

AFTER DECISION: IMPLEMENTATION OF JUDICIAL DECREES IN CORRECTIONAL SETTINGS



National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice



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**by
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and
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**NATIONAL INSTITUTE OF LAW ENFORCEMENT
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ABSTRACT

At the heart of the debate about corrections litigation are differing opinions concerning its effectiveness as a vehicle for social change. Evaluation of the propriety and value of such litigation depends upon perspective.

Judges, lawyers, inmates, correctional administrators, legislators, and the general public have all viewed the process differently. Until now, the descriptive information about such cases was generally lacking, hampering the efforts of policy makers to form sound evaluative judgments. This report is intended to contribute new information to the ongoing dialogue. The report includes the findings of studies of four recent, significant correctional law cases.

Each study deals with the implementation of the judicial decrees entered with respect to particular facilities. The objective of the studies was to explain how the judicial will was accommodated in each instance. Consequently, they provide extensive descriptive data about: 1) the extent to which compliance with the decrees was achieved; 2) the factors which influenced compliance and non-compliance; and 3) the impact that the decrees had on the correctional institutions and the people connected with them.

The report describes the process of decree implementation as observed in the cases studied, identifying the factors that promoted compliance and those that impeded it. The number and interactive character of the factors prevented the precise assignment of weight to them.

The report also describes the observed impact of the cases on the institutions and the principal groups of persons connected with them. Several different types of impact occurred. There were changes of a material nature in the patterns and quality of daily living and working within the affected penal facilities. Less tangibly, there were effects on perceptions and attitudes of the broader public and government officials.

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PART I

SUMMARY

by

M. KAY HARRIS AND DUDLEY P. SPILLER, JR.

INTRODUCTION

At the heart of the debate about corrections litigation are differing opinions concerning litigation's effectiveness as a vehicle for social change. Evaluation of the propriety and value of litigation in solving the problems of correctional institutions depends upon perspective. Judges, lawyers, inmates, and correctional administrators -- as well as legislators and the general public -- have all viewed the process differently. Until now, descriptive information about such cases was generally lacking, hampering the efforts of policy makers to form sound evaluative judgments. This report is intended to contribute new information to their ongoing dialogue.

This report builds upon the findings of studies of four recent, significant correctional law cases.* Each study deals with the implementation of the judicial decrees entered with respect to particular facilities. The common objective of the studies was to explain how the judicial will was accommodated in each instance. Consequently, they provide extensive experiential data about: (1) the extent to which compliance with the decrees was achieved; (2) the factors which influenced compliance and non-compliance; and (3) the impact that the decrees had on the correctional institutions and the people connected with them.

When the Decree Implementation Study was conceived in 1974, there had already been a substantial volume of corrections litigation. Although the immobility of the prisoner-plaintiffs created some logistical problems for courts and counsel, in general the preparation and trial of these cases followed the course of

* Field research for the case studies was performed in mid-1975. The names of the cases and principal issues litigated and studied follow. Full citations are in the Methodology. Collins v. Schoonfield (disciplinary due process, medical care, conditions in solitary confinement, communications with those outside the Baltimore City Jail). Hamilton v. Schiro (discipline, medical care, general conditions, recreation, rehabilitative services, and overcrowding of Orleans Parish (New Orleans) Prison). Holland v. Donelon (discipline, medical care, general conditions, overcrowding, and racial segregation of Jefferson Parish Prison). Holt v. Sarver (inmate safety at the hands of trusty guards, medical care, sanitary and general conditions, overcrowding, and segregation in the Arkansas penitentiaries). Each of these cases was filed in a United States District Court under 42 U.S.C. §1983 and its jurisdictional counterpart, 28 U.S.C. §1343.

other civil rights litigation. Few of the participants, however, were certain that litigation made sense in the correctional setting. It should be recalled that until the 1960's, federal courts generally had declined to decide corrections cases on their merits. Viewing the prisoner as a virtual "slave of the state," courts had consciously adopted a "hands off" attitude toward their complaints. This policy prevented the development of a body of law defining the constitutionally protected interests retained by convicted persons and those confined pending adjudication of guilt. As this policy was being rejected there were new revelations about prison and jail conditions. A movement to reform penal conditions and practices through litigation designed to enforce constitutional rights began. It has been observed that trial of such cases consumes vast quantities of the time and energy of attorneys, defendant correctional officials, and judges. Numerous pre- and post-trial hearings are often required and efforts to achieve compliance with the court orders may demand several years and involve substantial costs. This project was conceived to help interested persons and agencies estimate the value of these human and financial resource investments and consider how the costs and benefits of these investments might be altered.

Although many cases had been decided when research began, correctional law was still a new field. Consequently, the number of cases decided in plaintiffs' favor which were well advanced in terms of implementation was relatively small. The field from which the cases studied were selected was narrowed further by the judgment to choose multi-issue cases and to examine a variety of enforcement mechanisms. As a result, the four cases studied are illustrative rather than representative of the entire body of correctional case law.

Future researchers will want to examine the methodology employed here, described at the end of this report. The exploratory nature of the project makes it prudent that conclusions drawn and commonalities noted be tentative and cautious, but the project demonstrates that the judicial process is susceptible to analysis by social science techniques.

This chapter has two broad sections. The first describes the process of decree implementation as observed in the cases studied and identifies the factors that promoted compliance and those that impeded it. The factors have been identified, but their number and interactive character prevent precision in assigning weight to them. The second section is addressed to describing the observed impact of these cases on the institutions and the principal groups of persons connected with them. Several different types of impact occurred. There were changes of a material nature in the patterns and quality of daily living and working within the affected penal facilities. Less tangibly, there were effects on perceptions and attitudes of the broader public and government officials.

THE PROCESS OF IMPLEMENTING JUDICIAL DECREES

The case studies revealed considerable variation in the extent to which compliance with the judicial decrees was attained. Differences in the extent of compliance occurred from case to case and among the various provisions within each case. Accounting for these variations was difficult because the process of implementing court orders is complex, especially in cases of broad scope such as those studied. A large number of factors potentially capable of influencing the degree of compliance attained were identified. Analysis was further complicated by the fact that many of these factors interacted extensively with one another.

Meaningful analysis of the decree implementation process thus requires more than simply describing the steps taken by the named defendants in response to judicial orders. It is necessary to examine the historical and political context within which the decree implementation took place. The courts in these cases were faced with remedying extremely severe correctional problems in the absence of public or official demand for jail and prison reform. How the courts responded to these situational realities was important. The ways in which jail administrators and other officials reacted to the decrees and to changing public opinion were also significant. Finally, the courts played a critical role in influencing the compliance process, especially in the approaches they employed to monitor and enforce their orders.

This section explores each of the factors important to decree implementation and the interaction among them. What emerges is a tentative generalization of some importance. Noncompliance with judicial decrees seems to be a function of two variables: (1) unwillingness or inability to comply on the part of one or more necessary actors (not always defendants), and (2) lack of judicial determination to compel compliance. Inability to comply encompasses lack of understanding, lack of money or other resources, lack of management or administrative skills, lack of authority, and lack of influence over the action of important others. Unwillingness to comply reflects attitudes, priorities, and values. When compliance does not occur spontaneously from the issuance of a decree, its attainment depends on alterations in the stance or ability (broadly construed) of the necessary actors. Such alterations sometimes occur as a result of changes or interactions in the setting of the case and sometimes as a result of a judicial action. Judicial resolve that compliance be achieved seems to assure that it will be. Conversely, when judicial determination is less firm, or at least less evident, even apparently willing parties may fail to comply fully. Thus, both extra-judicial and judicial factors are capable of significantly influencing the decree implementation process.

Information developed regarding the extent, rate, or nature of compliance eventually attained in the cases studied affected the assessment reported here of the factors that influenced compliance. In no case was there complete compliance with the spirit and letter of all the orders. In Holland v. Donelon and Collins v. Schoonfield, however, compliance was attained with most of the court's requirements. In Holt v. Sarver, the nature of the orders made such a general assessment of compliance more difficult. The court there relied more on suggestions and statements of broad goals than on specific compliance obligations. Not all of the changes desired nor even all those strongly implied were achieved, but the defendants made a serious effort to accommodate the court in most regards. In Hamilton v. Schiro, there was not only failure to attain compliance with some of the court's "basic" and important requirements, but little effort to do so. Although compliance was achieved with a number of significant provisions of the decree, this analysis treats the extent of compliance as incomplete in Hamilton. In no case did compliance occur swiftly or smoothly or reach the goals underpinning all of the specific requirements.

THE CONTEXT OF THE CASES

In order to appreciate the implementation process, it is necessary to understand the context within which each case occurred. The judicial intervention that occurred in the cases studied was not the only, nor necessarily the first, movement for reform of the facilities in question. Each case arose in the context of a climate ripening for political and social change. The climate was important to the implementation process because it influenced the values, perceptions, and judgments of key figures and consequently affected their compliance efforts. Analysis of the four cases studied revealed that in each of them the compliance process was subjected to certain common influences. The tremendous problems that administrators faced in operating the correctional facilities and the attitudes of the general public and public officials toward corrections reform were especially important influences.

Correctional Problems

The court and the parties in each case were confronted with serious, longstanding problems involving the physical conditions, policies, and management practices of the subject facilities. The correctional systems were underfunded. Each facility suffered from too few employees, low pay scales, lack of training, and insufficient supervisory and management support. The facilities were old, poorly designed, ill-equipped, inadequately maintained, and over-utilized. Violence, brutality, lack of medical care, unsanitary

conditions, inadequate plumbing, lack of ventilation, and the absence of other necessities of life characterized the institutions. These problems contributed to, and were part of, the constitutional violations found in the suits. Amelioration, if not elimination of these problems, was necessary to the implementation process.

Facilities in the Arkansas prison system were badly overcrowded. Beds were so close together that inmates were almost sleeping on top of one another. Inmates were brutalized by inmate guards. Free world personnel were few. At one prison, 23 free world employees had responsibility for over 1000 inmates. Of that number, only eight were available for guard duty and only two were on duty at night. Each of the jails studied was overcrowded and understaffed. The Baltimore City Jail was built in 1859. The jails in Orleans and Jefferson Parishes were built in the 1920's. The population of those jurisdictions expanded dramatically in the years after that, but later facility expansion did not begin to keep up with the number of persons detained. The Orleans Parish Prison had a design capacity of 400 to 450 inmates, but contained an average daily population at the time of the trial between 800 and 900. The Jefferson Parish prison had a capacity of around 130, but held as many as 235 inmates. Overcrowding in both facilities caused inmates to sleep on cell floors and in corridors, and exacerbated inadequacies in plumbing, sanitation, and safety.

Remedying the constitutional deficiencies required considerable affirmative action in each case, including the infusion of money into the correctional systems, changes in the allocation of personnel, introduction of new programs, and the provision and improvement of a vast array of services ranging from medical care to exercise. Strong administrative abilities were needed to reform the subject facilities. The defendant correctional administrators had the task of gaining support for improvement from other necessary agencies, as well as overseeing the actual implementation of changes. Neither responsibility was easy and each required different skills. Necessary changes required top level administrators to elicit funds from appropriating bodies that historically had not rated corrections reform as a high priority. In Orleans Parish there was open hostility between the local appropriating body and the jail administration. Similar difficulties beset the Arkansas prison system and the Baltimore City Jail. Besides the formidable task of gathering the resources necessary for reform, administrators also had to gain the cooperation and assistance of line correctional staff. The local governmental structure, the choice of defendants, and changes in personnel during the active course of the litigation all influenced the ability and willingness of correctional administrators to perform those functions.