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The Criminal Court Clinic: An Administrative Model

James C. Arieno

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THE CRIMINAL COURT CLINIC:
AN ADMINISTRATIVE MODEL

BY

JAMES C. ARIENO

B.U.S., UNIVERSITY of NEW MEXICO, 1973

THESIS

Submitted in Partial Fulfillment of the
Requirements for the Degree of

MASTER of ARTS in PUBLIC ADMINISTRATION
in the Graduate School of
The University of New Mexico
Albuquerque, New Mexico
MAY 1974
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ABSTRACT OF THESIS

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THE CRIMINAL COURT CLINIC

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M.A. , UNIVERSITY OF MEXICO, 1973

MASTER OF ARTS IN PUBLIC ADMINISTRATION

NORTHWESTERN UNIVERSITY
The Criminal Court Psychiatric Evaluation Clinic is one of the latest efforts being made to assist the criminal justice system in increasing its effectiveness and responsiveness to society and the offender. The primary goal of the clinic is to provide the courts with professional diagnostic services regarding the alleged or convicted offender.

To achieve its intended objectives, the court clinic must function as an independent cooperative organization within the greater structure of the criminal justice system. This introduction of the court clinic into the larger established organization will subject all parties concerned to the pressures and problems of interpersonal relations and group dynamics.

The general attitude of the criminal justice system is typified by incarceration and punishment, while most Mental Health personnel, who are the primary force in the court clinic, are of the opinion that "criminals" can be rehabilitated or prevented. Interacting groups possessing divergent philosophies of this magnitude are somewhat unique within the structure of organizations, thereby adding to the problem of inter-personal relations.

To overcome this problem a dynamic administrator is necessary. Therefore, it is hypothesised that the key to a successful court clinic is an informed, objective and flexible administrator.
A review of existing literature was undertaken. The evolution of punishment was traced from prehistoric time to modern society to provide background knowledge as an aid to understanding the criminal justice system as it exists today. The structure and functions of the criminal court clinic were described to show that it could fill many needs of society. The philosophies adhered to by human services professionals were compared to those held by the criminal justice professionals to convey the fact that these two groups saw different paths to a common goal. The theories of group dynamics were discussed to set a framework from which to project possible problems which might arise from the interaction of these two groups within the criminal justice system. Finally, utilizing the information presented, anticipated problems and their resolutions were set forth in an effort to predict the importance of the administrator to the success of the criminal court clinic.

In reviewing the problems presented, adherence to reference group theory, bureaucratic rigidity, effective communications, the divergent backgrounds of the interacting groups and maintaining public support, it becomes evident that the major administrative problem is the acceptance of the court clinic. Acceptance by the criminal justice system, acceptance by the interacting agencies and acceptance by the community and the legislature are all necessary to the survival of the criminal court clinic.
It was shown that the responsibility for gaining this necessary acceptance rested with the administrator. An administrator who is informed, so that he can be a visionary yet practival. An administrator who is objective, so that he can be critical yet supportive. An administrator who is flexible, so that he can lead and yet follow.

An administrator, as described above, would be able to secure the necessary acceptance for the survival of the court clinic. Therefore, the results of this study are positive. The key to a successful criminal court clinic is an informed, objective and flexible administrator.
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INTRODUCTION

The Criminal Court Psychiatric Evaluation Clinic is one of the latest efforts being made to assist the criminal justice system in increasing its effectiveness and responsiveness to society and the offender. The primary goal of the clinic is to provide the courts with professional diagnostic services regarding the alleged or convicted offender.

To achieve its intended objectives, the court clinic must function as an independent cooperative organization within the greater structure of the criminal justice system. This introduction of the court clinic into the larger established organization will subject all parties concerned to the pressures and problems of interpersonal relations and group dynamics.

In reviewing literature regarding the functions of the criminal justice system and the court clinic, it becomes apparent that two differing philosophies exist. The general attitude of the criminal justice system is typified by incarceration and punishment, while most Mental Health personnel, who are the primary force in the court clinic, are of the opinion that "criminals" can be rehabilitated or prevented. Interacting groups possessing divergent philosophies of this magnitude are somewhat unique within the structure of organizations, thereby
adding to the problem of interpersonal relations.

Much of the overall success of the court clinic requires that a great deal of research and consideration be given to the economic and cultural factors which lead to the establishment of effective staff/client relationships. However, due to the constraints of time, this study is limited to the administrative problems which arise from the interaction of divergent groups. A myriad of administrative and organizational problems must also be overcome before a viable organization can exist. As one becomes aware of the evolution of the criminal justice system, the structure and functions of the court clinic, the differing philosophies of the groups involved and the theories of group dynamics, it appears that the administrator is an important factor in the success of the court clinic.

This study analyzes the interaction of mental health personnel and criminal justice personnel, within the bureaucratic environment, in an effort to provide a descriptive model of group interaction which may be generalized to related settings. This model will suggest types of problems to anticipate, and possible techniques for their resolution. The administrator is a major factor in the resolution of these anticipated problems. Therefore, it is hypothesized that the key to a successful court clinic is an informed, objective and flexible administrator.
null
CHAPTER I

THE EVOLUTION OF PUNISHMENT
Primitive man in the hunting stage was excessive whenever the opportunity arose; necessity required him to be extreme in his behavior. He gorged himself whenever food was available, for he did not know when next he would eat. He was promiscuous, because a high death rate necessitated a high birth rate. He was violent, ever ready to fight for food or mate. What would later become vices, were virtues, indispensable to survival.\footnote{1}

With the realization of the benefits which could be gained through group effort, man formed the first extended social organizations. Within these organizations he was no longer free to indulge himself, there were now others to be considered. Division of labor became a reality, allowing some members of the group to hunt while others remained close to camp, gathering and planting food and caring for the young. Food, which was now shared by members of the tribe, could be stored for future use; voracity was no longer considered a virtue. Value was placed on personal belongings. Some feel that man looked upon women as his first possession, and that this may have resulted in the reversal of attitudes towards promiscuity, at least as far as women were concerned. The acquisition of land for permanent settlements and cultivation was another manifestation of this trend to possess, or own, material goods.

Inter-group violence could no longer be tolerated. Personal revenge, which leads to payment in blood, was a disrup-
tive force, even when the blood payment was extracted by the group. The ideas of justice at this time were similar to those which were later set down by Hammurabi; i.e. if an attack rendered the victim blind, then the attacker was also blinded. Adjudication of this nature served only to lessen the group's numbers thereby diminishing its effectiveness in combating the elements, as well as other newly formed societal groups. The instincts which made the hunting pack successful could no longer be tolerated as a way of life, for they would destroy this new society.

The next step in this evolutionary process was a natural one. Slowly the principle of personal and group blood revenge gave way to a system of payment for damages in gold or goods. Since gold or goods were paid in place of blood, a system of adjudication had to be instituted to settle disputed claims as to value. The basis for this system stemmed from earlier efforts to moderate behavior patterns. Parental love had led to parental authority, which in turn became the model for the authority structure. A parental style leader emerged with the authority to discipline members for behavior which might be detrimental to the group. In an effort to gain a measure of stability and impartiality, a system of informal courts were established. This was followed by an assumption on the part of the authorities of an obligation to prevent as well as punish wrongs.
The transition from settling disputes and punishing offenses to the inclusion of the task of prevention proceeded with relative ease. A system of "Common Law" evolved from tradition, and "Positive Law", derived from decree of the government, was added to it. Law came to man, and formal legal systems were established.

As time passed, the practice of individual retaliation was completely abolished and replaced by state retaliation. Any action which might endanger the "Public Peace" was punished by the courts. The list of what constituted crimes against the state grew until practically all offenses against person or property were considered to be public affairs. Brutal punishments, administered in public, were inflicted by the state, within a framework of law. Burning at the stake, strangulation, boiling in oil, breaking at the wheel, drawing and quartering, and hanging were some of the forms of capital punishment.

For centuries, prisons were thought of only as places of incarceration while awaiting trial. Death was the statutory penalty for capital crimes, which were numerous and varied. In eighteenth century England for example, the list of capital crimes numbered 350. Among these were: murder, treason, counterfeiting, arson, rape, sodomy, piracy, forgery, destroying of ships, bankruptcy with concealment of assets, highway robbery, burglary of over forty shillings, shoplifting above five shillings, stealing cattle, cutting down trees in a park, setting
In conclusion, from the analysis of the data, it is clear that

- The significant factor is [factor description].
- This conclusion aligns with previous studies.

Further research is needed to validate these findings.
fire to a cornfield, sending threatening letters, willful
shooting a rabbit in a restricted area, escaping from jail
and committing sacrilege. Lesser crimes were punished by
imprisonment in the stocks, the pillory, whipping, hard la-
bor in workhouses and transportation to the colonies. In
many instances, the punishment resulted in the death of the
offender.

Imprisonment was not used as a punishment for a crime,
only for detention prior to trial, or for execution of a
sentence. A debtor would be sentenced to prison until he
could pay his debts, also women and children who had been
sentenced to hard labor would have their sentence commuted
to imprisonment. One could be imprisoned "at the King's
Pleasure", for as long as the King or his ministers wished.
This could be taken as a form of punishment, but by and
large, prisons were viewed merely as places for safekeeping
until such time that the interests of justice could be
served.

Prisons were notorious for disease, filth, inhumanity
and corruption. Jailers were not paid by the state but by
the prisoner, a system which could only lead to bribary, an
inequitable treatment. Upon arrival, a new prisoner was
placed in irons, given a bed of straw in a damp crowded dun-
geon, with no toilet facilities, and allotted one pound of
bread a day, as his diet. A penniless debtor, or orphan
child, might slowly starve to death on the bread allowed him, providing he did not die of "jail fever" -- typhus or smallpox -- before then. 10 If, however, the prisoner could arrange funds from outside with which to bribe the warden, his irons would be light instead of heavy, his pallet might be in a private cell, and he would enjoy food sent in from outside the prison. If he could afford it, wider liberties, such as the company of his wife and even a holiday in the city, were available to him. All this, while less wealthy prisoners were starving to death, being tortured by sadistic jailers, dying of "prison fever", or even being eaten alive by rats. These conditions prevailed not only in England, but on the Continent as well.

The law appears to have had little interest in deterring crime, and none in reforming criminals. The attitude at this time, seems to be one of "out of sight, out of mind", therefore, execution or imprisonment in dungeons, without concern for human welfare, was the standard procedure for dealing with anyone who ran afoul of the authorities.

The inequities of the prison system and the severity of punishment combined to cause unrest among both noblemen and commoner. In the late eighteenth century, an Italian nobleman, Cesare Bonesana, Marchese di Beccaria, expressed his dismay at the system. He had been shocked by the disease ridden jails of Milan, the irregularities in procedure, the
flagrant use of torture, arbitrary severities and mercies in judgment, and barbarous cruelties in punishments. In 1764, he published his "TRATTO DEI DELITTI E DELLE PENE", (Treatise on Crimes and Penalties). He believed that the system of severe punishment served only to make confirmed criminals of those it treated and advocated that it be replaced by a system based on improved education. He further advocated that every accused person should have a fair trial by a competent magistrate, trial should come soon after accusation, punishment should be proportioned to the harm done to society, the use of torture should be done away with, ecclesiastical sanctuary for criminals should no longer be allowed, and capital punishment should be abolished.  

Beccaria's Treatise was widely read and highly acclaimed. It went through six additions in eighteen months and was translated into twenty-two European languages. Soon, most Italian states reformed their penal codes and nearly all of Europe abolished the sanctioned use of torture.

In England, in the early nineteenth century, the House of Commons received thousands of petitions requesting "that the archaic severity of the law made its enforcement impossible and thus destroyed its deterrent effect; and that in the interest of public safety, milder punishments should be imposed." Various attempts at reform were not, however, made
until the late 1820s.

Sir Robert Peel, as British Home Secretary, brought about the long needed overhaul of the penal system. Along with organizing the police force, he abolished the death penalty for over one hundred offenses. He replaced them with more humane and rational punishments.\(^\text{13}\) His next task was that of prison reform. Since capital punishment was no longer mandatory for certain minor offenses, judges and juries were more inclined to convict the offender, thus inflating the prison population, and so inflating the prison problem.

Peel required that the state, not the prisoner, pay the jailer, which did much to alleviate the system of bribery, allowing for more equitable treatment of prisoners. He also segregated the female from the male prisoners and hired female jailers to supervise the women. This action helped to do away with the most obvious problem which a female prisoner would encounter. Peel's reforms did much in the way of "modernizing" the penal code, but capital and corporal punishment remained the chief weapons against crime, for the prevailing belief held that the fear of pain or death would make the potential wrongdoer see the error of his way, and that the infliction of pain upon a convicted criminal would function as a deterrent to any future acts against society, not only by him but also by those who witnessed the punishment.
The Pilgrim and Quaker settlers brought with them the idea of punishment which existed in the Old World, to the New. The same punishments meted out in the same manner, with one exception, imprisonment for a specified length of time as a punitive measure. Houses of corrections were established in the Massachusetts Colony for the punishment of vagrants, drunkards and other petty offenders.  

The Quakers, by nature of their religion, were predisposed to be non-violent in their approach to punishment. But it was not until after the Revolutionary War that the ideas which they professed were written into law in the Commonwealth of Pennsylvania. In 1790, they established the first penitentiary in America, based on the belief that:

"The reformation of a criminal can never be affected by public punishment ... experience proves, that public punishments have increased propensities of crimes. A man who has lost his self-respect at the whipping post, has nothing valuable to lose in society. Pain has begotten insensibility to the whip; and shame to infamy. Added to his old habits of vice, he probably feels a spirit of revenge against the whole community, whose laws have inflicted his punishment upon him, and hence he is stimulated to add to the number and enormity of his outrages upon society."  

Shortly after the turn of the century two large prisons were established, one in Pennsylvania and the other in New York.

"The first of these, Eastern State Penitentiary in Philadelphia, was a product of Quaker thinking and planning. Architecturally, it was a powerful fortress of stone, gloomy and massive like a Medieval castle, but inside a new idea
of prison discipline was being developed; each convict was locked in a separate cell and confined there for the duration of his sentence, working at useful trades in the privacy of his room and exercising by himself in an isolated courtyard. The whole arrangement bore the stamp of Quaker theology, for the stated purpose of the solitary treatment was to give the inmate a chance to come to terms with his inner self and gain a more religious outlook for the future.

The second of these model prisons was established at Auburn, New York, and reflected a rather different set of theories. Where the Philadelphia system stressed solitude and separate confinement, the Auburn system stressed congregate activities. Inmates slept in segregated cells but moved into workshops during the day and even outside the prison walls to work in tightly disciplined gangs, eating together in a common mess hall. In order to maintain order among this large company of men, the Auburn officials made liberal use of the whip and enforced a policy of absolute silence among the convicts.”

These two prison systems represented somewhat different philosophies. The Philadelphia system, as the Eastern State Penitentiary was referred to, advocated "solitude and labor" as a means of reform. It reflected the Quaker belief that "the resources for conversion lay within every man", and given the opportunity for silent reflectiveness, separated from evil influences, even the most hardened criminal could reform himself. On the other hand, the Auburn prison had a much dimmer view of man's capabilities for self reformation, discipline was the driving force to reform, prisoners had to be broken to a state of "passive obedience". The commitment to a daily routine of hard and constant labor would
offset the effects of idleness, which was the reason that many had turned to crime. "Those unwilling to work were prone to commit all types of offenses; idleness gave time for the corrupted to encourage and instruct one another in a life of crime." 19

Despite the philosophical differences, both schemes placed maximum emphasis on preventing the prisoners from communicating with anyone else. The point of dispute was whether convicts should work silently in large groups or individually in solitary cells. To both parties concerned, the promise of institutionalization depended upon the isolation of the prisoner and the establishment of a disciplined routine. Since a convict was not inherently depraved, but the product of an environment which had failed to provide protection from the vices of society, a well-ordered institution could successfully reeducate and rehabilitate him. Just as the criminal's environment had led him into crime, the institutional environment would lead him out of it. 20

The penitentiary was also to serve another function. Convicts, serving their sentences in physically imposing and highly regimented settings, were to be an example to the community-at-large. By demonstrating how regularity and discipline could transform the most corrupt persons, it would reawaken the public to these virtues. The penitentiary would promote a new respect for order and authority. 21
By the late nineteenth century imprisonment had taken the place of capital and corporal punishment for all but a few major offenses. Through the institution of the peni-
tentiary, society attempted to conquer crime by undermining it into conformity.

The establishment of these two penitentiaries aroused much interest among European reformers. The most noted among them were Alexis de Tocqueville and Gustave de Beaumont. They came to this country in 1831 with the express purpose of studying these two prison systems. When they returned to France, they published a report of their findings which per-
mitted advocates of reform to examine American prison admin-
istration. Debates as to the merit of the two systems went on for years. Finally, in 1843, the Philadelphia model was instituted in France, "not because one could be certain that it produced the moral regeneration of the prisoner, but be-
cause it was least likely to make him worse."22 It is curious to note that the Auburn system became the model for almost every maximum security prison built in the United States, and that the Philadelphia system became the model for most such institutions in Europe.23

The differing choice as to which model to accept seems to reflect the social or cultural attitudes towards offenders and the resultant ways of dealing with them. The motivating
forces behind the acceptance of a particular system, or selected portions thereof, appears to express an adherance to one of three philosophies regarding punishment: 1) retaliatory, 2) exploitive, 3) humanitarian. It is not meant to imply that these philosophies are steadfast rules with no overlapping of thought, but it appears that the evolution of punishment has followed these underlying philosophies.

The retaliatory philosophy can be traced back to primitive man. It has evolved along with mankind, from cave to modern society, manifesting itself in the form of capital punishment. It is felt by many that this retaliatory philosophy had its beginnings in primitive man's desire for revenge. According to Durant:

"This principle of revenge persists throughout the history of Law; it appears in the 'Lex Talionis' -- Law of Retaliation -- embodied in Roman Law; it plays a large role in the Code of Hammurabi, and in the 'Mosaic' demand of 'an eye for an eye, and a tooth for a tooth'; and it lurks behind most legal punishments even in our day." 24

The philosophy of a life for a life has permeated the idea of punishment since its inception. Punishment meted out for lesser crimes was done in accordance with this idea. A person might not have taken a life, but atonement, commonly referred to as corporal punishment, took on many forms. The most "popular" being mutilation, flogging and branding,
usually administered in public assembly.

This retaliatory philosophy did not end with the establishment of penitentiaries, nor with the abolition of capital or corporal punishment. "It is present whenever punishment inflicts suffering without regard to the offender's future rehabilitation, ...". 25

The exploitive philosophy is generated by those who feel that prisons are a great financial burden. Auburn Prison was based on the assumption that a prisoner's spirit had to be broken in order for him to see the error of his ways. Along with the liberal use of the whip, hard labor provided the means by which to break a man's spirit. This was also a method by which the cost of "reforming" an individual could be offset.

The prison fortress of Sing Sing was constructed by prison labor with this idea in mind. 26 This was by no means an invention of Elam Lynds, warden of Auburn; it dates back thousands of years. In Ancient Rome criminals were sent to labor in the mines and quarries. Often they were sentenced to a life of slavery in the galleys (ships propelled by oars).

This system of prison labor existed for many years. Until recently the practice of "leased" or "contract" labor flourished. Prisoners were leased to individuals, or companies, to work at menial but laborious tasks: clearing woods, picking cotton, cutting sugar cane, building roads --
wherever groups of unskilled workers were required. The most notable form of prison labor, the chain gang, still exists in isolated areas of this countries.

The misuse of labor appears to have created no great furor, perhaps, along with offsetting the cost of their confinement they can now be looked upon as "productive members of society".

Humanitarian sentiments and feelings have played a large role in the reshaping of punishment. Humanitarianism motivated Beccaria to write his Treatise on Crime and Penalties, which subsequently brought about the end of the sanctioned use of torture. The Quakers, predisposed to non-violence, established the penitentiary system as a means of punishment and as a place where an individual might reform himself. This was a major factor in limiting the use of capital and corporal punishment for it offered society an alternative, incarceration. Incarceration served much the same purpose but in a more humane manner. It removed the offender from society, often served as a deterrent and in some cases successfully reformed the individual.

Contrary to popular belief, the humanitarian theory does not advocate the abolition of punishment, but rather, the administration of punishment in a more humane, purposeful manner. According to this theory: "It is maintained
that the only legitimate motives for punishing are the desire to deter others by example or to mend the criminal.\textsuperscript{27}

Adherence to this belief brought about changes in much of society's attitude regarding the offender. First, the accused was considered to be a person, an individual, not an extension of a social or economic class, second, the accused should be judged and/or punished solely on the merits of the evidence brought against him, and third, a convicted criminal could return to society and be looked upon as a person and not as a criminal for life.

These attitudes raised many questions. If the accused were to be considered as an individual and not as a generalization, then how was criminal behavior to be explained.

Many studies were undertaken in an effort to understand and explain the criminal mind. Among the first and most noted were those conducted by Franz Joseph Gall (1758 - 1828), who was considered to be the leading brain anatomist of his time. He believed that the explanation of all human behavior was to be found within the structure of the brain, and his studies of criminals convinced him of this. Much of Gall's work has not survived the test of time, but his theories were presented as hypothesis to be tested, not as beliefs to guide actions. As a result of his study Gall believed that the punishment should be fitted not only to the crime, but to the individual as well.\textsuperscript{28}
The question of responsibility was also raised. If a man is to be considered as an individual, then the responsibility for his actions rests with him. This question became rather confusing when mental illness was considered.

Isaac Ray (1807 - 1881), did much to influence the thinking regarding this matter, both in his time and extending into modern society. In 1838 he wrote his book, *A Treatise on the Medical Jurisprudence of Insanity*, making many references to Gall and his theories. He was one of the early advocates of the doctrine of moral insanity as a legal defense.

Ray was also an outspoken critic of the McNaughton Decision of 1843. This case set the criterion for establishing responsibility in criminal-insanity trials. It was concluded by the judges of England, "that to establish a defence on the ground of insanity, it must be clearly proved that, at the time of committing a crime, the accused was of such degree of mental illness that he did not know the nature and quality of the act he was doing or that if he did know, he was unaware that he was doing what was wrong." 29 This decision, which has become known as the right-wrong test, is substantially the guiding principle of criminal jurisprudence whenever psychiatric issues are raised. 30 Ray attacks this position on the grounds that mental disorder is not limited to just disturbances of the
intellect, and that the hypothetical questions asked of the judges by the House of Commons and the subsequent answers were psychologically unsound. Even today physicians and many members of the legal profession agree with Ray's position. In 1954, the Court of Appeals of the District of Columbia, quoting Isaac Ray as one of its authorities, adopted what was to become known as The Durham Rule: the principle that the accused is not criminally responsible if his unlawful act was the product of mental disease or defect.31

The emerging fields of the behavioral sciences extended and refined the humanitarian theories expressed by both Gall and Ray. In the second quarter of the twentieth century the fields of psychiatry and psychology put forth the idea that penal practices could, and should, be guided by the individual characteristics of the offender. The clinical psychologies implied that an offender possessed the ability to change in response to treatment and that initial impressions at the time of trial could be modified after observation of the offender's behavior during confinement, and that this justified a new approach to the decision making processes regarding the conditions and duration of incarceration.

As a result, prison administrators were given increased authority to determine where and how incarceration should
occur and parole boards were established to determine at what point in time, prior to completion of sentence, an inmate should be returned to society. Individualized treatment, both in prison and on parole was seen as the key to the protection of society and the rehabilitation of the offender.\textsuperscript{32}

Unfortunately, these new ideas did not produce the desired effects, crime and criminals remained an ever-increasing problem. Many reasons have been given; the confusion as to whether corrections should be punishment or rehabilitation oriented, conditions within many prisons which often lead to a loss of self-respect and human dignity, the lack of acceptance by the community following release, and insufficient funds for the maintainence of proper facilities and staff. Nevertheless, whatever the reasons, one thing is certain - the failure of this nation's corrective system.\textsuperscript{33}

Recently, many new programs have been instituted in an attempt to resolve this failure, among these are: 1) Pretrial Intervention; a program designed to provide a rapid rehabilitation response for young first-offenders following arrest, but prior to trial, conviction and sentencing. The court suspends prosecution for a ninety-day period and places young offenders into a program of counseling, training, and employment assistance. Successful participation results in
dismissal of charges and thus avoids the stigma of a criminal record. 34 2) Halfway Houses; small homelike residential facilities located in the community for offenders who need more control than probation or other types of community supervision can provide. Halfway houses are used also for gradual readjustment to community life for those who have come out of institutions. Half-way house programs usually offer supervised living, counseling services, and draw upon the community for education, training, jobs and recreation to aid in the rehabilitation process. 35 3) Work-release; under this alternative, the offender is confined in an institution only at night or on weekends, but is permitted to pursue his normal life the remainder of the time. Such a program makes possible a greater degree of control than is possible under probation or other other types of community supervision, but avoids total disruption of family life and employment. 36 4) Pre-release Centers; supervised programs designed to ease the transition from total confinement to freedom by involving people from the community who come to the prison to provide information in areas in vital interest to the inmate who is about to be released. Subjects covered include such topics as employment, finances, family life, community services and legal resources. 37

In addition to the above-mentioned programs, Pre-Sentence Psychiatric Evaluation Clinics have been established

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to assist the courts by evaluating offenders and making recommendations regarding sentencing and fitness to stand trial. While punishment will probably not disappear as a method of dealing with anti-social behavior, court clinics can be an aid in emphasizing the more rehabilitative possibilities of legal action.\textsuperscript{38}
FOOTNOTES


5. Glaser, op. cit., p. 28.


10. Will Durant, Part IX, op. cit., p. 73.


17. Ibid., p. 201.


23. Erikson, op. cit., p. 43.
26. Ibid., p. 12.
33. American Correctional Association, Marshaling Citizen Power To Modernize Corrections, (College Park, Md.: Chamber of Commerce of The United States, 1972), p. 3.
34. Ibid., p. 5.
35. Ibid., p. 6.
36. Ibid., p. 7.
37. Ibid., p. 7.
CHAPTER II

THE FUNCTIONS OF A COURT CLINIC
Court clinics, where properly staffed and equipped, are becoming of great value to the courts and the criminal justice system. With the establishment of a court clinic, forensic cases can be seen by those who have a special interest in such cases and who, because of familiarity with them, have the necessary background and experience to make a proper evaluation. The court clinic, functioning as an institutionalization of the individualistic approach to punishment, provides a working level confrontation between psychiatry and the law, which may bring about some modification in the traditional orientation of the criminal law.1

Psychiatric services have been made available to criminal courts on a procedural basis in the past, usually to assess the competence of the offender to stand trial. William Healy established the first court clinic in this country in 1909, in Chicago. Approximately twenty years later clinics were established in the courts of Baltimore and New York. In 1933 the American Psychiatric Association, the American Bar Association and the American Medical Association recommended that similar services be made available to assist the District Criminal Courts, the Juvenile Courts, the Probation Department of District Municipal Courts, the Department of Corrections and the Parole Board, by providing them with professional psychiatric evaluation and recommendations regarding the offender.2 Since that time much progress has been
The fact that the clinic is situated in the court building, or in close proximity, makes the psychiatrist accessible to the court personnel, and may by the same token be able to continue his work while awaiting a possible summons to a court hearing instead of having to waste several hours sitting about in anticipation.\textsuperscript{4}

The presence of the psychiatrist in the court building also provides emergency services if the necessity should arise.

As clinic facilities and staff increase so does its capability to provide additional services to the judicial system. Treatment services can be incorporated and offered in addition to the traditional diagnostic function. The existence of treatment facilities may offer more perogatives to judges when sentencing an offender. For example, the judge may substitute probation combined with psychotherapy at the clinic for either imprisonment or commitment to a mental institution.\textsuperscript{5}

In addition to providing greater leeway in sentencing alternatives, treatment facilities will enable convicted offenders to receive psychiatric treatment while on probation, allow for the continued treatment of offenders after release from a period of detention, and enlarge the opportunities for remanding alleged offenders for psychiatric examination on bail rather than in custody.
The purpose of the international conference on the economic and social consequences of the treatment of radioactive waste is to provide a platform for experts to discuss and exchange information on the latest advances in managing radioactive waste. The conference aims to foster collaboration among scientists, engineers, and policymakers to address the challenges presented by the safe disposal and management of radioactive materials.
Due to the differences in funding, staff size and availability of facilities, all clinics do not provide the same type or scope of services. If facilities are limited, attention is primarily directed to first offenders, cases involving sexual or aggressive offenses and cases where there is an element of compulsion, such as arson or kleptomania. Regardless of size all court clinics do provide basic diagnostic services to the courts and to parole and probation agencies.

The selection procedure for court clinic clients is varied. Clients may be referred by the courts after conviction and prior to sentencing for general evaluation and disposal recommendations, and for examination as to fitness to plead. All cases pleading not guilty by reason of insanity are automatically referred. Cases may be sent to the clinic during the course of a trial at the instance of the court, prosecution or defense, if the defendant's behavior is in any way bizarre. The majority of outside referrals come through the investigating probation officer as a part of his trial preparation for the judge. Other cases are referred by correctional agencies, such as the detention home or the city jail, and finally, any arresting officer noticing peculiarities in the behavior of his prisoner may take him directly to the clinic.?
When a client is referred for treatment, not just evaluation, it is the perogative of the psychiatrist as to whether or not to accept him. This decision to accept an offender for treatment is partially determined through assessment of his potential for benefit from psychiatric therapy, that is, an attempt is made to separate the punishable offender from the treatable offender.8

In order to understand how the clinic functions in the court setting, let us consider an hypothetical case.

"Bob Smith, a juvenile, is arrested for breaking and entering. Before appearing in court, he is interviewed by a probation officer who fills out a face-sheet indicating family background, vital statistics, and whatever other relevant information can be gleaned. The probation officer then telephones the Central Bureau of Probation Records to inquire whether Bob has any past criminal record, and, if so, in what courts he appeared. Bob is then arraigned by the juvenile court judge in the presence of a parent. If the parent wishes to engage a lawyer the judge will continue the case until one is obtained. The judge will appoint one if Bob's family cannot afford a lawyer but desires legal services. If counsel is waived, as is most likely, the judge will hear the facts as told by the police officer who apprehended Bob. A finding will soon be made. Referral to the clinic can occur in one of two ways: if the probation officer in the initial interview feels Bob is acting in a bizarre or inappropriate manner, he may delay arraignment until a clinic psychiatrist has interviewed Bob and submitted an evaluation suggesting whether or not Bob needs psycho-therapy and would be a good
canditate for the court clinic. Or the judge may delay sentencing until Bob is evaluated psychiatrically. Since Bob is before this court for the first time, has no prior record, and seems very withdrawn, upon the combined recommendation of the probation officer and the psychiatrist, the judge suspends sentence, puts him on probation for a year, and tells him that as a condition of his probation he must attend the court clinic. Clinic contacts are initiated and will subsequently supplement probation interviews. If the clinic employs social workers, they will contact family members and try to convince them to come to the clinic. After the prescribed year of probation, Bob's case is reviewed by the judge who has been advised by the probation officer and clinic staff. If Bob has progressed adequately, the judge will probably reverse the finding of delinquency, freeing Bob from a criminal record. Bob may be encouraged to attend the clinic voluntarily, although at this point the court no longer has authority over him.9

In this instance the existence of the clinic facilities allowed for the treatment of the offender while he remained in the community. Experience has shown that, as opposed to isolation and punishment, community-based corrections which permits a person to live in his own home or community and maintain normal social relationships, while providing control, guidance, and access to rehabilitative resources and services is a more efficient, economic and more humane approach to the treatment of the offender. A considerable amount of evidence has been accumulated indicating that corrections in the community is more effective in reducing recidivism than more severe forms of punishment such as commitment to
an over-crowded institution which is ill-equipped to rehabilitate.\textsuperscript{10}

In addition to providing much needed assistance to the courts and other agencies of the criminal justice system the court clinic has the potential to aid the community in many other ways.

The preparation of evaluations and recommendations for the court system requires the compilation of large amounts of data regarding a client. This data concerns many aspects of the offenders background, both personal and environmental. If subsequent treatment is involved, further information is added to the client's file. Within a very few years, the clinic will have amassed large amounts of data regarding offenders. This data may be used to form the base for fundamental research into various aspects of criminality. The clinic should be able to utilize this data to investigate socio-economic and personality correlates of crime. They may also be able to judge the potentialities of psycho-therapy in an authoritarian setting as well as the factors underlying impulse behavior.\textsuperscript{11} Results of such awareness and understanding of criminal behavior which in turn could bring about a more positive revision of existing policies toward punishment and rehabilitation.

Teaching and training courses are emphasized as part
of the clinic's overall program. Seminars are held with members of various agencies of the criminal justice system in attendance. These seminars serve a dual purpose, first they are used to orient judicial, probation, parole and other agencies in the shared problems of psychiatry and corrections, and second they may facilitate the interaction of court and clinic personnel. This interaction is viewed by many to be a serious point of contention which could have a detrimental effect upon the functions of the judicial system.

The teaching functions of the court clinic are not limited to members of the criminal justice system. Education of the public is also considered to be very important. This intrusion into the community should bring about an increased awareness into the problems which confront members of the criminal justice system and the attempts which are being made to rectify them. An increase in public support is the desired result, for without public support meaningful changes in the corrections system are not forthcoming. Many people feel that the ultimate contribution of the court clinic will be its impact on the legal point of view.

Many clinics also provide services to wives and relatives of offenders. They attempt to assist relatives in maintaining stability while the offender is incarcerated, and to aid in the prevention of delinquency among the children of convicted offenders. These programs do much
to aid the rehabilitation of the offender upon his release, and possibly reduce the rate of recidivism.

It has been shown that the functions of the court clinic are many and varied. The nature of these functions make the court clinic an integral part of the criminal justice system - a system which is supposed to perform two essentially incompatible functions. As part of the political system it is supposed to protect society by isolating the criminal element. As a maintenance subsystem its functions should be to retrain those individuals who have committed offenses against society. The philosophies of incarceration and rehabilitation have many incompatible elements.¹⁴

At present, the criminal justice system adheres to the philosophy of incarceration. Its function is seen by many of its members as upholding the law - a law which is primarily dispositive and therefore acts in an authoritarian, moralistic and punitive manner.¹⁵ Incarceration is seen, not only as a form of punishment, but also as a deterrent against future offenses, whether by the ex-offender or a potential offender.

On the other hand, human services professionals are of the opinion that "criminals" can be rehabilitated, and that punitive incarceration only serves to make the task more difficult. Rehabilitation is a difficult educational task which requires not only inculcating knowledge and skills but also changing character habits.
The criminal court clinic is viewed by many as an attempt to bridge this gap between the legal profession and the human services professions, who have been seen to hold divergent philosophies.

To deal effectively with this problem, the administrator should be aware of the existing ideologies of each group.
FOOTNOTES


2. Ibid., p. 267.

3. Ibid., p. 269.


5. Ibid., p. 151.


The law is often complex, and psychiatry often obscure; where they meet and overlap is not completely clear. Law is basically logical and reasonable, or at least attempts to be, reflecting an Idealistic point of view. However, for it to be functional, the law must be more than mere logic and reason, it must be definite, and so time has made it legalistic - based on precedent - relying on rules.¹

Psychiatry deals with the illogical and the unreasonable. The central idea being that human actions have their sources both in the conscious, which may be governed by reason, and the unconscious, which is not governed by reason, the intellect and logic, which in fact is by definition unreasonable. Psychiatrists are, therefore, somewhat contemptuous of precedent, and often they reject the "neat cubbyhole" catagorization which lawyers prefer.

When these two disciplines meet, therefore, we may expect to find confusion, complexity, and mutual dissatisfaction.²

¹"The long, uneasy flirtation between law and medicine is unlikely ever to end in harmonious matrimony with understanding and acceptance of the points of view on each side. At the very best one might foresee some mariage de convenance but, more likely, there will be a shotgun wedding forced on the parties concerned by a public impatient both with legal argument and psychiatric differences in open court. Certainly, at times, it has seemed that, rather than there being a happy ending to the courtship, mutual antipathy might lead to an open and irreconcilable breach. Conflicting
opinions have been expressed in forthright terms to such a degree that one wonders how far it will ever be possible to bring together in a spirit of mutual toleration two forces, each bent on asserting its own views to the exclusion of the others."

Early in the century, when psychiatry was receiving an impetus from the new science of psychoanalysis, there was much hope, some of which has survived, that psychiatrists could do much to reform the judicial system. However, during recent years, there has been some reaction to these hopes; many judges and other personnel in the criminal justice system feel psychiatry has not made the most of the opportunity to be useful to the system.

Other reasons can be found to explain the antagonism, or at the least, lack of harmony, between the two groups. Law tends to be absolutist, psychiatry relativist; law tends to see the world in terms of black and white, psychiatry in gradations. When a robber is brought before the court, although there are degrees of severity of the charges that may be brought or of the sentence set, the basic question of guilt or innocence is the absolute question.  

Psychiatrists see everything in relative terms. If a patient announces that he has murdered someone or that he sees himself as the instrument of world peace, the psychiatrist does not presume to classify these admissions as "good" or "bad" but will rather probe and search for
clues to understanding. He feels that the significance attributed to facts and the relationship which exists between them, or their context, is the effect upon the individual and his subsequent actions, rather than the facts themselves, in isolation. The psychiatrist further feels that understanding is an infinite process gradually attained by ever-expanding areas of comprehension and awareness; that subjective phenomena such as perceptions, feelings and motives rather than objective data such as acts or events are important for understanding the individual and his actions. He does not presume to judge.

The courts, by virtue of their intended function must judge. The legal profession evaluates and renders judgments; it deals primarily with concrete tangibles such as persons, facts and events. It operates on the principle of narrowing by excluding details it considers irrelevant. It concerns itself mainly with objective data rather than subjective data or phenomena such as feelings and motives. It leans toward the concept of individual responsibility, conscious intent, and the analogous notion of single determinism according to which one individual and a single motive are responsible for a given act. 5

Law is a public process of public record which allows for the safeguard of judicial review. A superior court may come into play in a given case, therefore, public
record is essential. A psychiatrist, on the other hand, has a doctor-patient relationship with his client, which is based on the old medical tradition of privacy and confidentiality that dates back to Hippocrates and earlier. The essence of psychiatric relationship is trust in the doctor by the patient and that statements made will be held in confidence. In modern society, we have seen the emergence of a new species of physician not known in the previous two thousand years - the court appointed psychiatrist. He examines the prisoner as if he were the prisoner's doctor, then goes to the court - which pays him - and tells what he has learned. Whether a doctor who tries to serve two masters can fulfill his functions to either is a question often asked.  

Dr. Sanford Lewis of Rutgers University School of Law, himself a physician, describes the function of a court appointed psychiatrist in a court of law:

"It is the function of medical scientists to search for truth. It is the obligation of courts of law to delineate justice. These aims are not identical. Eminent psychiatrists may differ as to whether a defendant is mentally competent to stand trial. The bench must make a definitive judgment. Physicians may argue as to whether or not a single trauma can contribute to the development of breast cancer. The court, on the other hand, faced with the cries of an allegedly aggrieved plaintiff, must reach a decision. Scientists may debate, philosophize and qualify. The law, on the other hand, is burdened with the awesome responsibility of reaching a verdict."

7
Whitlock has also tried to point out some of the factors involved in the conflict between law and psychiatry:

"In attempting to bring mutual understanding to the parties concerned in the management of the mentally ill offender it is necessary to examine fundamentals, not the least of which is the language which each side uses in its everyday practice. Both psychiatry and law use a technical language which often makes for confusion over words used in a special manner differing from their normal meaning as defined in ordinary speech. Behind the use of language is a basic philosophy of ideas relating to the human personality and its place in society and the cosmos....Perhaps most fundamental of all is the differing personality structure separating those who become lawyers and those who become doctors. Much could be written on this theme, but it is likely that the known facts barely justify the speculations.

Undoubtedly the psychiatrist is so directly concerned with the welfare of the individual patient that, at times, the needs of society seem scarcely to be acknowledged. On the other hand, much of the lawyer's time must be taken up with balancing the respective claims of society and the individual; and at times the needs of the individual must seem of small importance beside the overriding demands of the law of the land. The problem becomes more involved when the person under judicial examination is mentally ill. The psychiatrist must, by his training and outlook, come to see the offender as a sick man in need of treatment, whereas the judge, as the representative of society, may well only see him as a criminal requiring a long period of detention for the protection of others. Between these two extreme points of view it is necessary to reach a mutual understanding so that neither society, which has a right to be protected, nor the individual, who has a right to be treated, should be wholly excluded from consideration in the interests of one side or
the other. So long as exclusive claims are made, then so long will the situation be strained." 8

Law has jurisdiction over its own territory; psychiatry rules firmly in its area. Between them lies the debatable land, claimed by both but with neither in command. 9 Like the best known of debatable lands, the tract between Esk and Sark that was claimed by both England and Scotland, and for a long time the subject of dispute, it is an area of bogs and mists and hidden dangers, the haunt of thieves and vagabonds. When the traveler is safely beyond the Esk or the Sark, he proceeds through well-regulated territory, but behind him, in the debatable land, two sides still face each other, sometimes asserting their exclusive claims, sometimes ready to find common solutions. 10

There is a realm of law, where the emphasis is on logic, and there is the domain of psychiatry, where feeling holds sway. At their border lie uncertainties and confusion. To the extent that psychiatry and law may find grounds for agreement, order is brought to the debatable land. 11

Law is absolute - it sets down precedents. Psychiatry, on the other hand, is relativistic. Although not denying the value of such precedents, psychiatry reserves the right to make a fresh determination in each case it undertakes. It stresses differences - this offender is different from other offenders because of his unique homelife. The law
in contrast, stresses similarities.

The area in which law and psychiatry come into contact is debatable ground, however, the opposing forces are sometimes difficult to identify. The lawyer can be characterized as more interested in laws than in people, but he may be defending the rights and liberties of a committed patient, while the doctor, theoretically more interested in the patient's welfare, would lock him up for treatment.

The debatable ground exists and areas of disagreement remain, but each side can learn to respect the contributions and positions of the other; they can coexist. Psychiatrists understand better than lawyers that one area of sickness in the individual affects the whole, that a neurosis is not self-contained but makes its presence felt in many areas of the personality. Lawyers understand better than psychiatrists that liberties and rights cannot be abrogated in some areas without affecting all areas. Much can be gained from the cooperation and coexistence of these two highly trained and respected fields.

The court clinic Administrator, functioning as an effective liaison, can do much to bring about this cooperation and productive coexistence.
FOOTNOTES


2. Ibid., p. 11.


8. Whitlock, op. cit., p. 3.


13. Ibid.

CHAPTER IV

GROUP DYNAMICS
Organizations can be thought of as sets of interrelated systems designed to perform complicated tasks, and encompassing human activities on many different levels.\textsuperscript{1} One of the advantages of large organizations, such as the criminal justice system, is that they are capable of coordinating the efforts of many different groups of individuals toward the completion of some superordinate goals. A major problem which results from this effort of group coordination is how to make the groups effective in fulfilling both the organizational goals and the needs of their members.

Another consideration with regards to coordination of group effort is that the groups involved, although subunits of the same organization, possess varying backgrounds which lead their members to view the world in different ways. Such differences often result in conflict at the social interfaces where the work of the different groups is being carried out.\textsuperscript{2} This brings about another problem; how to establish conditions between groups which will enhance the productivity of each without destroying intergroup relations.

In an effort to understand the elements which contribute to intergroup conflict, the dynamic factors of groups must be examined. Dynamic factors are those processes which lead up to the group's formation and membership, and the events which occur during the life of the group to induce certain characteristics which lead to intergroup conflict.\textsuperscript{3}
In prehistoric times man realized that survival could be best obtained by group action. He has carried forth these ideals into modern society, both on an individual as well as an organizational level. Even though "survival" is no longer paramount, our society remains a conglomerate of groups. Individuals and organizations are drawn to groups for the same reasons as prehistoric man, but in our civilized way "survival" has been redefined to mean fulfillment of needs and preservation of self image.

Many studies have shown that man needs the reassurances which group membership can provide, and that if a group does not exist to fulfill his needs, he will organize one. The reassurances that group membership provides can be illustrated by viewing the effect of possible group rejections upon the individual. This was dramatically represented by a study which was conducted by S.E. Asch.

In this experiment groups of eight college students were each asked to match the length of a line with one of three unequal lines. Seven members of each group were privately told to give the same incorrect answer. The uninstructed member was the last one asked to give his answer, and was thus confronted with the dilemma of either reporting what he saw as being correct or reporting what all the others had said in order to be congruent with the group. In this study, Asch showed that group pressure and
the desire for acceptance was so strong that one-third of the subjects actually agreed with the misconception which was thrust upon them by the other members of the test group and they accepted the group's judgment as their own. 4

This need to belong gives meaning to a group's existence, producing a cohesiveness, or group mind, which is very resistant to change. It is felt by the group members that the continual existence of the group depends on its ability for effective internal interaction; nonconformity to group ideals is viewed as a threat. When disagreement occurs on matters considered as vital to the group, this nonconformity is seen as endangering the effectiveness and possible existence of the group. 5 The group may then close ranks to protect itself, thereby prohibiting productive interactions with other groups.

Formal organizations also generate pressures for their survival and enhancement. Maintainence structures, or groups, are formed with the purpose of maintaining stability, and predictability in the organization. The dynamic here is one of preserving a steady state of equilibrium. This may take the form of a tendancy toward organizational rigidity, the preservation of the status quo. It may also take the form of preserving the pattern of existing relationships. The most generalized statement which can be made about the mechanisms for maintaining stability is that they seek to
formalize or institutionalize all aspects of organizational behavior. If there is a standardized operating procedure which has been legitimized for all relevant human behavior in the system, then the problem of predictability and stability has been logically solved.  

Robert Merton (1957) studied the effects of maintainence systems and concluded that the devices which increase the probability of conformance also lead to an over-concern with strict adherence to rules and regulations. The unlimited consequences of this strict reliance upon rules and their enforcement was a rigidity of behavior and a subsequent increase in difficulty with clients and members of other agencies. As long as rule enforcement continues to be a major emphasis in the organization, rigidity of behavior can be fostered by the easy defensibility of individual action which adheres to the rules. If an official should be challenged in the course of his duties, his defense is to fall back on some highly visible rule to prove that he has only been doing his duty. He is primarily concerned not with solving the problem of the client or another agency member, but with the defensibility of his own behavior. Hence the client or interacting agency problem is only aggravated.

There are many theories as to what motivates individuals toward membership in one group and away from another.
Studies conducted by Becker and Carper showed that the individual, as a result of prior socialization processes, has already accepted the goals and values of his membership group prior to joining.

Cartwright and Zander, stated, "the goals or exterior tasks confronting the group are consistent with those of the individual person, and can best be handled by group action". There are a number of variables that affect the attractiveness of the group, but basically they all increase the satisfaction of the individual's needs through association with the group. These groups are termed reference groups.

The concept of reference groups refers to a social category used by the individual as a standard of self-evaluation. The members of any group tend to hold in common a series of definitions as to how they would most and least prefer their group and themselves to appear. How an individual perceives his group, and therefore himself, comprises an important part of his self-image.

This satisfying quality of groups affects the performance of individuals, in as much as a willingness to interact exists, thereby making group resources available to all members. This availability of group resources lends itself to the pursuit of common goals and ideals.
Progress toward the group ideal involves conformity to group norms and the development of goals consistent with group values. This also involves attempts to associate with groups whose ideals are in keeping with those held by the individual and to disassociate one's self from groups whose ideals run counter to the individual's beliefs.

These attempts at selective association and disassociation, form probably the most basic source of conflict within the organization and society. When members of one group see those of another as possessing traits opposed to their ideals, there is little hope to create true cooperation between them, other than through some process of resocialization.\(^1\)

People begin, modify and end relationships by communicating with one another. Communications is both the channel of influence and the mechanism for change. In a sense, communication - the exchange of information and the transmission of meaning - is the very essence of a social system or organization.\(^2\)

If a group cannot meet face-to-face at all times, it becomes important to consider the existing communications network and its consequences for group functioning. The simple structure of the communication network in a group seems to set limits on the group's performance. For example, it has been shown that a person's feeling of participation

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is reflected to his position in a communication network; that group leadership may well emerge from the more central positions; that overcentralized communications are very effective in implementing a given task but relatively inflexible in developing new solutions if tasks change; that information is lost and distorted very rapidly as it passes through a number of communication links. 13

It is a common assumption that many problems, both social and organizational, are the result of inadequate and faulty communication. Newcomb points out that autistic hostility decreases communication and in turn decreased communication enhances autistic hostility. 14 If we can only increase the flow of information, we can solve these problems. Although this movement toward a full and free information flow is a healthy step forward in intraorganizational problems, as well as the relations of a group to the larger organization, it is an oversimplification.

Communication should be seen not only as a process occurring between any sender of messages and any potential recipient, but in relation to the system in which it occurs and the particular function it performs in that system. General principles of communication are fine, they set the limits within which the organization operates. But they need to be supplemented by an analysis of the system, so that they
can be applied correctly to a given situation.

The restriction of communications between subsystems of organizations can cause a situation of temporary isolation wherein each subsystem achieves its own stability with minimum interface with the changing environment or other systems who are seeking their own stability. With restricted communications, success can be achieved by trial and error methods, whereas an organizational system, connected by an effective communications network, proceeds in a more positive manner toward the achievement of its goal.

Often the barriers which limit effective communications are simple mechanical ones such as; the absence of one or more channels in the communication network, the time lag which results from an unnecessary buildup of paperwork and the failure of the communique to reach the intended recipient because it has become "lost" in the paper mill. Such mechanical barriers, however, are probably the least important barriers to communication in human groups. The more significant barriers are the psychological ones, such as status.

The status barrier between superior and subordinate often limits communication in either direction because of fear of disapproval, on the one hand, or loss of prestige on the other. S.L. Hurwitz has examined this effect of status within groups. The interaction in mental health
conferences composed of psychiatrists, psychologists, teachers, nurses, doctors, and others was studied to examine the effects of the differential status of professions on interaction behavior and influence. They asked: "Does the pattern of interaction in interdisciplinary conferences depend on the relative status of the professions of the participants?" Premeasures of esteem and post conference personal reactions were obtained. The results were positive: Persons in high status professions talked more, were more often critical and were less often criticized.\textsuperscript{16}

Such barriers could possibly be circumvented if they themselves were communicated. If two people, for example, can reach a point where they can tell one another what they actually think of each other, they may be able to work out an understanding which would allow them to communicate successfully. But ordinarily they do not communicate these feelings, instead they say, "Stick to the facts! Don't get emotional! Let's be business like!" This cultural attitude is probably the greatest communication barrier of all because it prevents the communication of interpersonal feelings, and uncommunicated interpersonal feelings, in turn, complicate and sometimes prevent the communication of facts.\textsuperscript{17}

Effective group interaction depends upon a number of variables, one of which is initial perception and reaction
to another group. Ingham and Luyt have presented the "Johari Window" to illustrate this phenomenon. The Window is made up of four quadrants as depicted in figure I.

The Johari Window theory was developed with regards to individual actions but may be applied to intergroup relations. In applying this model in an attempt to understand a typical group interchange, it can be seen that the initial interaction would take place within Quadrant I, the area of free activity. As everyone is dealing in an area where there appears to be nothing at stake, the activities are relatively superficial. As the relationship becomes more involved, the interaction moves into Quadrant II, the blind area. This produces feelings of anxiety which are perceived as threats. As the relationship moves into Quadrant III, the desire to maintain this avoided or hidden area causes interchange to become stilted and less spontaneous. When the progression reaches Quadrant IV, the area of unknown activity, ideas and suggestions are not followed through and usually left undeveloped. Assuming that these initial reactions cannot be overcome because of differing group objectives, then no viable organization can exist.
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<td>III</td>
<td>IV</td>
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<tr>
<td>Avoided or hidden area</td>
<td>Area of unknown activity</td>
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Quadrant I - refers to behavior and motivation known to self and others.

Quadrant II - is where others can see things in ourselves of which we are unaware.

Quadrant III - represents things we know but do not reveal to others.

Quadrant IV - is the mysterious area where neither the individual or others are aware of certain behaviors or motives.

FIGURE 1
A total organization is a composite of various groups. On occasion, groups or parts of an organization come into conflict. The atmosphere between groups can affect the total productivity of the organization. According to Schein,

"this problem exists because as groups become more committed to their own goals and norms, they are likely to become competitive with one another and seek to undermine their rivals' activities, thereby becoming a liability to the organization as a whole. The overall problem, then, is how to establish high-productive, collaborative intergroup relations." 19

M. Sherf was the first to study systemically the consequences of intergroup conflict and competition. 20 He organized a boys' camp in such a way that two groups would form and would become competitive. Sherf then studied the effects of the competition and tried various devices to re-establish collaborative relations between the groups. The results of these studies were highly consistent and described some interesting phenomena which occurred both within and between the competing groups.

During competition, each group became more cohesive, eliciting greater loyalty from its members; group atmosphere became less informal and more task-oriented; leadership patterns shifted toward an autocratic style; each group became more highly structured and organized; and each group demanded more loyalty and conformity from its membership in
order to be able to present a "solid front".

At the same time that these phenomena were occurring within each group, the relationship between the groups exhibited some common characteristics. Each group began to view the other group as an enemy; each group began to experience distortion of perceptions - recognizing only their strengths and the weaknesses of the other group; hostility toward the other group increased while communication decreased; and if the groups were forced to interact, as at a bargaining table, neither one really listened to the other, but only listened for cues which would support their argument and position.

In his analysis of Sherf's findings, Schein stressed that competition and the responses it generates may be very useful to a group in making it more effective and achievement-motivated, "the same factors which improve intragroup effectiveness may have negative consequences for intergroup effectiveness". When members of interacting groups perceive themselves as competitors, it becomes more difficult for them to resolve their differences.

The problems which were mentioned at the beginning of this chapter are in no way unique. They can exist in any organization which is comprised of interacting subunits, they fall under the heading of intergroup conflict. No attempt was made to deal specifically with these problems,
but rather to explain the dynamics of group behavior, for management of intergroup conflict demands that the manager be aware of the circumstances of group behavior. Any assessment of intergroup conflict should involve not only recognition of the immediate problem but also its origin.

Whether one views intergroup conflict as good or bad, desirable or a necessary evil, the fact remains that the potential exists in all large organizations and thus comprises a salient phenomenon with which managers must deal. The intervening manager should consider the use of a variety of tactics in conjunction with each other in his attempts to deal with the intergroup conflicts that fall under his domain. These dealings call for an understanding of the dynamics of group behavior which may result in intergroup conflict.
FOOTNOTES


7. Ibid., p. 74.


13. Ibid., p. 226.


15. Ibid., p. 226

17. Leavitt, op. cit., p. 204.


19. Ibid., p. 80.

20. Ibid.

21. Ibid., p. 82.
CHAPTER V

PROBLEMS AND RESOLUTIONS
A proposal has been submitted to the Law Enforcement Assistance Agency (LEAA) for the establishment of a court clinic in Albuquerque, New Mexico. This clinic is designed to provide psychiatric testing and evaluation to persons involved in various stages of the local criminal justice system. (See Appendix A). Utilizing the insights gained from the information which was presented in the previous chapters, the introduction of a court clinic into the existing criminal justice system will be described from an administrative perspective, in an effort to anticipate potential problem areas, and possible techniques for resolution.

It was previously mentioned that problems arise as a result of the interaction between two groups who possess divergent philosophies. Disagreements, misunderstandings and conflicts inevitably arise when two groups who are committed to widely differing values, goals and operating methods, such as the legal and the psychiatric professions, work cooperatively in a common setting. As was stated earlier, the goal of the legal profession is to determine whether an illegal act has been committed, and, if possible, to rectify it by providing restitution to the victim, or by punishing the offender. Psychiatry's basic goal, on the other hand, is to modify pathological features of personality where-ever possible through the knowledge of behavior patterns.
and the acceptance of the individualism of man.

Since the legal profession's primary responsibility is to determine the guilt or innocence of the offender, it necessarily adopts a judgmental perspective, as opposed to the non-judgmental attitude maintained by the psychiatric profession in its attempt to facilitate a free flow of information, so as to fully understand the client from his own frame of reference.

Applying the theory of reference groups - attempts by the individual to associate with groups whose ideals are consistent with his, and to disassociate himself from groups whose ideals run counter to his beliefs - reveals that the interaction between the members of these opposing groups can produce feelings of anxiety. These feelings of anxiety are often perceived as threatening to the individual's position and beliefs. This can be illustrated by the fact that the major objection to the establishment of a court clinic is usually expressed as a fear that psychiatrists and other mental health professionals are attempting to usurp the perogative of the court. Associated with this apprehension is the notion that psychiatrists identify all crime with sickness and are "out to get the offender off", regardless of the rights and safety of society.\(^2\)

Conflict due to differences in references groups appears to be deeply rooted in an unconscious predisposition, which
the individual is not capable of changing very quickly, or even recognizing a need to change. Practically the only way that conflict of this nature can be resolved is by an attempt at attitudinal change. This is a change which will not occur overnight, it is a long range plan to educate the members of one group to the ideals of an opposing group. This does not mean the resocialization or conversion of anyone, merely creating an awareness as to what motivates another individual.

This process can begin by reducing the interaction of the two groups to a minimum. This can be accomplished by the court clinic administrator acting as liaison between the clinic and all other interacting agencies. In addition to the liaison function, the administrator must perform the public relations function, in an attempt to build up trust within the other agencies, so that he does not have to re-main the buffer forever. Once a basic level of acceptance has been established, and if conditions permit, members of other agencies can be "borrowed" to work in the court clinic for a specified period of time. This will allow the "borrowed" member to become familiar with how the court clinic operates, what kinds of problems it faces on a day to day basis, and how its rank and file explain their own ideals, statuses and norms. The "borrowed" individual then returns to his group and relays his experiences and impress-
ions to them. Hopefully, the information he relays will be the result of an objective analysis of the court clinic environment. If so, then exchange of this sort can clear up important misconceptions, indicate the areas where the most productive interchange can occur and possibly result in attitudinal changes, which may eliminate the source of much conflict.

If this plan is not feasible, because of a lack of cooperation from other agencies or a shortage of personnel, then the burden of clarifying misconceptions, producing productive interchange and creating attitudinal change rests with the administrator of the court clinic. Before attempting this task, he must make certain that he has the complete support of his staff, for they are the people who can do the most to help or hinder his efforts.

As was stated earlier, additional problems result from the dynamics of intergroup action. In the discussion of maintainance structures it was stated that they were formed for the purpose of providing stability and predictability to the organization. This stable and predictable environment often results in a rigidity of behavior on the part of the organizational members. First, it satisfies the original demands for stability and reliability. Second, it increases the defensibility of individual action. Third,
the rigidity of behavior increases the amount of difficulty with clients and opposing agencies. The maintenance of part of the system by the techniques of rigidity, produces a continuing pressure to maintain these techniques which result in an extremely conservative outlook.

To overcome this conservative attitude when attempting to introduce a new agency into the bureaucratic structure, one can use a basic property of bureaucratic systems — maximization, which is a movement toward growth and expansion. The maximization principle can and does override the maintenance dynamic for five basic reasons: 1) the proficiency dynamic, 2) expansion to deal with internal strain, 3) expansion to cope with changing social environment, 4) bureaucratic role systems, and 5) organizational ideology encourages growth aspiration.5

The proficiency dynamic is generated by the task requirements of getting the job done well. Although maximum efficiency will probably not be achieved, the competitive pressures will tend to produce some innovations in the work process.

System strain inevitably occurs because of the inability of the organization to meet all the demands placed upon the system. A typical method for dealing with internal strain is compromise. When conflict arises between two departments, it is often handled by setting up liaison
offices between the two units. Because each subsystem will mobilize all its forces for self-preservation, it is easier for management to meet internal problems by adding rather than subtracting. Therefore, settling conflict within the system generates forces for expansion.

Another basic reason for the success of the maximization principle is expansion to cope with the demands of the external environment. The organization will take on new functions to meet the demands of the environment. This will create new structures, but not at the expense of the old ones. Existing structures represent an investment, and they possess a maintenance dynamic of their own.

The expansion of organizations is the nature of bureaucracies. A bureaucracy is a rational social device which deals with problems by legitimizing roles. The immediate response to any evidence of system strain or external pressure is the creation of new rules and roles. As a bureaucratic society we are likely to see more, rather than less, growth of organizational structure.

Finally, a factor making for maximization in organizations is the ideology generated to provide justification for the organization's existence and functions. This ideology is usually more pretentious than any specific organizational goal. This is due in part to the positive cultural value placed upon bigness and growth.

As can be seen, the tendency toward maximization, which
The application of technology to the field of education has opened up new possibilities for the improvement of educational processes. The use of computers, for instance, has enabled the creation of interactive learning environments that can adapt to the needs of individual students. Additionally, the integration of multimedia resources has enhanced the engagement and understanding of students. Furthermore, the use of online platforms has expanded access to educational materials, making education more accessible to a broader audience.

In conclusion, the application of technology in education is crucial for enhancing the quality of learning and teaching. It is essential to continue exploring new ways to integrate technology into educational systems to ensure that students are equipped with the necessary skills for the future.
solves at least temporarily many problems of internal strain and external threat, usually results in the growth of the organization.

This growth can be an aid to the administrator in his attempts to gain acceptance of the court clinic and the reduction of conflict. As expansion occurs, new people are brought into the system. The court clinic administrator, then has the opportunity to present to them a positive impression of the clinic and its functions. If he is successful in imparting a positive image, then the new personnel may be less likely to succumb to the pressures of their agencies. These pressures would be aimed at making the new members accept the agency's view of the court clinic.

As the system grows to meet the demands of the environment, the incoming personnel will most likely reflect society's changing attitudes. Depending on what society's attitudes are regarding the court clinic, this growth could eventually lead to the complete acceptance or rejection of the clinic within the criminal justice system.

In as much as the successful use of the maximization principle depends upon the ability of the administrator to influence opinion, public relations is probably the most important function that the administrator must perform. The major function of the public relations effort is not
one of preventing intergroup conflict, but of building support for the clinic. Because of the importance of this function, it should be undertaken immediately, within the community as well as the criminal justice system.

Within the system, judges should be a main target of the public relations effort. For if they should reject the program and refuse to acknowledge the evaluations which are submitted to them, what sense is there for staffing and maintaining a court clinic? The same holds true if no agencies will refer clients.

Community support is an essential element for the continuance of the clinic. LEAA, if they approve the proposal, will fund the clinic for one year after which the state must continue the financing. The clinic administrator must go before the legislature in an effort to obtain funding. If he does not have agency and community support, his task will be almost insurmountable.

In conjunction with obtaining future funding, data and statistics must be compiled. Community and agency support will not assure funding. Legislators want to know how the funds have been utilized in the past and how they will be used in the future. They also want to see statistics which indicate a positive return on the investment.

Another important and immediate problem which faces the administrator is communications. It has been shown that
Effective levels of communication are difficult to attain. Educating members of other agencies as to the limitations and capabilities of the court clinic will accomplish a great deal in clearing channels of communication.

Classes, seminars or informal group discussions should be instituted for members of other agencies. How the clinic functions, with regards to testing and evaluating of clients should be explained. This would help the referring agencies in as much as they would know what to expect when sending a client for evaluation. It would also assist them in understanding the report which they receive regarding their client. Proper selection procedures could be taught, this would benefit the clinic staff as referring agencies would only send clients who needed the services of the clinic, not everyone who entered their office. As a side benefit, the interaction between the clinic staff and members of other agencies in this learning situation might reverse negative first impressions which may have been formed by either group, thereby heading off a potential conflict situation.

The functional aspects of the criminal court administrator's position are equally as important and demanding as those duties already mentioned. In addition to supervising the staff and maintaining control of all records, he must make certain that the Federal Grant Requirements are adhered
to in accordance with established procedures. Guidelines should be developed for the operation of the clinic and with the assistance of the staff the administrator should delineate guidelines with regards to selection procedures which should be distributed to all referring agencies as soon as possible.

In reviewing the situation, it can be seen that the functions and responsibilities of the criminal court clinic administrator are many and varied. The selection of the administrator poses a problem for the person or persons who make the decision as to which candidate to accept. If the person selected is to function effectively, he, or she must be highly energetic, able to deal with people and capable in many areas. The person selected should both be knowledgeable and capable in the fields of administration, public relations, organizational development, interpersonal relations and legalistics. Generalists of this sort are difficult to find, but necessary to accomplish the task with which he, or she will be confronted.
FOOTNOTES


CONCLUSION

It was hypothesised that the key to the success of the criminal court clinic was the administrator. The evolution of punishment was traced from prehistoric time to modern society to provide background knowledge as an aid to understanding the criminal justice system as it exists today. The structure and functions of the criminal court clinic were described to show that it could fill many needs of society. The philosophies adhered to by human services professionals were compared to those held by the criminal justice professionals to convey the fact that these two groups saw different paths to a common goal. The theories of group dynamics were discussed to set a framework from which to project possible problems which might arise from the interaction of these two groups within the criminal justice system. Finally, utilizing the information presented, anticipated problems and their resolutions were set forth in an effort to predict the importance of the administrator to the success of the criminal court clinic.

Three major problem areas were discussed at length. First, the effects of reference groups on the individual's perception of another group possessing differing values. The solution was to interchange group members in an effort
to familiarize them with the functions of the other groups, thereby creating a constructive awareness. If this interchange could not take place, then the responsibility to create this awareness rested with the administrator. The second problem discussed was the rigidity of the system resulting from the creation of maintainance groups. The solution to this problem was the use of the maximization theory, which relies heavily upon the public relation skills of the administrator. The next problem was effective communications. The solution here was a proposed educational program, which would be set up by the administrator.

In reviewing the problems presented, adherence to reference group theory, bureaucratic rigidity, effective communications, the divergent backgrounds of the interacting groups and maintaining public support, it becomes evident that the major administrative problem is the acceptance of the court clinic. Acceptance by the criminal justice system, acceptance by the interacting agencies and acceptance by the community and the legislature are all necessary to the survival of the criminal court clinic.

It has been shown that the responsibility for gaining this necessary acceptance rests with the administrator. An administrator who is informed, so that he can be a visionary yet practical. An administrator who is objective, so that he can be critical yet supportive. An Administrator who is
flexible, so that he can lead and yet follow.

An Administrator, as described above will be able to secure the necessary acceptance for the survival of the court clinic. Therefore, the key to a successful criminal court clinic is an informed, objective and flexible administrator.
BIBLIOGRAPHY


APPENDIX
At present, there are no personnel or services available within the district court to deal with the psychological and psychiatric concerns involved in mental competency cases, pre-sentencing evaluations, the determination of sentencing alternatives, and so on. The only exception to this is the option of committing a client to the New Mexico State Penitentiary for a 60 day evaluation prior to final disposition. While in a few cases such a commitment may have a deterrent effect or be desirable for security reasons, in most cases it is an expensive option which is impractical for the majority of clients within the system. This program is not designed to obviate the need for that service. It is, however, designed to provide additional alternatives to the judges and probation/parole officers when commitment to the penitentiary is not thought to be appropriate or necessary.

B. State Parole Office: The State Parole Office in Area II provides supervision services to the district courts. It is divided into two (2) separate areas of concern; each with its own supervisor. These are the Special Services Division and the Field Services Division. The Special Services Division includes a drug-screening unit, a halfway house, and a pre-sentence investigating team which is presently averaging sixty (60) cases per month. In addition, the pre-sentence team also handles pre-releases and averages approximately seven (7) of those per day. The Field Services Division serves three (3) judicial districts; the Second, Eleventh, and Thirteenth Districts.

With regard only to the Second District, the Field Services staff includes a district supervisor and nine (9) parole/probation officers, two of which serve juvenile parolees exclusively. The
current average caseload of juveniles and adults, exclusive of drug
and alcohol cases, is 600 individuals.

C. Juvenile Probation Office: The juvenile probation office has a staff
of intake workers and nine (9) juvenile probation officers. In 1971
that staff handled approximately 11,000 cases. There have been no
staff level psychiatric/psychological services available. Juvenile
clients can be referred to the Bernalillo County Detention Home for
evaluation where a limited number are seen by a member of the UNM
Department of Psychiatry staff on a consultation basis only. Although
this has been, and will continue to be, a useful tool, it has failed
to have a significant impact on the large number of juveniles re-
ceiving services through this agency.

A number of recent studies indicate that 15% to 20% of offenders
coming to the attention of the courts have significant psychiatric or
psychological problems which are related to their criminal behavior.
Applying these percentages to the at least 25,000 cases handled by the
criminal justice agencies expected to be impacted by this program it
can be determined that 3,750 to 5,000 potential clients are handled
by the identified elements of criminal justice system each year. Of
these, at least 2% or over 100 individuals can be expected to be diagnosed
as grossly psychotic.

It immediately becomes obvious that the potential caseload is of
such proportions that the total number of potential clients for the
Court Clinic will very likely exceed its capacities. However, expansion
of the facility can be considered after it has had an opportunity to
demonstrate its value to the criminal justice system.
GOALS:

The primary purpose of this project is to provide psychological and psychiatric services to the District Court system with the goal of identifying, diagnosing, and obtaining appropriate treatment for offenders who have concomitant emotional problems which contribute to or cause continuing criminal behavior patterns. By enabling the courts to have access to this type of expertise, it is intended that dispositions can be more appropriate and that, ultimately, recidivism will be decreased. Specifically, the services offered by the Court Clinic will include the following:

A. the provision of diagnostic and evaluation services to the District Court as well as its attendant probation and parole agencies.

B. the provision to the court of recommendations concerning the appropriate use of alternative disposition or treatment plans.

C. the provision of direct treatment services to a limited number of public offenders (both adult and juvenile) and their families.

D. linkages to the full range of treatment services provided by the BCMH/MRC as well as other related agencies in the community.

E. linkages to the educational and consultative resources of the BCMH/MRC, the UNM Department of Psychiatry, and other related departments within the UNM School of Medicine for the criminal justice system.

F. the provision of a training site in corrections for UNM students in psychiatry, medicine, counseling, psychology, and related fields.

G. the establishment of an Advisory Board for the project which will include the two area supervisors serving the State Parole office, the Chief Juvenile Probation officer, a District Court judge, the District Court Administrator, and the Director of the BCMH/MRC.
and/or consultative services would be made available to them to assist them in these initial screening activities. Two primary functions will be provided by the Court Clinic:

A.) **Diagnostic and Evaluation Services:** This program proposes to offer the courts and their probation/parole services a comprehensive evaluation service which will include the development of a social history, psychometric testing in the areas of general intellectual functioning, personality assessment, neurological involvement, and related, psychiatric evaluation when indicated, and specialty medical examinations when deemed necessary by the psychiatrist. In addition to the above, a diagnostic impression, including recommendations to the referring person as to disposition and treatment, will be submitted in writing within a specified length of time.

B.) **Treatment Services:** Whenever possible, Court Clinic staff may provide individual or group treatment to selected offenders. In other cases, the staff will assist the courts in developing appropriate treatment resources with other BCMH/MRC programs or with related community agencies. By establishing this direct link between the Center and the criminal justice system, it is anticipated that the referral of individuals for treatment can be maximized and that such referrals will be more appropriate in terms of meeting the client's needs.

**Program Staff:**

The following staffing pattern is proposed for the development and operation of the Court Clinic.
1.) **Psychiatrist:** Must have completed medical training and psychiatric residency as well as be either licensed or eligible to be licensed within the State of New Mexico. Should be skilled in diagnosis and assessment. Experience with public offenders and minority groups preferred. Minimum of two (2) years related experience.

2.) **Clinical Psychologist:** Requires a Ph.D. in clinical psychology with an emphasis on diagnosis and evaluation. Must be either certified as a psychologist in the State of New Mexico or eligible to obtain such certification upon employment.

3.) **Psychometrists (2):** Requires a Master's degree in psychology with an emphasis on testing and evaluation. Should be able to administer and interpret a wide range of psychometric instruments dealing with the areas of general intelligence, personality, neurological dysfunction, educational achievement, and related. Experience in assessment of minority group individuals preferred.

4.) **Social Workers (2):** Master's degree in social work, psychiatric social work, or related behavioral science with special skills in the development of social history data as it relates to psychiatric diagnoses. Minimum of two (2) years experience.

5.) **Staff Secretaries (2):** Will be employed under existing UNM hiring guidelines.

6.) **Clerk-Typist:** Same as above. This individual will serve as receptionist, will provide the telephone answering services, and will be required to be bi-lingual.