most cases neither a participant in the criminal proceedings nor a member of the legal apparatus. The information concerning a break in the treatment leads to the reintroduction of the criminal proceedings or the carrying out of the remaining sentence. At least ion the last case, the treating facility is directly active in the sentencing procedure. The violation of this duty to inform can lead to the loss of state accreditation, which leads us to the second drawback of this statute.

State accreditation is based on two preconditions: 1) the duty to register clients must be met and 2) a therapy concept recognized by experts must be presented. State accreditation is optional. The loss of it brings, however, the risk of considerable financial loss because çthe therapeutic facility must reckon with not being considered anymore when it comes to transferring clients out of the criminal system and into therapy. The evaluation of the treatment's success offers a further example. According to BtMG, the criminal proceedings are to be reinstituted if the therapy is not to be continued to its foreseen conclusion. The concept of the conclusion of treatment, is, however, basically to be defined by the treating facility. In this manner, the facility also obtains decisive competence in deciding upon the reintroduction of the criminal proceedings or the reinstitution of the remaining sentence.

The criminal character of these provisions is even more accentuated by the structure of the drug therapy favored in the statute, which is similar to penal conditions. According to BtMG, the time spent in the treatment facility will only be deducted from the remaining sentence if the convict was treated in a state-accredited facility in which the structuring of his lifestyle was subject to considerable restrictions. If the drug user decides to use a less restrictive form of treatment, e.g. outpatient therapy, then he must realize that is case of a relapse, breaking treatment or recidivism, he might have to serve the whole original sentence. In the eyes of the statute, the treating facility takes the place of the penal authorities and maintains in essence its structure. Those concerned also perceive it this way. Even if one wanted to negate a direct connection with the execution of the sentence, as evidenced by the cessation of the criminal proceedings or the suspension of the sentence, one cannot overlook the fact that private therapy facilities are drawn upon by the state to fulfill their public function of reintegrating criminal drug users into society. For this reason, they are also to be seen as part of the criminal justice system.

The Fashioning of Therapy in the Light of Constitutional Law

If drug treatment facilities are to be included in the state system of sanctions, one has to consider whether the same legal principles should apply to them, when they encroach upon the rights of third parties, as apply against state institutions. The measures to which drug users are subject in treatment facilities touch many varying fundamental rights. I would like to mention just a few of these in the following part of my paper.

First, clients of therapeutic facilities as a rule cannot dispose of their property as they want. Sometimes this commonly accepted right is totally revoked, although it is usually only greatly restricted. A stay in a therapeutic facility is frequently connected with exhaustive work duties (kitchen, garden, renovations, etc.). Mail is often censored or retained for short periods of time. Letter-writing is partially forbidden. The use of television and radio as well as the opportunity to read magazines are from time to time restricted or not at all provided. Freedom of movement is at first restricted to the treatment facility itself and is only enlarged step by step. Even after finishing a considerable part of the therapy, a client can be punished for a violation of the rules. Even the right of self-determination is touched by these intrusions, e.g. regulations concerning

appearance (haircut, clothes, lifestyle), required participation on therapeutical and other activities, as well as aprohibition of sexual and other contacts.

In so far as therapeutic facilities build a functional substitute for state action, they are subject to the same constitutional provisions. Basically, no private person may exercise sovereign authority over another person; that includes undertaking measures that restrict fundamental rights. Such an invasion of these rights would not be present if the clients had consented to treatment programs and the restrictions on their rights which come with these programs. For this reason, just about every convict who goes into therapy signs a so-called statement of voluntariness before admission in which he declares himself ready to accept the facility's programs. At least this is the way participants have interpreted this policy.

Such a procedure presupposes the client's ability to waive his fundamental rights voluntarily. This is certainly possible for the average person. The ability to consent is also present for drug users, for they possess the abilities necessary to understand and judge their waiver. Still, in addition to these abilities, the law requires the actual freedom to give consent, if the waiver is to be effective. In accordance with constitutional law, a waiver of a fundamental right can only follow when this freedom is evidenced by alternatives from which the individual could freely choose.

In accordance with this principle, the Constitutional Court of the Federal Republic of Germany found in a murder case, where the accused wanted to prove his innocence by taking a lie detector test, that the accused had no real freedom of choice. The lie detector test presented an offer that he could not refuse as it presented the only possibility of not being convicted. This principle of constitutional law has ramifications for the problem with which we are dealing. In a proceeding in accordance with BtMG, the accused's statement of voluntariness can hardly serve at the same time as an effective waiver of his constitutional rights because of the constant threat of incarceration. The same is true of the duty to register, which coerces the therapists to waive their therapist-client priviledge. These regulations in the Controlled Substances Act take away a great deal of the accused's protection in the area of doctor-patient (or here, therapist-patient) relationships.

As no effective waiver is present, the question remains to what extent the statutory provisions of this act allow invasions of the fundamental rights of those concerned. In German law, the transfer of public functions to private institutions follows through a state act ("Beleihung"). This leads to the creation of legal relationship of a public character between the empowered agency (e.g. TCs) and third parties, insofar as the relationship is based on the state act itself. The private agency then becomes an organizational part of the public administration. The necessary protection of individual rights from sovereign acts of the agency thus becomes a part of the normal judicial control of administrative agencies.

In accordance with Article 20 of the Basic Law of the Federal Republic of Germany (Grundgesetz), any state action that affects individual rights must be based on a written statute. Case law has interpreted this preference for written law to cover all those areas that are essential to the realization of the individual's fundamental rights. In the present case, this would require a more careful structuring of those procedures that are used within the framework of the therapy relationship and have a direct significance for the realization of fundamental rights.

The provisions of the Controlled Substances Act provide for the undertaking of therapeutic services by private facilities, but are so unspecific that they fail to provide the actual structure that the therapy should take. Besides the expressly mentioned transferral of legal competence, there is no specific mention of or limitation on the authority of the facility, and this in spite of the many possible violations of fundamental rights which I have previously stated. All regulation is left up to the therapeutic facility. The Controlled Substances Act thus fails to meet the constitutional requirement that it cover all of the determinative factors within the normative area that it regulates. For this reason, this act does not present a legally effective assignment of state functions that would provide the therapeutic facilities with a basis for their invasion of the fundamental rights of those concerned without their valid consent.

In summary, one can see that drug therapy is being taken out of the private sector and placed in the public sector. It is a fiction to believe that this previously mentioned "agreement of voluntariness" is actually based on the individual's freedom to contract and is supported by his equality before the eyes of the law. In reality, the convict sells his individual freedom as the price of a successful reintegration under the threat of punishment. This represents an invasion by the state of his fundamental rights, which are protected by the constitution.

If the legislators force drug users into a therapy that is the functional equivalent of incarceration, then it must also meet constitutional standards. Invasions of the accused's fundamental rights within the framework of this therapy are thus inadmissible as violations of the previously mentioned preference for statutory regulation, insofar as therapy is given in connection with the Controlled Substances Act.

Alternatives

What can we do? Do we need a new law covering the serving out of drug therapy? At first glance a traditional jurist might say yes, and at the same time, think of other areas that concern the execution of sentences. Still, two arguments speak against such a statutory solution. First, as my critique is actually directed against the deficiencies of statutory control, one can hardly expect a new statute to solve these problems. In any event, it would most likely only result in maintaining the status quo. The violations of

fundamental rights would simply be written into law. My second point is more fundamental and involves the thesis that the problems that arise in drug therapy can only be solved to a minor extent through legal regulation. This thesis is closely connected with the discussion concerning the steadily increasing legal regulation of previously non-regulated sectors of life. The German philosopher, Habermas, has characterized this phenomenon as the colonialization of life's spectrums ("Kolonialisierung der Lebenswelten").

If one imagines this invasion of legal regulation in the are of therapy, it becomes quite clear that various fundamental contradictions exist. Therapy, especially life in a TC, is necessarily dependent on mutual recognition, understanding and respect. The fundamental presupposition of any successful treatment -- trust -- cannot be coerced through legal regulations. In such cases, the appearance of the client in court would signify the end of any possibility for successful treatment. If the advisor or therapist is required to behave by the book, the negative effects would be deindividualization and formalization; in short, bureaucracy instead of communication. This can be seen already in the latest developments in the area of legal control of the medical field.

If the law is unsuitable as a means of providing clients with the proper therapeutic atmosphere necessary to bring about a speedy recovery, i.e. through a discursive process involving coercion, manipulation and conditioning, one asks what might provide a solution. The answer is deregulation, a concept that has been used up until now in other administrative areas. Deregulation could serve to solve the constitutional problems that I have previously mentioned. The main problem with the Controlled Substances Act was the lack of voluntariness on the part of the client which resulted from the threat of punishment and the prohibition on drugs and drug use.

In its Report of Decriminalization, the European Committee on Crime Problems developed several suggestions towards society's dealing with drug problems in a more rational way without using criminal law. I do not want to go into these suggestions in detail, as the concepts of decriminalization and legalization are also well known and heavily discussed here in the U.S.A. The results of deregulation of drug crimes would bring about two positive effects: overcoming the illegality problem and all of its consequences and reintroducing voluntariness in therapy.

Conclusions

1) Voluntariness in therapy would mean that punishment no longer provided the inducement to therapy. Drug users would then be treated just as alcohol-coffee-tobacco consumers, neither privileged (therapy instead of punishment) nor discriminated against (punishment only for çthe use of certain drugs).

2) Outside control through state or financial institutions could be done away with, at least as far as the clients are concerned.

3) Treatment could be restricted to the addiction.

4) Self-help could take on new meaning and provide greater flexibility (therapy without punishment). Self-help groups could be used in non-drug-free areas.

5) Legal regulations appear to me to be less than helpful in securing the rights of drug users to therapy. At best they provide a crutch at present during a transitional period, in an attempt to bridge the present unsatisfactory conditions. Decriminalization in the sense of deregulation is in the long run the best alternative to protect the rights of drug users to therapy.

TWO ALTERNATIVES FOR DRUG ADDICTS PRISON OR TC

Guido Neppi Modona

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For a few years now there had been a lot of debate in Italy over the idea of changing the criminal code to offer drug addicts in prison an alternative to their sentence. One alternative considered is the TC.

This debate is very animated for two reasons: on the one hand the particular situation of drug addicts in Italian prisons and on the other hand, the remarkable recent development of TCs in Italy.

As far as Italian prisons are concerned, out of 45,000 inmates, at least a third are serving sentences for crimes connected with the use of narcotics. These crimes go from dealing narcotics on a small scale to theft and armed robbery committed to finance a drug habit. This high number of inmates who are drug addicts causes continuous tension in the prisons. The overlapping of the drug sub-culture and the prison sub-culture creates an explosive mixture which makes it difficult to maintain discipline.

Alternatives to imprisonment would, therefore, decrease the prison population and, at the same time, provide programs for the rehabilitation of drug addicts, programs which are now nonexistent and are impossible to set up inside the prisons.

Now, turning to the therapeutic communities, their remarkable development in recent years and the interest aroused by the sensational trial of Vincenzo Muccioli, founder of the Comunita di San Patrignano, have made many people think that these communities work miracles and that the TC is a solution to the problem of the rehabilitation of drug addicts which can be applied to every case of this kind. If you add to this the fact that at San Patrignano there are numerous drug addicts who have had problems with the law and who have been granted house arrest in that community, you can easily see why there is so much interest in proposals for the rehabilitation of drug addicts outside the prison system.

The problems of drug addicts in prison are also likely to get worse in the future. It is a well-known fact that most drug addicts have problems with the law, that is they commit crimes to obtain narcotics. The least of these crimes is that of dealing narcotics in small quantities. The image of the consumer/small-time dealer is so familiar that it is not exaggerated to say that almost all drug addicts could be charged with the crime of dealing small amounts of narcotics. This crime is punishable with a sentence of 2-6 years imprisonment and, particularly in the case of a second or third offense, the drug addict will end up in prison.

There is also a growing tendency for defendents in trial to collaborate with the law. They name their accomplices and others in exchange for greater leniency on the part of the judge. This custom, which until recently was used mostly in the big trials involving terrorism and the mafia, is now becoming common in trials involving drugs. If this tendency continues, the number of drug addicts who are either charged or convicted and imprisoned will increase in geometric proportions.

This situation reveals a contradiction between the various programs set up for the control, repression, or rehabilitation of drug addicts. On the one hand, the laws regarding the consumer/small-time dealer lead to more and more frequent trials and convictions which increase the total number of drug addicts in prison. On the other hand, because of the heated debate in cultural and political circles caused by the increase in drug addiction, the government is more actively supporting projects for the rehabilitation of drug addicts, specifically the TCs. And here lies the contradiction: consumers/small-time dealers are sent to prison where they cannot do a rehabilitation program, but funds and other resources are set aside to support forms of therapeutic treatment which are designed to help these same individuals break their habit.

The proposal to offer the imprisoned drug addict an alternative to his prison term which would be admission to a TC seemed to many a solution to two important problems. It would rehabilitate thousands of young people who are victims of drug addiction. It would also make the prisons more "governable" by removing the drug addicts who are easily blackmailed and used by organized crime and are an element of continuous tension, corruption and disorder.

Recent bills that are beginning to be discussed by the Italian Parliament have moved in this direction. They propose various legal alternatives for drug addicts who committed crimes because of their drug addiction and who would voluntarily enter a therapeutic program. These alternatives include suspension of warrants for arrest or of the trial, the conditional suspension of the sentence, and the concession of parole. If the therapeutic treatment is successful, there are various proposals for even more lenient treatment, some of which go as far as to propose that the crime be struck from the record.

Confronted with such enticing solutions that seem to resolve everything, done, with people who work in or have great experience with TCs, like Don Mario Picchi of the Centro Italiano di Solidarieta, Claude Olivenstein of the Marmottan Hospital of Paris, officials of the French Ministry of Justice, and representatives of therapeutic programs in France, have expressed almost unanimous disapproval. The

opinions expressed by the French authorities is of particular interest because since 1970 in France there has been a law which offers the drug addict an alternative between a trial and therapeutic treatment.

The reasons for these negative reactions to the establishment of therapeutic treatment as the alternative to a prison term seems very simply and convincing:

- First, the fact that a drug addict voluntarily chooses to enter a TC is an essential element for his success in that program. The choice between prison and TC is not a choice; it is settling for the lesser of two evils.

- Secondly, the TC is a method of rehabilitation which works for not more than 10-15% of all drug addicts. This percentage would remain the same if applied to convicts.

- Thirdly, treatment in a community has one primary objective which is to recuperate the personal identity of the drug addict. This identity is rebuilt through discipline and a series of precise, clear rules of life. But if a drug addict were doing a therapeutic program as an alternative to a prison term, this discipline and these rules would be seen as punishment for a crime and not as tools for living.

- Fourthly, overlapping the drug sub-culture and the prison subculture would have a disastrous effect on the running of the TC. It would create a conflict between the therapist and the parole officers who have two functions and two ways of working which are completely different and irreconcilable. TCs set up inside prisons in Switzerland, Holland, and Belgium have failed because of this problem which created enormous tensions and conflicts in both the therapist and the addicts themselves. In France, the young person leaving the hearing where his sentence to a prison term had been communted so that he could enter a TC would be heard to say, "I have been sentenced to therapeutic treatment". This demonstrates the total confusion which this alternative creates between therapeutic objectives and punishment and repression.

- Finally, even if the alternative prison/TC, in spite of all these arguments against it, were to be approved by the legislature, it would still be very difficult to put into effect. It would take years and years of work to create a chain of TCs large enough to accommodate thousands of drug addicts, if only because the preparation of staff takes such a long time. Therefore, there would be the risk of creating an expensive bureaucracy which is very rigid and guarantees only its own permanence. It would be unable to fulfill the tasks it was created for, but also unable to declare itself a failure.

There is much more need for experimentation in this area than for expensive bureaucratic structures. And there already is in Italy an example of a community which takes in convict/drug addicts without raising any particular objections or problems. I am speaking of the Comunita di San Patrignano which has more than a hundred residents. We should therefore move very carefully and openly, attempting to honestly evaluate this and another experiments before creating a large bureaucracy which repeats them.

The French experience is particularly important. A law of December 31, 1970 established the possibility of a "therapeutic injunction" to be applied in cases where the drug addict had committed small crimes connected with supporting his habit. In these cases the prison sentence was waived in favor of admission to a TC.

Well, fourteen years later, the failure of this law, already noted by those who work closely with it, had now been officially recognized by the Ministry of Justice. In a circular letter of September 1984, 1984 they admit that "only modest results can be expected from therapy based on constraint which overlaps the roles of doctor and judge in ways which the drug addict finds difficult to understand". And in another part of the circular the district attorneys' offices are asked to see if, in concrete cases, the addicts role as a drug dealer doesn't take precedence over his role as a consumer. In this case he should be prosecuted by the law without using the therapeutic injunction of 1970 which obliges him to enter a TC. The same applies to cases of crimes against people or property where the defendent claims to have acted under the influence of drugs or to obtain drugs. Here the ministry also advocates that judges not apply the 1970 law which gives the defendent an alternative between a trial and other treatment.

The position taken by French social workers and community staff is even more drastic. For a long time now, they have pointed out the ambiguity of the 1970 law which confuses the role of therapy and the role of the judicial system. They have also noted the risk that excessive permissiveness will now be subsituted by particularly severe treatment for crimes committed by drug addicts.

Their advice is to consider the convict/addict as the same as any other convict. He can be offered the possibility to begin a therapeutic program while in prison if he asks for it. But this would be completely independent from his other problems and from his status with the law.

These evaluations are even more important when you consider that they come from officials of the Association "Trait d'union" of Paris. This group was founded in the mid-70's specifically to take responsibility for convict/ addict and to get them started in an appropriate therapeutic program. In other words, those who promoted the 1970 law now recognized its failure and warn against any attempts to overlap a therapeutic structure and the prison structure, or to set up therapeutic departments in prisons. This fact should be taken into account seeing as in Italy we seem about to try this same thing.

PROPOSED SOLUTION IN ITALY

Actually, after the first rather excessive enthusiasm for alternatives to a prison term, there is now a tendency toward careful experimentation in Italy. This can be seen in the recent law of June 21, 1985 (number 297).

The provisions of this law are significant and offer an attempt to resolve an international problem in every country where drug abuse has become a mass phenomenon, there is a closer and closer relationship between drug addicts and the criminal justice system.

The Italian law of June 1985 is divided in two parts that don't seem to have any connection at all. The first part provides that funds be distributed by the Ministry of the Interior to public agencies and also to non-profit organizations of volunteers, cooperative or private, that carry out programs for the rehabilitation of drug addicts. This is the first time that the Italian government has made a direct financial commitment to support various forms of treatment which are run privately. Even though the state has allocated very few funds up to this time, this law seems to recognize the significant role of the various private therapeutic programs, religious and non, in the difficult takes of rehabilitating drug addicts.

The second part of the law provides for a first cautious alternative to a prison term for those drug addicts who are accused or convicted but are already undergoing therapeutic treatment in an agency, public or private, which is eligible for financial aid from the State.

And here the connection between the two parts of the law becomes evident. The State is trying to set aside funds for programs for the rehabilitation of drug addicts and, at the same time, deal with the contradiction that we have pointed out from the beginning. This contradiction is that the drug addict receives repressive treatment in prison which excludes the possibility of his rehabilitation, and yet funds are set aside for the therapeutic treatment of the same drug addict.

This law offers alternative systems to that of the prison which seem adequate to overcome the otherwise enormous contradiction between the repression in prison and the rehabilitation of drug addicts. The law uses the system of probation which is already part of the penal code, modifying it to suit the particular situations of drug addicts. if an addict who is already following a therapeutic program is sentenced to a prison term of not longer than two and half years, he can ask to be paroled to continue his therapeutic program. If the period of parole ends without incident in a period of time equal to that of the prison sentence, then the sentence is canceled and crossed off the records.

The primary objective of the new law is to avoid the negative consequences of a prison term on those drug addicts who are already following a therapeutic program. It is absurd that drug addicts who are doing a therapeutic program and who are therefore already outside the vicious circle of drug addiction are then imprisoned for crimes committed before beginning treatment. This nullifies the rehabilitation work that the addict has done and usually means he will return to narcotics.

The alternative to a prison term is offered by this law only to those drug addicts who have already freely and spontaneoulsy chosen to enter a TC, without the added push of wanting to avoid going to prison. This is to prevent a generalized appeal for this alternative which could be used as a way to escape a prison term and nothing more.

The other provisions of the law work for the same ends. For example, a judge who is trying a drug addict who is already doing a therapeutic program must consider the risk that stopping that program would be to his rehabilitation before passing his sentence. When a drug addict who is doing a therapeutic program in prison is let out on bail, the judge must also take into consideration that the therapeutic program can work much better if the drug addict is outside the prison.

And so it seems that the law has found an equilibrium between the need to provide ways of rehabilitation for drug addicts who are on trial or already convicted and the danger of offering a generalized alternative to a prison term which contrasts with the fact that a drug addict must do a therapeutic program spontaneously and of his own free will.

We cannot now foresee how many drug addicts who are on trial or convicted will be able to use the parole system to continue a therapeutic program without having to go to prison. The frequent stories of young people who have left the world of drugs and then are arrested or convicted while they are doing a therapeutic program lead us to assume that this new law could affect a few thousand drug addicts.

If this law works, it will be a big step forward in overcoming the contradiction between repressive penal action and rehabilitation. Until now, this has given the unfortunate impression that a drug addict who is on trial or a convict is excluded from any type of rehabilitation, even if he has already left the world of drugs and in so doing has resolved the problem which caused him to commit crimes.

We would also like to point out one gap in the law. The alternative to a prison term is available only to drug addicts who are following a therapeutic program and not to ex-drug addicts who have already finished a rehabilitation program and are living normal lives.

It will not, however, be difficult to fill this gap by making it possible for an ex-drug addict to have the sentence annulled or communted to an equal period of social service with health organizations, schools, or other volunteer community services.

In the case where the ex-drug addict who has to serve a prison sentence is a person who could be a staff member in a TC for drug addicts, his social service could be done in one of these communities. But, in this case, two conditions must be respected: first, the ex-drug addict must voluntarily decide to work in the TC and, second, the community must also voluntarily decide that he is right to work there.

With these additions, the law would recognize the already established chain of solidarity in which many ex-drug addicts dedicate themselves to help to rehabilitate other young people, victims of the slavery of drug addiction. And we would see the criminal justice system enter rehabilitation programs without contradictions.

DRUG ABUSE IN COLOMBIA

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For a long time, there has existed a false preconception regarding Colombia. It was seen as merely a country which served as a bridge for the trafficking of drugs, but it was ignored that a dangerous and phenomenal usage of drugs exists in Colmbia itself. It is a practice among certain indigenous peoples to use cocaine for its properties as a stimulant. Coca leaves were chewed to calm hunger, during physical labor, to cure illness and was an indispensable ingredient in religious celebrations. Without doubt, cocaine was destined for personal use, even before its commercial use was exploited.

Not only have the existing socio-economic problems facilitated the displacement of a vast amount of people into the marketing of drugs hoping to gain rapid and easy riches, but also the number of nationals using drugs multiplies each day. Due to this national preoccupation, we have had to admit that a large sector of our community is destined to become consumers of drugs. The principal method of use at this time is *basuca* or "crack" which is smoked.

Basuca is a stimulant substance produced in the transformation process from coca leaves into crystallized cocaine. It is not water soluble. It has a higher melt point than processed cocaine and it's absorption is more rapid. It contains cocaine alkaloids, residues of solvents used in preparation (gasoline, ether, kerosene), street cuts (baking soda, talcum powder, cereal), 40 to 85% sulfate of cocaine, and approximately 14.6% pure cocaine. Statistics indicate that more crack is consumed in Colombia than marijuana.

Illicit Trafficking Trends

Due to the great amount of money that the narcotics traffickers count on, they seek multiple modes of transportation to bring the drugs to the center of consumption for major economic utilization.

There is an intentional use of airplanes and ships with superior grades of technological equipment that provides them a safe and rapid means to transport drugs to their destination.

There has been significantly improved methods of smuggling. For example: to use flowers, ceramics, art works and to have Mules (people needing money) hide drugs on their bodies, in clothing or luggage. In addition, the re-appearance of opium poppy cultivation in rural areas is causing some alarm in Colombia.

With all that has occurred, the national government has not gone back on its promise to continue an intense frontal attack against these forms of trafficking. Through collaboration among organizations and institutions in charge of halting drug traffic (Department of justice, police, national guard, immigration and naturalization department) there has been an impact which has been commended by President Ronald Reagan of the United States.

We are concerned that the fight to halt drug traffic cannot remain solely within the confines of government. Drug rehabilitation programs, treatment and prevention efforts are necessary.

Prevention, Treatment & Rehabilitation

Colombia's first lady, Rosa Elena Alvarez de Bentacor, heads our National Commission on Drug Abuse, and, in conjunction with the ministries of Health, Justice and Family Welfare, has started a campaign for the prevention of drug abuse. A general policy to avoid the use and abuse of drugs which produce physical or psychological dependency is advocated. It is emphasized that the people should adopt these preventive measures.

Dr. Josefina Gallardo del Parejo has established "Nuevo Amanecer", a TC similar to the "TC of Colombia" run by Father Marco Fidel Lopez. There have been positive results from 14 centers specializing in drug and alcohol abuse throughout the country. At the same time, the Ministry of Health has been given the task of controlling prescription drugs that can be abused. Physicians should prescribe these drugs on special prescriptions with copies that are sent to the Ministry of Health.

The national government has begun to control the distribution and sale of products that are necessary in the preparation of cocaine free-base, as well as air traffic control and cancellation of pilot's licenses for those involved in drug trafficking. Colombia has obtained collaboration from other nations for fiscal assistance, specifically the United Nations Fund for Drug Abuse Control. Colombia has also initiated a program of crop substitution for cocaine cultivated in traditional zones like Narino and Calica. This program has as its objectives the production of food, the creation of commercial or cooperative farms, the introduction and development of the use of mechanical farm equipment, and to improve the quality of life for Colombian farmers.

Another prevention project is training and education in the formal and informal educational system. Prevention through the use of television and radio, information and data banks are being utilized as alternatives in treatment and rehabilitation.

In Colombia there are approximately 55,000 acres cultivating marijuana and a comparable amount cultivating cocaine. It is impossible to successfully eradicate or cut cultivation through the method of "gufosato" of fumigation.

Columbia has presented new legislation subscribing to an assistance agreement with various countries and cooperation among customs in these countries concerning control, repression and prevention of the trafficking of drugs and psychotropic substances. The legislation is designed to provide information and to approve an agreement to enforce imprisonment and/or the death penalty for illegal drug trafficking.

The Colombian government has decided to continue the fight against narcotics traffic. We will be in a better position to listen to suggestions, plans and programs allowing for improved efficiency. We implore the participants in this Ninth World Conference of Therapeutic Communities to convey and realize the recommendations stemming from this event in our countries of origin.

THE COUNSELOR'S GUIDE TO CONFIDENTIALITY: A REVIEW

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TITLE: *The Counselor's Guide to Confidentiality*
AUTHORS: Christine D. Weger, Esq. and Richard J. Diehl, Esq.
PUBLISHER: Program Information Associates, Honolulu, HI, 1984, 98 pp.

Attorneys Weger and Diehl have written an excellent guide for all of us who deal with confidential records of alcohol and drug abuse patients -- a practical tool for both lay people and attorneys.

Admittedly I approached the guide with a certain skepticism. Attempts to please both lawyers and their clients are either so technical that they convince the nonlawyer to retain counsel or so general that the lawyer deems them literary negligence. *The Counselor's Guide to Confidentiality* (hereinafter referred to as *The Guide*) is a rare instance wherein authors have sailed safely between Scylla and Charybdis, skirting both dangers and satisfying all. The rules and regulations are clearly explained in every day English for the generalist and amply supported with citations and references to give counsel all he or she will need to represent his client.

The Guide is more akin to a pamphlet than a book (apologies to those unprepared for a "pamphlet review"). Its 54 pages of narrative and 44 pages of appendix are typed rather than typeset and stapled together with a paper cover. The small size and light weight make it convenient, easy to keep handy, and easy to carry.

As an attorney I feel that the inclusion of the regulations (42 CFR Part 2) is a thoughtful addition, permitting the reader to consult the regulation itself while reading the authors' interpretation. Particularly helpful is the rich use of the legal opinions of the General Counsel of the Department of Health and Human Services. These are the opinions that count. If you've sought and relied on an official opinion of the regulatory agency administering the law you've acted in good faith, which goes a long way with most courts. The authors were thoughtful enough to also provide titles of publications containing these opinions, an address to write to for an opinion on a problem you may have, and even the phone number of the H.H.S. General Counsel.

Both counsel and generalists will also appreciate the H.H.S. approved forms that had been included. A form for a Qualified Service Agreement (QSA), a consent to release information, and a court order are provided. The authors might consider adding motion papers to quash subpoenas; they are available from the Legal Action Center in New York. Unlike consents and agreements you usually don't have much time to draft, a ready form could be crucial.

Weger and Diehl dedicate a chapter to a discussion of some of the common situations we all confront. Those of us who work in both treatment and criminal justice should appreciate the section on Disclosures to Law Enforcement Officials as well as the H.H.S. guidelines on how to handle requests from law enforcement officials for information about patients. I recommend The Guide for those working in TASC (Treatment Alternatives to Street Crime) or pretrial services programs throughout the country.

The thorny issue of child abuse disclosure is another of the common issues reviewed. An engrossing inspection of the "catch-22s" and dangers to avoid makes for good reading. So engrossing was this section that I sought out additional articles on the subject and in doing so unsettlingly found that the authors omitted an H.H.S. ruling reported by the Legal Action Center in New York permitting treatment programs to report child abuse "without written consent or court order if such a report can be made without identifying the abusing parent as a patient in alcohol or drug abuse treatment." This would be applicable to any institution that is involved in more than just drug or alcohol treatment, such as a hospital. One can't cover everything, and perhaps this will be corrected in the next edition. I hope so because it was just a spot check and it was an important bit of information to many of the programs.

No matter how monumental, penetrating or sublimely written a book (or pamphlet) of law may be, its most practical virtue is that it is current. *The Guide* is the latest word on today's law but not for long. As the authors point out, H.H.S. is currently in the process of revising the confidentiality laws. A section on the proposed changes detailing the alterations under consideration along with the mailing address and phone number of the legal assistant presumably working on the changes at H.H.S. is thoughtfully included. In speaking with Richard Diehl, I learned that they intend to publish a sequel should the laws change.

Those interested in obtaining a copy of *The Guide* are encourage not to discard this review after ordering. A fatal omission in printing left out the address of the publisher from the first edition. Diehl believes that a forthcoming second printing will contain their Hawaii address. Let's hope so, because I believe that it's going to be a guide in demand.

Weger and Diehl's guide is an ambitious and successful effort to pull together the regulations, court decisions, and administrative opinions into a compact and readable form. Other articles and pamphlets do

exist, but none, to this reviewer's knowledge, has included all the essential material or references to material that both practitioner and counsel need to do their job. *The Guide* is a job well done.