INFORMATION TO USERS

This was produced from a copy of a document sent to us for microfilming. While the most advanced technological means to photograph and reproduce this document have been used, the quality is heavily dependent upon the quality of the material submitted.

The following explanation of techniques is provided to help you understand markings or notations which may appear on this reproduction.

1. The sign or “target” for pages apparently lacking from the document photographed is “Missing Page(s)”. If it was possible to obtain the missing page(s) or section, they are spliced into the film along with adjacent pages. This may have necessitated cutting through an image and duplicating adjacent pages to assure you of complete continuity.

2. When an image on the film is obliterated with a round black mark it is an indication that the film inspector noticed either blurred copy because of movement during exposure, or duplicate copy. Unless we meant to delete copyrighted materials that should not have been filmed, you will find a good image of the page in the adjacent frame.

3. When a map, drawing or chart, etc., is part of the material being photographed the photographer has followed a definite method in “sectioning” the material. It is customary to begin filming at the upper left hand corner of a large sheet and to continue from left to right in equal sections with small overlaps. If necessary, sectioning is continued again—beginning below the first row and continuing on until complete.

4. For any illustrations that cannot be reproduced satisfactorily by xerography, photographic prints can be purchased at additional cost and tipped into your xerographic copy. Requests can be made to our Dissertations Customer Services Department.

5. Some pages in any document may have indistinct print. In all cases we have filmed the best available copy.
GARRISON, CAROLE GOZANSKY

COURT INTERVENTION IN THE ADMINISTRATION OF CORRECTIONS

The Ohio State University

University Microfilms International
300 N. Zeeb Road, Ann Arbor, MI 48106

18 Bedford Row, London WC1R 4EJ, England

Ph.D. 1979
COURT INTERVENTION IN THE ADMINISTRATION
OF CORRECTIONS

DISSERTATION

Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

By

Carole Gozansky Garrison, B.A., M.G.A.

* * * * *

The Ohio State University

1979

READING COMMITTEE:

Sven B. Lundstedt
Ivan C. Rutledge
Simon Dinitz

Approved By

Sven B. Lundstedt, Adviser
School of Public Administration
To Michael A. Lee whose support and understanding inspired me to strive for excellence.
ACKNOWLEDGMENTS

This project is both an ending and a beginning. It is the ending of the directed effort on the part of my family, friends and teachers to help me achieve an educational goal which spans the past twenty-nine years. It is the beginning of a new role of research and teaching which can only partially repay the debt I owe to their effort.

I am most grateful to Dr. Sven Lundstedt, my advisor, who graciously took me under his advisement during the crucial last stages of my graduate work and kept me solidly on course. Thanks go to my readers, Dr. Simon Dinitz and Dr. Ivan Rutledge, who not only spent long hours contributing to the improvement and refinement of this work, but have also provided me with the insight and confidence with which to present it. Their efforts on my behalf far surpassed their obligation as readers. Finally I would like to thank Dr. Clinton Oster and Ms. Carol Myer who helped to provide support and an environment necessary to complete this research.

A very special note of appreciation is due my very dear friend, Ms. Marilyn Howard, who tirelessly produced typed drafts while enduring seemingly endless revisions and inserts.

Last, but certainly not least, my thanks go to my daughters, Samantha and Debraln, who kept me bounded in reality and to J. R. R. Tolkien who kept me from it.
VITA

October 18, 1942 . . . . Born – Chicago, Illinois

1963 . . . . . . . . . . . B.A., University of Miami,
Coral Gables, Florida

1976 . . . . . . . . . . . M.G.A., Georgia State University,
Atlanta, Georgia

1977-1979 . . . . . . . Graduate Research Associate, School of
Public Administration, The Ohio State
University, Columbus, Ohio

FIELDS OF STUDY

Major Field: Public Administration

Studies of Public Administration. Professor Sven B. Lundstedt

Studies in Criminal Justice. Professor Simon Dinitz

Studies in Correctional Law. Professor Ivan C. Rutledge
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEDICATION</td>
<td>ii</td>
</tr>
<tr>
<td>ACKNOWLEDGMENTS</td>
<td>iii</td>
</tr>
<tr>
<td>VITA</td>
<td>iv</td>
</tr>
<tr>
<td>LIST OF TABLES</td>
<td>vi</td>
</tr>
<tr>
<td>LIST OF FIGURES</td>
<td>ix</td>
</tr>
<tr>
<td><strong>Chapter</strong></td>
<td></td>
</tr>
<tr>
<td>I. INTRODUCTION.</td>
<td>1</td>
</tr>
<tr>
<td>Significance of the Study</td>
<td>4</td>
</tr>
<tr>
<td>References</td>
<td>6</td>
</tr>
<tr>
<td>Reference Notes</td>
<td>7</td>
</tr>
<tr>
<td>II. CONTEXT OF JUDICIAL INTERVENTION IN CORRECTIONAL ADMINISTRATION</td>
<td>8</td>
</tr>
<tr>
<td>Legislative-legal Environment of Judicial Review</td>
<td>8</td>
</tr>
<tr>
<td>The Environment of Corrections: Impediments to Compliance</td>
<td>17</td>
</tr>
<tr>
<td>References</td>
<td>22</td>
</tr>
<tr>
<td>III. ANALYTICAL FRAMEWORK.</td>
<td>24</td>
</tr>
<tr>
<td>Introduction</td>
<td>24</td>
</tr>
<tr>
<td>Analytical Framework</td>
<td>25</td>
</tr>
<tr>
<td>Attitudes</td>
<td>25</td>
</tr>
<tr>
<td>Hypothesis 1</td>
<td>27</td>
</tr>
<tr>
<td>Social Influence Theory</td>
<td>29</td>
</tr>
<tr>
<td>Influence (power)</td>
<td>30</td>
</tr>
<tr>
<td>Compliance</td>
<td>31</td>
</tr>
<tr>
<td>Authority</td>
<td>34</td>
</tr>
<tr>
<td>Legitimacy</td>
<td>35</td>
</tr>
<tr>
<td>Hypothesis 2</td>
<td>36</td>
</tr>
<tr>
<td>Expertise</td>
<td>37</td>
</tr>
<tr>
<td>Hypothesis 3</td>
<td>38</td>
</tr>
<tr>
<td>Participation</td>
<td>38</td>
</tr>
<tr>
<td>Hypothesis 4</td>
<td>40</td>
</tr>
<tr>
<td>Self-Interest</td>
<td>41</td>
</tr>
<tr>
<td>Hypothesis 5</td>
<td>43</td>
</tr>
<tr>
<td>Hypothesis 6</td>
<td>44</td>
</tr>
<tr>
<td>Topic</td>
<td>Page</td>
</tr>
<tr>
<td>------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Recognition of Needs</td>
<td>45</td>
</tr>
<tr>
<td>Hypothesis 7</td>
<td>46</td>
</tr>
<tr>
<td>Coercion</td>
<td>47</td>
</tr>
<tr>
<td>Hypothesis 8</td>
<td>50</td>
</tr>
<tr>
<td>Ability to Comply</td>
<td>51</td>
</tr>
<tr>
<td>Hypothesis 9</td>
<td>52</td>
</tr>
<tr>
<td>References</td>
<td>54</td>
</tr>
</tbody>
</table>

**IV. METHODOLOGY**  

- The Survey Population                                      | 58   |
- Correctional Administrators                                 | 58   |
- Ohio Judges                                                | 59   |
- Survey Unit Characteristic Data                             | 61   |
- Survey Design                                              | 62   |
- Data Collection                                             | 62   |
- Test Instrument                                             | 65   |
- Analysis of Data                                            | 68   |
- Validity and Reliability                                   | 69   |
- Weighting                                                  | 70   |
- References                                                 | 76   |

**V. DATA ANALYSIS**  

- Population Characteristic Data                             | 81   |
- Description of Sample Sub-populations: County Correctional Administrators | 82   |
- Municipal Correctional Administrators                       | 82   |
- State Correctional Administrators                           | 83   |
- Descriptive Statistics of the Aggregate Population of Ohio Judges | 84   |
- Sub-group Analysis                                          | 85   |
- Dimension One: Favorableness Toward Court Intervention      | 86   |
- Summary                                                    | 94   |
- Attitude Analysis: Mapping of Attitudinal Positions of Parallel Populations | 97   |
- Dimension One: Favorableness Toward Court In Intervention in Corrections | 98   |
- Summary                                                    | 105  |
- Analysis of Behavioral Disposition of Correctional Administrators | 106  |
- Item Analysis                                              | 108  |
- Analysis of Willingness to Comply by Contextual Attributes | 110  |
- Summary                                                    | 113  |
- References                                                 | 115  |
- Reference Notes                                            | 116  |
VI. CONCLUSIONS.

Findings ........................................  118
Implications ......................................  121
Legitimacy and the Court .......................  126
Recommendations ..................................  127
Postscript: the Fundamental Issues Requiring Further Consideration ....................... 131
References .......................................  132
Reference Notes ...................................  133

APPENDIXES

A. Historical Background of the Court's Intervention in Corrections from a Legal Perspective .............................. 134

B. Test Instrument .................................. 139

C. Test of Correlation Between the Affect Favorableness Toward Court Intervention and the Other Twelve Dimensions of the Attitude Survey ........................................ 147

D. Comparison of Aggregate Responses on the Affect and Cognate Dimensions by Judges and Correctional Administrators ......................................................... 155

E. Behavioral Tendency Component .................. 163

BIBLIOGRAPHY ......................................  174
<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Reliability coefficients for attitude indexes.</td>
<td>67</td>
</tr>
<tr>
<td>2.</td>
<td>Assigned weights for administrative responses.</td>
<td>72</td>
</tr>
<tr>
<td>3.</td>
<td>Assigned weights for judicial responses.</td>
<td>73</td>
</tr>
<tr>
<td>4.</td>
<td>Time in office</td>
<td>85</td>
</tr>
<tr>
<td>5.</td>
<td>Administrators' response to dimension one by level of government affiliation</td>
<td>86</td>
</tr>
<tr>
<td>6.</td>
<td>Administrators' response to dimension one by level of government affiliation controlling for personal involvement in corrections: value yes</td>
<td>87</td>
</tr>
<tr>
<td>7.</td>
<td>Dimension one by type of court</td>
<td>88</td>
</tr>
<tr>
<td>8.</td>
<td>Dimension one by length of time in office.</td>
<td>89</td>
</tr>
<tr>
<td>9.</td>
<td>Response of judges, distinguished by time in office, toward dimension seven</td>
<td>92</td>
</tr>
<tr>
<td>10.</td>
<td>Dimension eight, expertise, by involvement in correctional litigation.</td>
<td>93</td>
</tr>
<tr>
<td>11.</td>
<td>Dimension eleven, professional obligation, by level of government.</td>
<td>94</td>
</tr>
<tr>
<td>12.</td>
<td>Summary table of aggregate responses by correctional administrators and judges to the thirteen attitude dimensions</td>
<td>99</td>
</tr>
<tr>
<td>13.</td>
<td>Comparison of hypotheses and test results: direction of hypothesized associations between administrators' evaluations and beliefs about court intervention in correctional administration and their willingness to comply with court orders.</td>
<td>107</td>
</tr>
<tr>
<td>14.</td>
<td>Willingness to comply by level of government affiliation</td>
<td>109</td>
</tr>
<tr>
<td>15.</td>
<td>Willingness to comply by dimension two, belief in the courts' ability to compel compliance with court orders</td>
<td>110</td>
</tr>
</tbody>
</table>
16. Willingness to comply by inmate age. 111
17. Willingness to comply by personal involvement in correctional litigation. 113
18. Dimension one, favorableness, by dimension two, coercion among correctional administrators. 148
19. Dimension one by public support for court intervention among correctional administrators. 150
20. Dimension one by dimension nine, self-interest, among correctional administrators. 151
21. Dimension one by dimension ten, participation, among correctional administrators. 152
22. Comparison of aggregate responses on the effect dimension, favorableness, by judges and correctional administrators. 155
23. Comparison of aggregate responses by judges and correctional administrators on the courts' ability to compel compliance. 156
24. Comparison of the aggregate responses of judges and correctional administrators on the willingness of the legislature to provide funds. 156.
25. Comparison of the aggregate response of judges and correctional administrators on court required expenditures. 157
26. Comparison of aggregate responses of judges and administrators on the willingness of administrative superiors to provide resources necessary to compliance with court orders. 157
27. Comparison of the aggregate responses of judges and correctional administrators on external support for court intervention in corrections. 158
28. Comparison of the aggregate responses of judges and correctional administrators relating to the legitimacy of court intervention in corrections. 158
29. Comparison of aggregate responses of judges and correctional administrators on the belief that the court possesses expertise in settling correctional disputes. 159
30. Comparison of aggregate responses of judges and correctional administrators on the belief that court intervention negatively affects administrator's self interest. 159
31. Comparison of aggregate responses of judges and administrators on the belief that the court allows a correctional administrator a high degree of participation in the court decision-making process. 160

32. Comparison of aggregate responses of judges and correctional administrators pertaining to the belief that the court is responsive to the needs and problems of the correctional administrator. 160

33. Comparison of aggregate responses of judges and correctional administrators pertaining to the belief that the court is responsive to the needs and problems of the correctional administrator. 161

34. Comparison of aggregate responses of judges and correctional administrators on the belief that corrections is in need of reform. 161

35. V15, personal willingness to comply by perceived administrative autonomy. 166

36. V17, by involvement in correctional litigation. 168

37. Having written rules and regulations by involvement in litigation. 169

38. Having written rules and regulations by involvement in litigation by county correctional officials. 169
## LIST OF FIGURES

<table>
<thead>
<tr>
<th>Figure</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>A schematic conception of attitudes.</td>
<td>27</td>
</tr>
<tr>
<td>2.</td>
<td>Hypothetical relationship between correctional administrators' general favorableness toward court intervention in corrections and their disposition to comply with court orders.</td>
<td>28</td>
</tr>
<tr>
<td>3.</td>
<td>Hypothetical relationship between correctional administrators' beliefs about the legitimacy of court intervention and their disposition to comply with court orders.</td>
<td>37</td>
</tr>
<tr>
<td>4.</td>
<td>Hypothetical relationship between correctional administrators' beliefs about court expertise and their disposition to comply with court orders.</td>
<td>38</td>
</tr>
<tr>
<td>5.</td>
<td>Hypothetical relationship between correctional administrators' beliefs about the degree of participation in court orders allowed them by the court and their disposition to comply with court orders.</td>
<td>40</td>
</tr>
<tr>
<td>6.</td>
<td>Hypothetical relationship between the correctional administrators' beliefs that there is a high degree of external support for court intervention in corrections and their disposition to comply with court orders.</td>
<td>43</td>
</tr>
<tr>
<td>7.</td>
<td>Hypothetical relationship between the correctional administrators' beliefs that court intervention impacts negatively on their personal interest and their disposition to comply with court orders.</td>
<td>45</td>
</tr>
<tr>
<td>8.</td>
<td>Hypothetical relationship between the correctional administrators' beliefs that the court is responsive to their needs and problems and their disposition to comply with court orders.</td>
<td>47</td>
</tr>
<tr>
<td>9.</td>
<td>Hypothetical relationship between the beliefs of correctional administrators about courts' powers to compel coercion and their disposition toward complying with court orders.</td>
<td>51</td>
</tr>
</tbody>
</table>
10. Hypothetical relationship between the beliefs of correctional administrators about their ability to comply and their disposition toward complying with court orders.
Chapter I
INTRODUCTION

Court intervention, into the administrative actions and procedures in public mandated institutions such as schools and prisons is not a wholly new phenomenon. Judicial review of administrative policies and practices has been steadily increasing since the U. S. Supreme Court decision in Brown v. Board of Education, (1954).

In the early 1960's courts in this country began to move quickly and decisively away from their historical "hands-off" policy regarding intervention in prison administration. One consequence was the countless numbers of cases brought by prisoners and on behalf of prisoners to the court demanding basic constitutional rights and the application of minimum standards in conditions of confinement.

However, the literature suggests that great improvements anticipated by reformers and prisoners were never fully realized. "Plaintiffs proved their cases and courts come down with dramatic orders, but in most cases compliance on the part of defendants has been minimal..." (Breed, 1979, p. 16). This circumstance appears to be universal and is evident in other social institutions as well which are undergoing increased legal challenge to administrative action.

This discrepancy between court order and its implementation raises some interesting issues. First, what is the basis of power by which such courts exercise authority? Second, what are the implications of such power on subsequent compliance by administrators?
An underlying assumption in this dissertation is that an understanding of administrators' perceptions of the court's authority and processes is salient in explaining the court's apparent inability to effect greater compliance with its orders. Secondly, we assume judges' perceptions of the court's role and authority in this arena likewise explains the court's behavior. Specifically, it adds insight into the court's willingness or unwillingness to maximize its influence (Acock and DeFleur, 1972). This study compares the attitudes of correctional administrators at the superintendent and deputy or associate levels and selected categories of judges concerning court involvement in prison administration.

A traditional method employed in attitude research is the self-reported questionnaire. This was the method used here. The test instrument, using a Likert-type scale, was pre-tested on a sub-sample of our survey universe drawn from the Columbus area. Questions were developed in the categories of affect (evaluation), cognates (beliefs), and behavioral tendencies for the purposes of 1) determining associations between these variables within populations and 2) mapping attitudinal positions among populations.

Within these categories, fourteen dimensions relating to court intervention in corrections are used. Most are derived from the organizational literature on social influence (see Chapter IV). Judicial impact studies support their applicability in this relationship. The fourteen dimensions are:

1) favorableness towards court intervention in correctional administration
2) belief in the court's ability to compel compliance by imposing negative sanctions
3) belief in the willingness of legislatures to provide funds for compliance
4) beliefs about the financial demands accompanying court orders
5) belief in the willingness of administrative superiors (above the institutional level) to provide resources necessary to compliance
6) perceptions about external support for the court's intervention in corrections: public, legislative, and staff
7) beliefs about the court's legitimacy in this domain
8) beliefs about the court's expertise in settling correctional disputes
9) beliefs about the impact of court intervention on the administrator's self-interest
10) perceptions as to the degree of participation the court allows the correctional administrator in the court's decision-making process
11) professional obligation, a measurement of felt obligation on the part of administrators to comply in a positive law sense
12) perceptions as to the responsiveness of judges to the problems and needs of the administrator
13) belief about the need for reform in corrections
14) willingness to comply with court orders

The environment of the court/administrator relationship, which these dimensions tap, is presented in the following chapters. These contextual considerations are: (1) the legislative and judicial context; (2) the internal processes of the court which serve to limit its capacity to influence; and (3) the organizational environment of corrections and organizational impediments to change.
Significance of the Study

There are several important justifications for research investigating the attitudes of the judiciary and correctional administrators toward court intervention in corrections.

1) Currently, there is little empirical evaluation concerning litigations' effectiveness as a vehicle for correctional reform. Such evaluations, as there are, of the propriety and value of litigation have been subject to the widely disparate perspectives of judges, lawyers, inmates, correctional administrators, and prison reform groups; but none seek to quantify or test their assumptions. There are no studies which assess the range of attitudes within a significant population, compare the variance between perceptions of significant actors or analyze the policy implications of these disparities. This dearth of objective information can only hamper the efforts of policy makers to form sound evaluative judgments as to the role of the courts in the correctional process (Spiller and Harris, p. 3).

2) The problems of compliance in a fragmented political system are profound and are generic to complex organizations (Van Meter, 1975, p. 452).

3) There is an explicit need for the development of empirical theories about the nature, functions and role of courts in society (LEAA, Note 1).

4) Court intervention into the procedural requirements within the administration of corrections, as well as education, mental health and other publicly mandated institutions is a
phenomenon worth attention since the process of intervention is gaining momentum.

5) More specifically, correctional reform is, in and of itself, a matter of serious and timely concern. Nearly half the case load in Ohio Federal appellate courts concerns prisoners' rights cases (Note 2). The State legislature has before it bills requiring millions of dollars in bond revenues to go for prison construction or reform (HJR 15). Legislative activity in the area of flat-time sentencing (HB 303) has far ranging implications for projected prison populations and may understandably produce more court involvement over prison conditions and overcrowding. Reflecting public concern with prison reform HB 305 was signed into Ohio law November 9, 1977. This bill provided for an eight-man State correctional inspection team made up of Ohio legislators to investigate conditions in the State's prison system. Still another source of activism comes from special interest groups such as the American Civil Liberties Union and the N.A.A.C.P., who represent the inmate populations in many suits coming before the court. Currently there is a task force under the auspices of the State legislature to develop a unified correctional master plan for Ohio. This development is a direct response to intervention (Note 3).
REFERENCES


REFERENCE NOTES


Chapter II

CONTEXT OF JUDICIAL INTERVENTION IN CORRECTIONAL ADMINISTRATION

Legislative-Legal Environment of Judicial Review

"When the Administrative Procedure Act was passed in 1946, liberal proponents of the administrative state, eager to protect the New Deal agencies from the predatory attacks of a conservative judiciary and legal profession, were outraged" (Horowitz, 1977, p. 149). Opponents of the act saw its provision of judicial review as a mechanism for the courts to thwart the creative work of the administrative process. In the 1970s, the same arguments are being made; but instead, it is now the liberal reformers who use the courts to attack the agencies their predecessors created.

The Act, rather than transfer much of the work of administrative agencies to the court as early opponents had feared, instead, spelled out basic procedural rules for agencies to follow. The Act made many administrative determinations subject to judicial review, but often only within a very narrow compass. The same provisions for judicial intervention extended to state agencies through state acts were influenced by the federal mandate (Davis, 1975 Chap. 1).

Despite administrators' concerns that the Administrative Procedure Act would erode managerial flexibility and create long delays in decision making, for the first fifteen or twenty years after the Act, the courts generally stayed out of the work of Federal agencies far more often than they intervened. Particularly, they avoided broad
policy questions where arguments for administrative expertise and flexibility were most strongly invoked. The doctrine of Federalism precluded the Federal courts from basically all intervention in state agencies. Court remedies were generally possible only in cases where a showing of procedural irregularity was made, and only rarely was it possible to mount a successful challenge of administrative action in court on substantive grounds. Administrators were seldom obliged to justify their substantive policies. The Act had not intended courts to have a central role in formulating public policy; and for quite some time they did not play such a role. Although exceptions to, and qualifications of the general judicial-review policy of self restraint have increased, i.e. school administration, the courts do not generally appear to seek such a role.

Even if a party was accorded standing to challenge agency policy, and it if was being contested on substantive grounds, the policy would likely remain invulnerable. The court would uphold agency policy in the absence of proof of malice, caprice, corruption, etc. The agency's position would prevail even if it had a merely reasonable relationship to the statutory policy regardless of the nature of the interest the party seeking review claimed to be infringed.

However, the obstacles to carrying policy problems of both state and federal agencies to the courts have been falling away for years. Doctrines which barred litigants at the outset through requirements of jurisdiction are now more relaxed. The defenses available to agencies once litigation was begun have also been weakened. This is particularly true in some substantive areas such as Eighth Amendment
questions. In certain cases, i.e. *Wolfish v. Levi*, 573 F. 2d 118, 124 (1978) the courts have begun to demand administrators show a "compelling interest" rather than the lesser test of "reasonably related" to defend administrative actions (Bershad, 1977, p. 73). These demands enhance the burden of defense and correspondingly enlarge the scope of review.

As a result, a substantial range of governmental activity is currently undergoing legal challenge to the existing order through the process of judicial review. Judicial review of administrative activity has its basis in the philosophy of a government under laws and not by men. Throughout history the conflict of rule of law vs. rule of men (discretion) has occurred. When the rule of law becomes too rigid and narrow, reform movements occur to plead for equity and individualized justice. When discretion arising from the needs of individualized justice becomes so broad as to be arbitrary and capricious, society's need for certainty provokes a demand for a return to the rule of law. This country identifies strongly with the concept of the rule of law but pays great attention to the need for individualized justice. The balance between rules and discretion is confounded. The dilemma comes from a pragmatic philosophy which demands efficiency and effectiveness in administrative affairs; and from the consequences of enormous administrative work loads on scarce administrative resources resulting from due process requirements.

Judicial review is the invocation of the power of the court to determine a transgression of law, either constitutional or statutory; the power to declare an act or decision of a government official illegal, beyond the authorization of the constitution, statute or other legal
rule by which he is supposed to conduct himself. Judicial review has become a very common phenomenon in modern American society (Shapiro, 1968, pp. 3, 4).

Public institutions are thus being scrutinized for procedural regularity. Landmark decisions such as Goldberg v. Kelly, 397 U.S. 254 (1970), accelerated the interest of social science researchers in the area of judicial review and highlighted the innovation of administrative hearings rather than a court trial. Cases well known in academia such as Board of Regents v. Roth, 408 U.S. 564 (1972), and its companion case, Perry v. Sinderman, 408 U.S. 563, marked an acceleration of judicial activism and the application of constitutional standards of due process and civil rights to administrative acts of agencies. These issues of abuse of administrative discretion, up to then, had generally been held non-reviewable by the courts. The administration of corrections has been caught up in this court activism especially in the area of due process. Corrections is but one category of public administrators caught up in a burgeoning invasion of the court into administrative procedures and the imposition, upon the administrator by the court, of the job of performing trial-like processes.

The Legal Challenge to Corrections

Within the context of this judicial activism we find the correctional process recently undergoing significant challenges to departmental and institutional policy (Cohen: p. 855). A leading procedural case indicative of these challenges is Morrissey v. Brewer, 408 U.S. 471 (1972). In Morrissey, the court held that due process applies to the parole system, and that revocation of parole, while not requiring the "full panoply of rights" did necessitate basic due process guarantees. Further, while correctional programs like parole had previously been
considered a privilege, in Morrissey the court rejected the applicability of the "rights-privilege doctrine" for determining due process requirements in correctional cases. Concomitant with this court intervention, correctional administrators have been inundated with legal actions, frequent court appearances, exposure to personal liability, pressures toward increased documentation, and challenges to administrative autonomy (Bershad, p. 57). It should be noted, however, that while the court has steadfastly moved ahead on procedural issues, as typical in other areas of public administration, it has modulated on substantive issues depending on situational extremes, i.e. Holt v. Sarver, 442 F 2d 304 (1971).

Holt was a striking case attacking an entire state penal system and yielding a new result as far as judicial review is concerned. The court, in Holt, found conditions and practices within the Arkansas prison system so abusive that confinement there amounted to a cruel and unusual punishment proscribed by the Eighth Amendment. The holding resulted in sweeping injunctive relief which required the State to undertake reforms that affected basic budgetary considerations and that were not necessarily in accord with the desires of the local populace.

The implications and ramifications for the courts as a result of judicial activism in corrections are also observable. Quoting figures from the Judicial Conference of the United States, Annual Report of the United States Courts: 1976, Bershad reports the following:

In Fiscal Year 1966 there were a total of 8,540 petitions by prisoners filed in all of the Federal district courts. Of these, 6,248 were filed by state prisoners of which only 218 petitions alleged deprivation of civil rights. Fiscal Year 1976 witnessed a large increase in state
petitions to a total of 15,029, or a 140% increase over the 1966 totals. Civil rights petitions now total 6,958.

Some Federal district court judges spend as much as 25% of their time on prison related civil rights cases. (p.55)

Just in terms of the time, energy, and resources invested, judicial intervention in corrections has become a salient issue for both the judiciary and correctional administration.

That the court has been active in the correctional arena is well documented by the increasing volume and length of judicial opinions and law review writing (Cohen, 1972, p. 855); however, the net effect, or impact of judicial activism in this arena, according to some, has not been as substantial as this activism would suggest. Shuster and Widmer (1978) acknowledge that while the courts have increasingly taken an advocate role in disputes concerning prisoners' rights and prison conditions since 1964, seemingly little reform has been accomplished (p. 10). Schwartz (1972) in evaluating Sostre v. Mcginnis, 442 F 2d 1978 (2d Cir. 1971) described the court's decision in that case as an affirmation of the court's impotency in influencing change in correctional practices (p. 791).

Kimball and Newman (1968) state that judicial review of correctional decisions posed no substantial threat to the decisions of correctional authorities since courts generally ask only whether corrections authorities have acted in a reasonable way. Further, they maintain that correctional authorities have usually responded to the threat of intervention by adopting a defensive position, claiming, under the guise of the right-privilege doctrine, that courts have no right to review agency decisions (p. 2).

Sol Rubin (1974) challenged what he perceived as the common assertion by correctional administrators that court decisions impair
the effectiveness of correctional programs by restricting the discretion of administrators. He maintained that on the contrary, most courts still sustain a "hands-off" policy, allowing "abuses" to continue. He goes on to assert that many more court decisions favor the correctional administrator, than those that favor persons who are imprisoned (p. 129). Finally, Spiller and Harris (1977) in drawing conclusions from four extensive case studies of major correctional litigation found that the judicial intervention only minimally affected the facilities and services of the institutions looked at; that it did little to move those institutions in the direction of reform; and that in no case was compliance with judicial orders complete.

This brief review of the few scattered publications specifically investigating the impact of judicial intervention in corrections suggests that although the courts have assumed jurisdiction in this policy area they have been unable or unwilling to maximally influence change in the administration of corrections. Conversely, the literature suggests that correctional administrators generally have been unwilling or unable to implement court decisions. This narrow implication is supported generally in the greater body of literature investigating the impact of the Supreme Court and lesser courts over the range of governmental activity (Krislov, 1965, Shapiro, 1968, Wasby, 1970, Nagle, 1970, Horowitz, 1977).

Court Ability to Influence Change in Corrections

The extent to which courts are unable to exercise influence over administrative actions is a function of their institutional processes, such as how issues arrive before the court, the particular way in which cases are decided, the court's mechanisms for control and monitoring
of their decisions. These processes have natural consequences which tend to limit the court's ability (Horowitz, p. 153). But beyond these, there are the less obvious limitations to the court's effectiveness arising out of the court's own willingness to be effective, its perception of its role in this area, and the perceptions of the court by those who must respond to its decisions. It is this aspect of the ability to influence which is the focus of the following research.

However, it is useful to briefly discuss the court's internal procedural constraints upon the court's effectiveness in order to assure that the entire scope of the phenomena will, at least initially, be considered.

Regardless of the rational for the shift, judges are performing new roles in correctional administration litigation. However, critics of the court suggest that they continue to act very much within the traditional judicial framework—an evolutionary process devised to decide controversies, not formulate new programs or oversee administration (Horowitz, p. 153). The contention is that the constraints resulting from that framework function to limit the extent of the effectiveness that can reasonably be expected from the courts. The principal constraints result from the method by which correctional cases get to the court—the way in which issues are framed and reasons presented, and the provisions for effectuating court decisions. (For the opposing view see Wasby's review of The Courts and Social Policy by Donald L. Horowitz, Vanderbilt Law Review.) "Courts are public decision makers, yet they are wholly dependent on private initiative to invoke their powers: they do not self-start" (Horowitz, p. 151).
From the forgoing it can be argued that this basic feature of judicial review has important consequences on court effectiveness:

1. The fact that judges do not choose their own agendas prohibits sustained concentration in any one policy area, resulting in spotty or uneven judicial action (Horowitz, p. 151).

2. Court decisions which emerge are sometimes ill informed by a lack of comprehensive view of the agency's work. This in turn tends to minimize any constructive impact on administrative performance by the court (Horowitz, p. 151).

3. The lack of randomness in the sample of correctional cases reaching the courts can put judges in the position of having to adjudicate on the basis of very special and often highly atypical cases. The hazard lies in the skewed sample from which judges must draw their inferences (Horowitz, p. 152).

4. Concomitant with courts deciding only special cases is the particular way in which they tend to decide them. The boundaries of issues are delineated by the litigant and his complaint, highlighting the facts of the single case and minimizing the facts of all cases. Because judicial standards of relevance are strict, facts relating to the scope and nuances of the programs involved are often labeled context or background and assigned minimum importance in deriving a decision (Horowitz, p. 152). This aspect of the process can diminish the value of the judicial decision as a guide to the administrator as he manages his programs (Spiller and Harris, p. 123).
5. Judicial decisions are tied to the adversary process as the mode of decision making. They ignore, for the most part, other modes of decision making, particularly negotiation and compromise, which may be more suitable for certain questions (Horowitz, p. 153).

Beyond the natural consequences of the judicial process, Horowitz maintains that there are other hazards with the use of courts as a change mechanism. Principal among these is that judicial decisions stand a good possibility of being ineffective or effective in ways not intended. For example, decisions handled on a case-by-case basis may bring relief to individual litigants but encourage no change in correctional policy (Spiller and Harris, pp. 23,24). In addition, decision time is often measured in years; and given the competition among potential litigants for judicial redress, some issues may never be resolved. Once decisions are reached, courts are generally constrained by a lack of control and monitoring mechanisms to detect either compliance or unintended consequences with those decisions (Horowitz, p. 152).

Equally important is that courts rely heavily on moral judgment or normative means of control. Therefore, courts relying on the customary modes of judicial reasoning and control generally are not adequate to the task of institution building that some more recent court decisions would imply. (Exception to this comment may be noted in the court orders in recent Ohio correctional cases, i.e., Taylor v. Perini, 413 Federal supp. 189 (N.D. Ohio 1976).)

The Environment of Corrections: Impediments to Compliance

Court interventions are responses to stimuli within the correctional system and society; but they may also be viewed as a stimulus
toward subsequent compliance responses (Nagel, 1969, p. 5). However, the degrees of compliance and non-compliance by administrators are stimulated not only by court action but also by various facilitating and inhibiting factors. These factors may be internal to the correctional organization or part of its external environment. They may be physical, such as age and conditions of the physical facility, or they may be social, such as economical, political or philosophical phenomena. Each one of these factors can in some instances influence the impact of court intervention on the administrator. Thus it is important that we briefly consider the disposition of the administrator in the context of the larger picture.

In organizational terms the court is not only environment faced by correctional officials. Their perception of what legislators, the larger public, and other members of the criminal justice system demand of them affects their actions (Shuster and Widmer p. 16).

Hawkins (1976, p. 42) and Bershad (1977) suggest that a primary obstacle to administrative change in corrections is public opinion. This is not primarily due to a negative attitude about the need for change, but rather a general apathy. This apathy is defined by a lack of substantial body of people actively interested and anxiously observing developments in this area. The obvious consequence is that the correctional administrator, unlike many of his public administrator counter-parts, is generally insulated from public scrutiny except in crisis situations such as the Attica riots. Critics contend that even in these instances, public interest is rarely sustained long enough to effect legislative or administrative change (Hawkins, p. 42). Corrections officials also face an internal public, their staff, which
some have held to be an impediment to change. Hans Mattick (1976) refers to this resistance by staff as "custodial convenience" (cited in Hawkins, p. 168). Court orders requiring new programs, require with them a greater amount of work. In underfinanced and understaffed institutions, as correctional facilities are often characterized, such programs and the consequent additions to the work load will inevitably be resisted. Mattick notes that this resistance isn't attributable to an ideological commitment, but rather a function of the institutional situation common to correctional facilities. McClerry (cited in Hawkins, p. 169) attributes staff resistance to a reflex response to a perceived attack on the staff's position in the prison society, and a lack of training and reorientation to new modes of operation. Etzioni's (1972) characterization of communication patterns in some correctional institutions, "information flows upward while only non-explanatory directives filter down to lower echelon employees," suggests that the training and reorientation of staff to court mandated changes is not often accomplished.(p. 2).

Another major impediment comes from the present degree of balkanization within the criminal justice system of which corrections is an element. As suggested by the Report on Corrections (Hawkins, p. 173) there is little inter-agency communication between the elements of the system, i.e., police, courts and corrections, yet each influence the policy and problems of the other. Let us take the following hypothetical construct as illustrative of the problem:

The Federal court has set a maximum level of inmate population for given correctional institutions based on constitutional grounds arising out of the Eighth Amendment; the legislative body
has put a moratorium on all construction of correctional facilities; increased law enforcement grants from the Federal Law Enforcement Administrative Agency (LEAA) to local police has increased police activity resulting in greater numbers of arrests and convictions for imprisonable crimes; local trial court judges are giving longer sentences; and the general public has resisted any attempt to establish community based programs for inmates.

We would be hard pressed not to imagine the institutional administrator's dilemma in complying with the federal court order limiting inmate population.

The correctional system is in itself decentralized. Divisions occur by level of government, (local/state) and type of offender, (juvenile/adult), and position within the government structure of which it is a part (independent agency or under an umbrella agency such as health, education and welfare). Wasby (1970, p. 257) contends that one of the chief impediments to compliance with court ordered change is a situation of extreme decentralization, as in the case in corrections.

In addition to lacking control over the actions of the external bureaucracy, correctional institutions may be characterized as resource dependent. Funding comes through a process of appropriations constraining the administrator's autonomy over budget allocations and staffing levels; and in many cases legislation is required to augment new programs or concepts. Failure to secure necessary support from the relevant legislative bodies can seriously diminish any attempt on the part of correctional administrators to comply with court orders.

Finally, the complexity of objectives of the penal system, i.e., custodial, punitive and rehabilitation, promote a tendency for goals
to be conflicting. This philosophical or ideological conflict may tend to surface when judicial decisions appear contrary to the primary goals of the administrator.
REFERENCES


Corrections Today, 1979, 41:3.


Yale Law Review. Note, beyond the ken of the courts: a critique of judicial refusal to review the complaints of convicts, 1963, 72, 506-526.
Introduction

Forthcoming hypotheses specify value reactions and attitudinal linkages between court intervention in correctional administration (and its subsequent orders) and the response of correctional officials to that intervention. It is one thing to examine the determinants of court decisions and to identify their consequences; it is another to provide explanations for these observed phenomena.

We propose then to explore the phenomena of court intervention as filtered through the perceptions of institutional correctional officials. Our primary assumption being that it is how the various component factors of the influence process are perceived, cognitively and evaluatively, that provides the basis for the court's authority and the resultant latent disposition of the correctional official toward compliant or non-compliant behavior. We further assume that this relationship is a salient variable in the correctional official's overt behavioral response to court orders.

To provide an analytical framework for this consideration, we have drawn on the rich source of literature throughout the social sciences. The literature review is multi-disciplinary ranging from abstract theoretical reasoning to specific generalizations derived from current empirical research. In particular, we have been guided by three bodies of literature: (1) organizational theory, and more
specifically, the work on influence, leadership and control, and (2) current research on the impact of judicial decisions, and (3) social psychology, the work in the general area of attitudes.

To communicate to the reader additional descriptive clarity, hypothetical linear associations are graphically depicted between the variables set forth in the generalizations. These pictorial associations should not be interpreted as either theoretical predictions or exact linear associations, but rather serve only a descriptive function.

Analytical Framework

Any theoretical discussion of influence stated in terms of an individual's willingness to act must employ some conception of the psychological determinants of action. There are, of course, many such conceptions; and different theorists utilize different ones. However, since this research is not a sociological or psychological discourse, we will only briefly consider those conceptions which are central to our current study.

Attitudes

Primary to this research is the mapping of the attitude universe of two groups of elites, Ohio institutional correctional administrators and the Ohio judiciary, toward specified salient variables relevant to court intervention in corrections. Therefore, it is desirable to consider the theoretical literature on attitudes.

Zimbardo (1977, p. 20) defines attitudes as the core of a person's likes or dislikes for certain people, groups, situations, objects, and intangible ideas. These beliefs or cognitions are rooted in emotions and are generally stated in evaluative terms—"good," "bad,"
"desirable," "undesirable." Finally, these affectively (emotionally) loaded beliefs can predispose action (behavior).

Attitudes may be regarded as either mental readiness or implicit predispositions that exert some general and consistent influence on a fairly large class of evaluative responses. Attitudes are internal and whose existence we infer from some form of overt behavioral evidence such as verbal expression or action. Such "verbalized attitudes" are called "opinions" (Zimbardo, p. 21).

In mapping attitudes or, as in our case verbalized opinions, it is helpful to conceptualize attitudes as having the three components found in Zimbardo's definitions: affect, cognition and behavioral tendency. The affective component consists of a person's evaluation of, liking of, or emotional response to some object or person. The cognitive component has been conceptualized as a person's beliefs about, or factual knowledge of, the object or person. The behavioral component involves the person's pro or con action or behavioral tendency directed toward the object or person. In addition, Zimbardo sees attitudes as enduring predispositions, but ones that are learned, rather than innate, and thus susceptible to change (p. 21).

The implications of Zimbardo's suggestion of this transient characteristic of attitudes are that, while they are enduring enough to enable prediction of behavior, understanding of them can lead to tactics and strategies for changing underlying dispositions or attitudes and thus the possibility of changing concomitant behavior.
A second aspect of this research is the measurement of the degree of consistency between the affective and cognitive components of the attitude universe of the correctional administrator and his expressed behavioral predisposition (willingness) toward compliant behavior with the court's influence attempts (court orders). This implies that we assume a consistent relationship between an individual's three attitude components (Kretch, Crutchfield and Ballachey, 1962, p. 143).

Hypothesis 1

The greater the degree of favorableness toward court imposed intervention in the administration of corrections, the greater the willingness of officials to comply with court orders.
This does not mean, however, that there is agreement in this body of literature with the proposition that overt action (behavior), as distinguished from behavioral tendency, can be inferred from measures of attitude. Nor will we find later than there is agreement among organizational theorists that probable behavior can be predicted from verbalized response of behavioral tendency.

Recent work (Acock and DeFleur, 1972, Andrews and Kandel, 1979) on the attitude and behavior relationship suggest: (1) attitudes by themselves have limited ability to predict behavior; and (2) various situational influences play a role in modifying the attitude-behavior relationship. However, Acock and DeFleur maintain that situational influences, alone, do not adequately predict overt behavior. "Only

*For a concise account of the controversy regarding consistency between attitude and behavior in the sociological and psychological literature see Acock and DeFleur, 1972.
when coupled with attitude do these variables have solid predictive capacity," (p. 724). They further hypothesized "that in the complex of psychological, social and cultural variables involved in attitude-related decisions to act, attitude(s) may play a central or pivotal role" (p. 724).

Specific support for their hypothesis comes from the judicial impact literature: Wasby (1970) notes that "even when people are unhappy with specific decisions of the court, if they hold a generally positive view of the court, their reaction will be restrained" (p. 265). Kessel (1966) suggests the converse as also true, "those with unfavorable prior views of the court are more likely to resist decisions than those without such views." Finally Van Meter and Van Horn (1975, p. 473) argue that the intensity of the complying agent's disposition may affect their performance. Those holding intense negative attitudes may openly defy decisions; less intense attitudes may cause surreptitious diversion and evasion.

In summary, we are particularly concerned with measuring the attitudes of correctional administrators toward court intervention in corrections. We define these attitudes as: (1) relatively enduring and internally consistent orientations toward the court's authoritative allocation of values for correctional administration; and (2) contingent on situational factors, predispositions of behavioral responses to the court's influence attempt.

Social Influence Theory

Implicit within our definition, however, are two salient concepts— influence and compliance. We now turn to the organizational theorists and the literature on judicial impact to develop the theoretical and empirical grounding for these concepts and subsequent hypotheses.
While many conceptualizations employed in this study are subsumed under theoretical generalizations in organizational theory, the court itself does not neatly fit the organizational model in total. The court's flexibility is constrained by its institutional structure and the intergovernmental nature of the court/corrections relationship. Therefore, many of the methods and processes which may be useful in describing or explaining the influence process in single organizations are inappropriate in the context of this particular relationship. We are also making the distinction between the court as the influencing agent and the individual judge as the influencing agent. Relying on Dahl's formalization of power in which he allows the influencing agent to be represented by either individuals, groups, roles, offices, governments or other human aggregates, we are assuming the 'court' as amenable to analysis from the perspective of the influencing agent (Dahl, 1957).

It is useful to make another distinction, first raised by Barnard (1953), between the personal ability of judges' "authority of leadership" and "authority of position" (cited in Cartwright, 1965). The authority of leadership which is dependent upon the personal ability of the individual judges undoubtedly varies across the range of these persons. However, authority of a position is independent of personal ability and rests on the authority and legitimacy vested in the office. It is this authority which is of greatest relevance to our discussion. However, we must keep in mind that many of the perceptions the correctional officer has of court intervention will be influenced by any direct experience he has had with individual judges.

**Influence (power)**

Social influence is a relational concept. By relational we mean that these concepts may be defined in terms of properties of two or more
individuals. Thus we have an interaction between the court and the correctional administrator, the court being the influencing agent, and the correctional administrator the complying agent. However, since our central interest is the complying agent, Cartwright's (1965) definition of influence from the perspective of the complying agent appears the most useful; "When an agent, performs an act resulting in some change in another agent, we say that agent influences (the other agent)." He distinguishes influence from the often substituted concept, power, by defining power as the "capability of influencing" (p. 4). Power then denotes the degree of influence as measured by the change in some aspect of the influenced agent's behavior.

How an agent ascribes the base from which to influence is a matter of theoretical debate (Cartwright, p. 4); but for our purposes, we will consider the concepts authority, legitimacy, and expertise. Influence may also be considered from the perspective of the methods or processes by which influence is exercised, i.e., coercion, reward, persuasion, participation. Finally, one must consider the motivation or intent of an agent to influence. For example, Shulze (1958) concludes that one should not assume any constant relationship between "power as a potential for determinative action, and power as determinative action."

Compliance

Compliance (conformity) may be defined as the other half of the relationship:

Influence \(\leftrightarrow\) Compliance
(attempt) (response)

Within the context of this side of the relationship, how the agent exercises his influence and derives authority and legitimacy for his actions, as perceived by the complying agent, largely determines the extent to
which influence attempts will be accepted or rejected. In this case we are primarily concerned with the court's influence as viewed from the administrator's perspective. With this constraint in mind, a useful definition of compliance is offered by Feest (1958, p. 448)

Compliance...is more than outward conformity with a regulation. Behavior which externally (objectively) conforms with a certain regulation may not coincide with internal (subjective) intention to conform... The concept of compliance has...three essential elements: (a) norm awareness, (b) intention to conform, and (c) conforming behavior.

The importance of the "intention to conform: in understanding the social influence process is not universally accepted in the theoretical literature of either organizational theory (for example Dahl, 1957) or court theorists (Nagle, 1969). Intention to conform, which can also be stated as willingness or readiness to act, is held by behavioralists to be too subjective a concept. However, this reliance upon overt behavior has left others dissatisfied. March (1953), for instance, notes the following: "Influence is frequently defined in terms of behavioral change over a given time interval and measured by overt motor or verbal activities. Such procedures have the major theoretical objection that they ignore changes in the individual's latent readiness to act. An adequate theory of influence must be more general than that implicit in a simple stimulus-response treatment." Cartwright expanding on Lewin (1951) states it in this manner: "O (the influencing agent) may be able to activate a component force (i.e., have power over P, the complying agent) and yet not be able to change the direction of the combined force acting on P; forces activated by other agents (including P himself) may be of overwhelming magnitude. In every day terms, O may ask P to do something and P may experience a tendency to comply but
not actually do so. In this case, we should say that O, by activating a component force, has influenced P in some way (producing conflict, waver ing, guilt, or what not); but we could not say that O has 'controlled' P's behavior" (p. 25). On the other hand compliance measured by overt behavior may give a spurious impression that compliance as defined by Feest is occurring. For example, appearances of compliance may in reality be parallel actions of agents which are not in response to the influence attempt, or may be the result of stronger pressures from other influence sources.

Support for a consistent relationship between attitudes and observable behavior is found in the judicial impact studies. Levine (1973, p. 138) used a mail survey to sample 250 booksellers in twelve states in an attempt to discriminate between the influence of judicial behavior, public opinion, urban characteristics, and the book sellers' personal attitudes on self-censorship in the bookstore. Levine found that both judicial behavior and community demography were weak predictors of self-censorship; but booksellers' attitudes correlated highly with their censorship behavior. His findings led Levine to conclude that "neither legal nor social forces can easily pierce the inner shell of personal prejudices, preferences, and inhibitions which seem to motivate" the booksellers.

In extrapolating to other social situations having civil liberties dimensions such as prison administration, Levine's findings suggest the external forces of constitutional law and public opinion may actually be less salient than the internal attitude structures of the group of elites and sub-elites who, like the bookseller, allocate freedom to some portion of society (p. 138).
Likewise, Skolnick (1966, p. 219) in his study of police behavior, noted that norms located within the organization are more powerful than court decisions in shaping behavior. Consistent with the view that attitudes influence behavior, Johnson (1977, p. 118), after reviewing a group of Supreme Court impact studies, suggested:

A conclusion of virtually all studies of the implementing population was that compliance behavior was not generally consistent with the policy of the court or even subsystem adjustments to the court decision. Again, attitudes toward the Supreme Court and toward the appropriateness of the court policy in their particular situation seemed to be important variables influencing compliant behavior.

Van Meter and Van Horn argue the importance of attitudes with the following literature review:

The direction of implementors' dispositions toward the standards and objectives is crucial also. Implementors may fail to execute policies faithfully because they reject the goals contained in them. Conversely, widespread acceptance of the policy's standards and objectives, on the part of those responsible for administering it, will enhance greatly the potential for successful execution. At minimum, it would seem that shared attitudes will make implementation easier. The goals of a policy may be rejected for a variety of reasons: they may offend implementors' personal value systems, extra-organizational loyalties, sense of self-interest, or existing and preferred relationships. Summarizing this phenomenon[Petrick (1968: 7) has written that it arises from the fact that human groups find it difficult to carry out effectively acts for which they have no underlying beliefs] (p. 473).

Authority

The nature of authority, as used in this paper, has been defined by Gilman (1962) as "a consensual decision by a social unit which approves and accepts the substitution of judgment on the basis of its usefulness to the unit." The more specialized concept, authority, may be viewed as a component part of the broader concept influence. Further, it has the connotation of legality or legitimacy, implying prescribed boundaries within which the agent can act.
Legitimacy

The nature of legitimacy (Cartwright, p. 30) "stems from internalized 
values in P which dictate that O has a right to influence P and that P has an obligation to accept this influence." Legitimacy is a component part of authority, as the agent's authority to influence is derived in part from its perceived legitimacy (Wasby, p. 29).

In formal organizational theory, legitimacy is usually attached to an office; and the occupant of the position then has the right to exert influence over a specified domain of people and a range of activities. The court's authority is related to the legitimacy people grant it (Wasby p. 29). Basis for that legitimacy may include a formal allocation of power to the court to decide constitutionality, thus possessing the extreme criteria for the derivation of authority as that posited by Weber "legitimized by society" or "power vested in the office by a higher authority" (Guest, 1962).

Another conceptualization of the court's basis for legitimacy is implicit in Dorsey's concept of "constitutional obligation." Nagel (1970, p. 221) defines Dorsey's conceptualization as follows: "Obligation in the positive law sense means having a legal duty as a citizen to behave in conformity with properly passed laws. Obligation in the natural law sense means having a moral duty as a human being to behave in conformity with what is considered inherently right, and felt obligation means feeling that one should behave in conformity with the law or principal involved."

Wasby (1970, p. 265) Krislov (1960, p. 137) and Jacob (1967, p. 18) suggest that those who consider the court's authority legitimate will be more likely to comply with its rulings than those who do not. However, Wasby also notes that perceived legitimacy is by no means constant. Thus
he suggests that the court's legitimacy is increased when people agree with its specific rulings. Johnson supports this connection in his suggestion that "those who personally agree with the substance of... court policy also acknowledge to a greater extent the court's legitimacy and expert bases than do those who are displeased with the substantive ruling" (p. 139). The Supreme Court, in fact, overturned a legal remedy, receivership of the Police Department, Rizzo v. Good 423 U. S. 362 1976, stating that equitable relief didn't extend to supervision of internal management.

Obviously, the range of legitimate power may be narrow or broad, depending on a variety of situations. French and Raven (1959) "hold that when O employs legitimate power he activates the values upon which it is based, with the result that the new state induced in P will be relatively stable and consistent across varying environmental conditions." They also assert "that the attempted exercise of influence outside of the range of legitimate power decreases its strength."

Hypothesis 2

The stronger the belief that court intervention exceeds legitimate court concerns, the less the willingness of correctional officials to comply with court orders.
Figure 3.
Hypothetical relationship between correctional administrators' beliefs about the legitimacy of court intervention and their disposition to comply with court orders.

Expertise

There are various ways in which a particular agent may gain power for its authority. As previously noted, it may achieve it through its formal authority vested in it by a higher authority (in this case the United States Constitution), but authority may also accrue from individuals' views of the court's ability to decide cases. Expertise is thus another component part of authority. Expertise "is based on P's belief that O has come special knowledge or expertness" (Cartwright, p. 30). According to French and Raven "the strength of the expert power varies with the extent of knowledge which P attributes to O within a given area, and its range is restricted to those cognitive systems with respect to which O is believed to have superior knowledge. Any attempt to exert influence outside of this range reduces this power by undermining P's confidence in O" (p. 30).
There are a variety of reasons why an individual attributes expertise to another, experience, training, reputation, demonstrated ability, etc.; but for whatever reason expertise is attributed, it seems some organizational theorists (Davey, 1971, p. 145) accept that a portion of the success of an influence attempt is due to the degree that expertise is ascribed to the influencing agent.

Hypothesis 3

The stronger the belief in the expertise of courts in correctional matters, the greater the willingness of correctional officials to comply with court orders.

Figure 4

Hypothetical relationship between correctional administrators' beliefs about court expertise and their disposition to comply with court orders

Participation

Another critical feature of the influence relationship is the degree of conflict or consensus over the court's decisions. To what extent do complying agents agree on the goals of the influence attempt?
In reviewing the literature on planned organizational change, Van Meter and Van Horn identify several factors that affect goal consensus—and thus the disposition to comply. One of the factors is the extent to which the complying agent has participated in the making of the (court) decision.

The literature suggests the following arguments: 

1. Participation leads to higher staff morale, and high staff morale is necessary for successful implementation;
2. Participation leads to greater commitment, and a high degree of commitment is required for effecting change;
3. Participation leads to greater clarity about an innovation, and clarity is necessary for implementation;
4. Beginning with the postulate of basic resistance to change, an argument is that participation will reduce initial resistance and thereby facilitate successful implementation; and
5. Subordinates will tend to resist any innovation that they are expected to implement if it is initiated solely by their superordinates.

However, Van Meter and Van Horn acknowledge that "subordinate participation in decision-making will not necessarily result in goal consensus; nor can it be concluded that the problems of implementation will be removed once goal consensus has been achieved" (p. 459).

Support for the importance of participation is also forthcoming from judicial impact studies. Zander (1950, pp. 9-11) hypothesizes "that change is resisted when the person having to make the change cannot voice his views about the change." Spiller and Harris concluded the following from their correctional case studies: "Participation by defendants in framing the orders minimized hostility and resentment. By giving an opportunity for input by the defendants and utilizing someone who either had or obtained correctional expertise, acceptability of the orders was increased" (p. 13).
McGregor (1960) emphasizes that compliance with authority comes about not simply through incumbency of office, nor from consent by subordinates, but by a collaborative process of goal attainment. Success may be achieved when job requirements of the leadership and followers are set by the situation; they need not be seen by either party as personal requirements established by the superior (cited in Cartwright, p. 33).

Participation, then, is defined as the degree to which correctional officials perceive they are able to participate in the court's decision-making process.

**Hypothesis 4**

The stronger the belief that correctional officials are allowed to participate in deciding court orders, the greater the willingness of correctional officials to comply with court orders.

---

**Figure 5.**

Hypothetical relationship between correctional administrators' beliefs about the degree of participation in court orders allowed them by the court and their disposition to comply with court orders.
In the conception of power advanced by French and Raven, "O can influence P because he can take some action that has significance for P's needs or values." This conception provides a link between processes of social influence and individual motivation. Cartwright expands on this idea of motive base. "According to this view, every force operative on P has as its source of energy a motive base within P (i.e., his needs and values). Thus, an act of O can activate a force on P only if it taps a motive base of P. As an illustration, suppose that O wants to change P's attitudes toward some organizational policy and indicates that his approval of P will depend upon P's adopting the new attitude. If P desires O's approval, this act may tap P's motive base (need for approval) and thereby activate a force on P in the direction of adopting the new attitude" (p. 31). However, if other influencing sources exert a stronger force on P's motive base he may move in a direction away from O's influence. Self-interest then refers to P's belief that it is to his benefit to comply or not comply with O's influence.

Becker and Feely (1973 p. 234) acknowledge one possible consequence of self-interest. They point out that there is frequently a high personal utility among elites to willful non-compliance. They suggest that sometimes it is simply good politics to defy court decisions. Muir's (1969, Chap. 4) study of educators' reactions to the school prayer decision points out less tangible benefits resulting from resistance to the court: the maintenance of social relationships and the approval of associates. In short, Becker and Feely conclude "elites often see it in their own self-interest to turn their backs on the court."

In analyzing the processes in P that are activated by an influence attempt of O, it is important to recognize that O's
action is designed to bring about a change in P. One should ask, therefore, what it is that maintains the pre-existing state of P. There are many possible anchorages of P's beliefs and behaviors. The more important of these are P's own direct experience of reality, his needs and internalized values, his defense mechanisms, states previously induced by other agents, and his reference group. It is because of such anchorages that influence attempts so often encounter opposition. Whenever O tries to change a firmly established state of P, his influence conflicts with the influence from these other sources, raising for P issues of personal integrity, self-interest and group loyalty (Cartwright, p. 33)

Krislov's studies of judicial impact support the idea of self interest in his conclusion that "compliance is at its greatest when personal advantages are highest..." (p. 137). In a more specific sense Spiller and Harris (p. 14) argued that how the correctional officials perceived the attitudes of significant others (higher administrative and political officials and the public) affected their own willingness to comply. Van Meter and Van Horn (p. 472) suggest that factors in the socio-political environment of the implementing agent were necessary to understanding the disposition of implementors. In other words, do administrative and polici­cal elites favor court intervention? Does the public favor court inter­vention?

In a related manner, Wasby suggests that the contemporaneous polit­ical situation is of key importance: "If relevant social policy is backed up by a strong political majority, judicial decisions in accordance with it are readily accepted. But when political interests are not in consensus, other results may occur." Based on Nagel's findings, Wasby concludes that "friction between parties or between factions...increases non-compliance...with court decisions" (p. 255). Spiller and Harris write that the differences in posture toward correctional litigation by necessary officials carried serious, negative implications for the implementing
process. Conflict among parties and other officials who were indispensable to compliance hindered the implementation process (p. 14).

Referring to P's motive base, within the more general context of self-interest, we postulate the following.

**Hypothesis 5**

The stronger the belief that significant others support court intervention in corrections, the greater the willingness of correctional officials to comply with court orders.

![Diagram](image)

**Figure 6.**

Hypothetical relationship between the correctional administrators' beliefs that there is a high degree of external support for court intervention in corrections and their disposition to comply with court orders.

Van Meter suggests implementation may fail because of dispositional conflicts. These conflicts occur when the influence attempt is rejected because the complying agent perceives the goals and objectives ordered violate his "sense of self-interest" (p. 482).

More specifically, but within the framework of motive bases and self-interest, is the correctional official's perception of the advantages
or disadvantages of being involved in correctional litigation. If the correctional official perceives damage to his career potential from involvement in litigation, it is likely to have secondary effects. That is, we reason that it will likely impact negatively on his general attitude toward the court and thus his disposition to comply.

Studies by French and Raven (1959) and French, Morrison and Levinger (1960) lend support to the view that resistance tends to arise when the influencing agent or bases of power acquires a negative value for the complying agent.

Secondly, if administrators perceive that court intervention limits their administrative discretion, it is likely that this too will impact on their perceived self-interest thus negatively affecting their attitude toward the court's intervention. Documentation (Bershad, 1977, p. 27, Emerging Rights of the Confined, 1972, p. 35, 135) of the court's chipping away at traditional administrative discretion and supplanting it with greater requirements for documentation, written rules and procedures exemplifies the saliency of this factor in the analysis of the official's perception of his self-interest. Prior to the abrogation of the "Hands-off" doctrine, the court deferred from reviewing administrative decisions within the correctional institutions; and the official had a relatively free hand in developing and implementing policy. To the degree that correctional officials no longer feel that this is the case, they will tend to be less willing to comply with court orders.

Hypothesis 6:

The stronger the belief that court intervention impacts negatively on the personal interests of the administrator, the less the willingness of correctional officials to comply with court orders.
Recognition of Needs

Closely analogous to the foregoing discussion is the concept of recognition of needs—the degree to which P perceives that O has considered P's needs and problems while making his decision. Cartwright discusses recognition of needs within the context of the properties of means used in the influence process. "Since means is conceived as a mediating activity on the part of O between his base and P's behavior, its attributes are properties of O's actions" (p. 15). Cartwright suggests one such property which appears to be of significance is the reasons for exerting influence: "Each act of influence is interpreted by the recipient in terms of its apparent purpose, and this interpretation is a critical determinant of its effectiveness. The meaning of any act of O is colored by three critical features: (a) the degree of transparency of
O's reasons for exerting influence, (b) the degree to which O displays a concern for P's needs, and (c) the indicated source of responsibility for the influence attempt" (p. 15).

The literature on leadership makes it abundantly clear that agents differ greatly in their orientation to the needs of those they try to influence. Some actions convey an impression of indifference, some actual hostility, and some sympathetic support. These impressions have a profound effect upon the outcomes of any particular transaction. (p. 15)

Theorists like Lasswell and Kaplan (1950) also sought to explain recognition, but within the context of motive bases. They identified two major types: welfare values and deference values. Welfare values are "those whose possession to a certain degree is a necessary condition for the maintenance of the physical activity of the person"; and deference values (the more relevant to our discussion) are defined as "those that consist in being taken into consideration (in) the acts of others and of the self" (Cartwright, p. 32). As with participation, consensus of agreement with court decisions will not automatically result from a belief that individual personal and/or professional needs have been taken into account; but a strong belief in that direction should impact on the complying agent's disposition to comply.

McGregor (1960) argues, making use of Maslow's theory of motivation (1954), "that effective organizational control must therefore be based on such higher-level needs as those for acceptance, recognition, status, and self-fulfillment" (cited in Cartwright, p. 33).

**Hypothesis 7**

The stronger the belief in court recognition of administrative problems and needs, the greater the willingness of correctional officials to comply with court orders.
Coercion

When the influencing agent relies on its authority, and consequently its legitimacy and expertise as its power base, it is relying primarily on a consensual relationship. Etzioni (1961) refers to this kind of power as "normative power" (p. 5). Reinforcement for the success of normative power comes through the successful achievement of creating perceptions of participation and recognition on the part of the complying agent. Also salient is the ability of the influencing agent to tap motivational bases such as self-interest as noted earlier. When consensuality is absent or weak, the influencing agent may use other means to compel conformity with its demands (Van Meter, p. 473). Etzioni refers to these as "remunerative power" (the allocation of material sources such as salaries, commissions, fringe benefits, and services) and "coercive power" (the application, or the threat of application, of punitive sanctions) (pp. 5-8).
Within the context of a single organization, superiors have access to a wide range of such mechanisms. They have the standard personnel powers: recruitment and selection, assignment and relocation, advancement and promotion, and ultimately dismissal. Moreover they control resources so that while they cannot command obedience, organizational superiors have a substantial capacity to influence behavior. In contrast, when we examine the court/correctional administrator relationship many of these mechanisms are absent. This relationship, instead, must be viewed in the context of intergovernmental relations, wherein doctrines and traditions limit the range of rewards or punishments available.

As noted in chapter one, the court relies heavily on normative power and legal obligation; but where this fails, the court can rely on a variety of legal sanctions to facilitate compliance by individuals. That the court doesn’t always invoke these powers is a function of its intent to compel, and the effectiveness of its monitoring mechanisms.

Coercion then, as it is used in this study, refers to the perception of the influencing agent's ability to compel compliance through the use of legal sanctions. The influencing agent's willingness to compel compliance is also salient. However, the use of coercive power rather than normative or even remunitive power has consequences on the disposition of the complying agent.

Coercive power as defined by French and Raven (cited in Cartwright, p. 28) is "based on P's belief that O has the ability to mediate punishments for him...P must want to prevent some act of O and believe that through conforming he will do so." The strength of coercive power, in this conceptualization, depends on P's perception of the magnitude of the threatened punishment multiplied by the probability that he can avoid...
punishment if he conforms. Conversely the range of coercive power is limited to the extent of those behaviors which P believes O can monitor and for which O can administer punishment. Experimental studies by French, Morrison and Levinger (1960) and French and Raven (1958) support the statement that "if a new state of P is induced by the threat of punishment, it will not persist after the threat is withdrawn" (cited in Cartwright, p. 28).

Zander and Curtis (1962) designed an experiment to test the strength of coercive power on an individual level. They successfully predicted that the individual's motivation to achieve standards and not to fail was significantly less under coercive conditions than other bases of influence (cited in Cartwright, p. 28). An interpretation of an experiment by McGregor (1948) wherein he used the term 'reduction' rather than coercion to imply that O provides punishments whenever P performs a behavior other than the desired one, suggested that under reduction P may find it advantageous to conceal his behavior from O rather than comply. Further, under "reduction" it is likely that P will not privately accept O's standards even though he may conform publicly (cited in Cartwright, p. 28).

Following from the abstract to the concrete, judicial impact literature also considers the effects of coercion. Becker and Feely (p. 234) suggest that the reality of the court's power to coerce compliance through sanctions is minimal, and that in fact elites often see few risks ensuing from disobedience. Compounding what they consider to be a lack of judicial enforcement machinery, is the inability or unwillingness of the court's beneficiaries to pressure elites to comply. Inmates of correctional institutions fit well into Becker and Feely's characterization
of the often insular minorities who are supported by the court: "they lack the resources, the funds, personnel, organization, and information, to mount a cause" (p. 234). Wasby, on the other hand, notes the importance of coercion in impact studies on the behavior of complying agents:

(1) Where past decisions have not been enforced, resistance to present decisions will be less great than where they have been enforced (implying evasion rather than overt resistance), (2) compliance is more likely when some reviewing body is available to those complaining of non-compliance, and (3) the more persistent the "enforcers" are, the greater the compliance" (pp. 258-259).

Krislov (1965, p. 126) and Jacob (p. 18) argue similarly that compliance is at its greatest when "organizational sanctions against opposition are certain and severe", and at its minimum when "organizational sanctions are lenient and, most importantly, erratic in application."

Finally, Spiller and Harris derived the following conclusion from five case studies of judicial intervention in corrections: "Judicial resolve that compliance be achieved seems to assure that it will be. Conversely, when judicial resolve is less firm, or at least less evident, even apparently willing parties may fail to comply" (p. 5). "Indeed it appeared that the impression the court conveyed about the speed and degree of compliance required outweighed all other factors" (p. 20). They also noted that where the court relied on the inmates' attorneys, rather than a special master, feedback on non-compliance was erratic and minimal.

**Hypothesis 8**

The stronger the belief that courts have the power to compel compliance with their decisions, the greater the willingness of correctional officials to comply with court orders.
Figure 9.
Hypothetical relationship between the beliefs of correctional administrators about courts' powers to compel coercion and their disposition toward complying with court orders.

Ability to Comply

Successful influence attempts are also the function of the complying agent's ability to do what he is expected to do. The ability to implement policies may be hindered by such factors as overworked and poorly trained staffs, insufficient information and financial resources, or impossible time constraints. Kaufman (1973) writes: "Confronted by demands he cannot satisfy, he will fashion his own policies to handle the situation. His own policies often do not coincide with the policies of his leaders" (cited in Van Meter, et al.).

As already noted, the positive or negative attitudes of significant others may influence the administrator's willingness to conform to court decisions, but it is also thought that these same factors may impact on the perception of the complying agent's ability to comply. Where in fact, public apathy or lack of support for correctional reform contributes
to political apathy and consequently restrictive budget allocations thus forcing even willing officials into non-compliant behavior (Spiller and Harris, p. 8).

Perceived ability problems are highlighted by four factors in this study: the provision of support and assistance from the necessary political and administrative officials, cooperation from institutional staff, the economic environment (availability of financial resources), and public support.

Hypothesis 9:

The stronger the belief that correctional officials do not have the ability to comply with court orders, the less willing they will tend to be to comply with court orders.

---

Figure 10

Hypothetical relationship between the beliefs of correctional administrators about their ability to comply and their disposition toward complying with court orders.
In conclusion, a secondary goal of this study is to compare the attitudes of correctional officials toward court intervention with those of the judiciary in order to determine a measure of consensuality. As noted in the section on coercion, Spiller and Harris argue that compliance is a function of the court's determination. The court is affected not only by pressures generated by its external socio-political environment, but also by its orientation toward the other institution, corrections, within the influence relationship, i.e., an interaction process. This interaction may take the form of conflict, cooperation, or accommodation.

Further, how the judiciary perceives its authority in this influence domain, its ability to compel compliance, either normatively or coercively, and the ability of the correctional official to comply, impacts on its intention to influence. Lastly, the notion of consensuality over goals and objectives with its implications for successful compliance (Van Meter and Van Horn, p. 473) implies the need for knowledge of the attitude constructs of both sets of actors before any assessment of the influence relationship is complete.
REFERENCES


Chapter IV
METHODOLOGY

Chapter II proposed two tasks for this study: the development of a survey instrument to measure the affective and cognitive components of Ohio institutional correctional officials towards court intervention in correctional administration and their behavioral tendency to comply with court orders (willingness); and to map the relative attitudes of the two groups of actors in this influence relationship, Ohio correctional officials and Ohio judges.

The first task is restated as specific hypotheses, (see Chapter II), to be tested during the analysis of the data, which are derived from the generalization: that the willingness (behavioral tendency) of individual correctional officials to comply with court orders will vary in the same direction as their cognitions and feelings about court intervention in corrections. The corollary hypotheses allow us to evaluate the individual importance of multiple independent factors, i.e., legitimacy, expertise, coercion, etc., which we assume: 1) distinguish the basis of the court's power to influence, and 2) contribute to the overall attitude about this area of court intervention.

The second task of this study addresses the generalization: that there are differences in attitudes toward court intervention in corrections between and within the two populations surveyed. While the scores yielded by the Likert type scale used do not have absolute meaning, we can interpret individual and group scores in terms of where they fall relative to the scores of others surveyed. This then allows us
to map the relative positions in intensity of these populations to one another.

Both these tasks require the same data set. Therefore the method of data collection to be presented is applicable to each, while the type of analysis will differ with the task.

The Survey Population

The survey population is drawn from two distinct professional groups, Ohio judges and Ohio institutional correctional officials. In the case of the latter, correctional officials, the number of elements in the population is sufficiently small that the entire universe can be surveyed. In the case of the former, judges, certain sub-populations are surveyed in total, while a method of systematic sampling is employed for others. The individual in this study is both the unit of observation (unit of data collection) and the unit of analysis.

Correctional Administrators

The specifications for this population are as follows: Ohio correctional officials refer to the highest level resident administrator (or assistant) of a given correctional institution. Correctional institutions include all state of Ohio adult residential correctional facilities, all state of Ohio residential juvenile correctional facilities, all Ohio municipal and county jails, workhouses and juvenile detention homes. Not included are non-residential treatment facilities, half-way houses or administrative agencies. Because of the small N, eight, in the case of State adult institutions, associate administrators were included in the survey. This was done in an attempt to assure a response return of statistically useful numbers. The justification for varying
the population specifications in this instance was the assumed importance placed on this subgroup in terms of the policy implications of the court/corrections relationship, the attention focused on State institutions by the legislature and the media, and the fact that the proportion of correctional litigation which addresses State institutions exceeds their proportion within the survey universe (Correctional Digest, 1977).

The actual list of survey units was derived from the Directory of Correctional Agencies received from the Administration of Justice, Department of Economic and Community Development, State of Ohio. The list, compiled by Ohio State University's Program for the Study of Crime and Delinquency for an Ohio Need's Assessment Project, is current through 1977.

Being aware that some omissions as well as changes due to the time lapse are possible, a cross-check was made on State institutions using information gathered from the Ohio Department of Rehabilitation and Corrections and the Ohio Youth Commission. Necessary corrections were made to the list. The total population surveyed is 174. Each individual respondent has an assigned weighting factor dependent upon his subgroup affiliation. Weighting is assigned to compensate for possible under or over-representation in the sampling population which might bias inferences to the aggregate population.

Ohio Judges

Ohio judges refer to duly elected or appointed judges with jurisdiction in the state of Ohio. This category originally included Federal
judges with jurisdiction in Ohio: 6th Circuit Federal Court, Ohio Northern District and Ohio Southern District Federal Courts. However, not included in this population are State probate judges, domestic relations judges, common pleas judges with general jurisdiction only, Federal bankruptcy judges or Federal magistrates. They were not included as their case load was considered too far removed from actual or potential involvement in correctional litigation. Further, some of the judges in these categories who did not respond to the pre-test of the survey instrument indicated through separate correspondence that they believed they were too far removed or unfamiliar with correctional litigation to comment or complete the questionnaire. We felt this indication coupled with limitations on the number of surveys which could be distributed, justified their preclusion from our survey population.

These considerations were born out by the following: of judges not responding or not answering questions, those who reported never being involved in correctional litigation were much more likely not to answer questions than those who had personal experience. Secondly, even with the initial screening only 31% of the judges sampled returned surveys. Another 14%, distributed across categories, wrote letters of regret containing basically the same statement as those received during the pre-test. (With the exception of a few who reported not having enough time.) This raises a concern for test validity in so far as non-respondent bias and representativeness are concerned.

The actual list of survey units was derived from a newly updated (1979) alphabetized master mailing list of Ohio judges. The list was provided by the Ohio Judicial Conference of the Ohio Supreme Court.
Federal judges were taken from the most recent Federal directory of the Federal judiciary. A cross-check with the Columbus office of the Northern District Federal Court disclosed one error in the list which was corrected. Among the sub-populations of the survey universe, certain groups were surveyed in total as were the correctional officials. These groups included Federal District and Circuit Court judges, State Supreme Court Judges, Court of Appeals Judges, and Juvenile Judges. However, due to monetary constraints limiting survey size, three other large sub-groups, county court, municipal court and common-pleas judges were systematically sampled. The sampling interval for county and common-pleas judges was two and for municipal judges four, providing a sampling ratio of 50% and 25% respectively. The justification for using this combined sampling method was the extremely small N among certain critical sub-groups, those with the most direct potential involvement in correctional litigation. Secondly, Babbie (1973) contends that systematic sampling does not interfere with the assumption of randomness (p. 93). Two sub-categories, State Supreme Court judges and judges of the 6th Circuit Federal Court, did not respond at all; or they were possibly among those with missing values and therefore unidentifiable. They have been left out of the data analysis and unfortunately can no longer be considered part of the universe to which we will generalize.

Survey Unit Characteristic Data

The concept of unit characteristics is interpreted broadly in this study and includes variables from only two categories: contextual and correctional litigation history. The contextual variables gathered include the level of government, i.e., municipal or county judge, State or county correctional institution. Also included is the type of jurisdiction, i.e., juvenile, common pleas, and the type of correctional
institution, i.e., juvenile, adult, minimum security, male, female, etc. Each variable is assumed to be of equal importance and is assigned an equal weighting of one.

Correctional litigation history is a dichotomous variable: have been involved in correctional litigation, have not been involved in correctional litigation. Besides treating it to determine any possible interaction affects, this variable may offer a potential indicator of the notion of change generally absent in cross-sectional designs (Babbie, p. 66).

Contextual variables will be analyzed not only to preclude masking any interaction effect they might have on the associations, but also as a method of assuring that we have a representative response at least along these attributes.

Survey Design

The survey design for this study is cross-sectional using parallel survey populations. Data was collected at essentially one point in time, March 1979; a follow-up letter was mailed out March 26, 1979. Data gathered from this survey is used to describe and compare the survey populations and the determination of relations between variables at the time collected. It is recognized that the relationship might change later on, and that subsequent surveys might find a different relationship. However, we expect the relationships examined to be relatively enduring, if not the simple descriptions of the populations.

Data Collection

The bases of inference in this study regarding attitude is self-report of beliefs, feelings and potential behavior. The method of data collection is a mailed questionnaire. The test instrument uses a.
Likert-type scale, employing summated ratings averaged over questions answered. As a measure of convergent validation (Summer, 1970, p. 4) a second indicator was requested of correctional officials. Respondents were asked if their institution had written rules and procedures for discipline. If yes, then they were requested to enclose a copy with their response. Since written rules and procedures for discipline is a requirement of Taylor v. Perini, 413 F. Supp. 189 (1976) a landmark Ohio correctional case, we believed that this indicator would provide another measure of self-reported willingness to comply. Finally, written extemporaneous comments on surveys from judges and correctional officials is interpreted. Data from these comments are triangulated with the other measures.

Before discussing the test instrument itself, an account of the realized limitations of a mailed survey should be noted. Summers (p. 6) states them rather concisely in the following excerpt: "large proportions typically are never returned, thus adversely affecting the representativeness of the sample from which behavioral specimens are collected. Also, once the questionnaire is in the hands of the respondent, the researcher can never be sure behavioral specimens collected are actually those of the intended or supposed respondent...others may 'help' in framing the respondent's self-report. Finally, the researcher's assistance in interpreting a question to the respondent is an impossibility." Cook and Sellitz (1970) note two other important aspects to the problem "(a) the probability that overt responses may deviate from 'private' responses—that is, the ease with which an individual can alter his responses to present a certain picture of himself; and (b) the probability that private responses may be influenced by determinants other than attitude, in the
absence of any attempt to distort responses" (p. 26). Where possible each of these problems was addressed so as to minimize their effect on the test results. Anonymity was assured to those who chose it, making it easier to give answers that may be considered undesirable.

However, this promise of anonymity resulted in serious difficulty in comparing the survey population parameters with known population parameters. This was due to the large number of missing values encountered among respondents. The trade-off between being able to investigate sub-groupings or have more confidence in the reliability of reported aggregate measures was made in favor of reliability. To compensate for the situation, however, missing values were assumed evenly distributed across sub-groups and were not taken into the determination of weighting factors for presentation of aggregate statistics.

The scale uses a forced choice mode, where respondents have to answer either affirmatively or negatively. There were several arguments for the use of a forced choice mode in this instance. One was to ameliorate the individual's attempt to alter his appearance by taking a neutral position. Second, the literature gives us reason to believe that at least correctional respondents would be hesitant to disclose their private feelings: "...it should be remembered that correctional institutions are politically sensitive communities which resist intrusions from academic outsiders unless the proposed research is likely to serve their best interests. Research which undermines policy is generally viewed as insensitive and subversive, aside from the fact that it helps to justify and harden administrators' suspicions of intellectuals" (Annals, 1969, p. 37)
And finally, as Krech notes, the neutral point on a Likert-type scale is at best ambiguous and of little value in determining intensity of feeling (p. 156).

Approximately half of the selected statements are favorable, carrying a weight of 4 for strongly agree responses. The other half consisted of unfavorable statements with the reversed scoring weights. "The advantage of having both kinds of statements represented in the final scale is to minimize possible response sets of subjects that might be generated if only favorable or unfavorable statements were included in the scale" (Edwards, p. 155).

Although there is always the possibility that response bias may invalidate survey results, recent research by Gove and Geerkin (1977) suggests that the magnitude of the problem may be less than previously suspected. In an empirical study of "response bias in survey of mental health", the researchers concluded that response bias variables, such as those concerned with here, have only minimal effects on the generalizability of survey gathered data (p. 1315).

**Test Instrument**

Using the Likert method of index construction, (Edwards, p. 151), 150 related items were generated. A local judge was asked to review the items and comment on their face validity, i.e. ambiguity, appropriateness and usefulness. Once his comments were analyzed and some refinements made to the items, a pre-test was conducted on the survey instrument. Twenty-six questionnaires of 140 items were mailed to a random selection of local judges and nearby correctional officials, a sub-population of our survey population. Subjects were asked to respond to each statement in terms of their own agreement or disagreement with the statements.
For any given statement, subjects were allowed to use any one of four categories: strongly agree, agree, disagree and strongly disagree.

Even after a follow-up letter only three judges and six correctional officials returned the pre-test. With such a small sample only the simplest of item analysis techniques could be employed.

Index items for the final test instrument used in this study were arrived at by first correlating individual item scores with the total index score. Those items which discriminated best between the positive and negative extremes were then selected. This technique also contributes to the satisfaction of the criteria of internal validity.

The final survey consists of two sections: (1) thirty-two items to test cognitions and affective response, and (2) three behavioral tendency items to make up the "willingness" index. Each item in the first section has a weight of one and all are assumed to have equal importance. Items in the "willingness" index have assigned weights ranging from one to four depending on the degree of willingness the response implies.

For each subject we obtain a total score by summating his scores for the individual items within each index and averaging them over the number of items answered (Palumbo p. 360). This is the usual procedure to correct for missing items. While less error might be introduced by dropping respondents with large numbers of missing values, there is no empirical evidence available to prove this.

The set of selected statements mailed to the survey population are scored in the same manner as the pre-test. The reliability of the scores of the indexes (multiple items) are obtained by a split-half method using the Chi-square statistic of significance and the Gamma statistic as the
measure of association and Spearman's correlation coefficient (r). Both these statistics are appropriate for ordinal level data. Responses to odd-numbered statements were correlated with those responses to even-numbered statements. Reliability coefficients are presented in the table below:

Table 1
Reliability coefficients for attitude indexes

<table>
<thead>
<tr>
<th>Attitude Index:</th>
<th>Chi-Square Statistic</th>
<th>Degrees of Freedom</th>
<th>Significance Level</th>
<th>Gamma</th>
</tr>
</thead>
<tbody>
<tr>
<td>General favorableness toward court intervention in the administration of corrections</td>
<td>15.19102</td>
<td>2df</td>
<td>0.0001</td>
<td>0.78344</td>
</tr>
<tr>
<td>Spearman's r</td>
<td>.4557</td>
<td></td>
<td></td>
<td>0.001</td>
</tr>
<tr>
<td>Belief in the court's ability to compel compliance through sanctions</td>
<td>3.90675</td>
<td>1df</td>
<td>0.0481</td>
<td>0.58491</td>
</tr>
<tr>
<td>Spearman's r</td>
<td>.2569</td>
<td></td>
<td></td>
<td>0.010</td>
</tr>
<tr>
<td>Belief in the legitimacy of court intervention in the administration of corrections</td>
<td>26.92599</td>
<td>6df</td>
<td>0.0001</td>
<td>0.80875</td>
</tr>
<tr>
<td>Spearman's r</td>
<td>.5147</td>
<td></td>
<td></td>
<td>0.001</td>
</tr>
<tr>
<td>Belief in the degree to which the personal interest of correctional administrators is negatively affected by corrections litigation</td>
<td>22.04477</td>
<td>6df</td>
<td>0.0012</td>
<td>0.45261</td>
</tr>
<tr>
<td>Spearman's r</td>
<td>.3340</td>
<td></td>
<td></td>
<td>0.002</td>
</tr>
</tbody>
</table>
Belief in the degree to which the court allows correctional administrators to participate in the court's decision making process 33.62082 6df 0.0000 0.72881

Spearman's $r = .5365$

Belief in the degree of expertise the court has in settling correctional disputes 52.41170 9df 0.000 0.75667

Spearman's $r = .5906$

Analysis of Data

The data in this study present analytical problems because the variables are all either measured on a nominal or an ordinal scale. Individual T-tests or tests for differences between proportions for each variable are inappropriate because these techniques fail to account for interactions among independent variables. Standard regression and correlation techniques require that the variables are measured on at least an interval scale, an assumption which is not met with the nominal and ordinal variables available here (Babbie, p. 305). Further, elaboration by means of sub-group characteristics is severely limited given the small cell sizes which result from the divisions. In such instances relying on the usage of the Chi-square statistic is inappropriate. Categories were combined in cases so that they could meet the requirements of the Chi-Square statistic where it could be properly accomplished without robbing the data of their meaning. However, those cases are still limited. In most instances we are confined to reporting findings only about the larger populations.
Given these limitations, the analysis of the data proceeds in several stages. Using univariate analysis the distribution, variability and central tendencies of the variables under investigation are described. 95% confidence intervals are determined for the modal response of each sub-group correcting for finite populations.

The second stage of analysis utilizes an elaboration technique using contingency tables and the Chi-Square statistic (Babbie, p. 281-296). Variables which discriminate between populations and sub-groups are identified and the magnitude and direction (where applicable) of the association assessed. The Gamma statistic as the measure of association for ordinal level data and the Contingency Coefficient (for tables of equal columns and rows) and Cramer's V or Phi (for unequal tables) are used as the measures of association for nominal level data.

Validity and Reliability

The validity of a technique is dependent in an intimate way upon its reliability, i.e., the extent to which it yields consistent measures. Kiesler, et al., in their discussion on the reliability of attitude testing suggest that attitude tests never predict the "actual behavior" or "actual attitude". What is predicted is a measurement of behavior or a measurement of attitude, and results must be considered in context of any imprecision (low reliability) in the measuring technique. These imprecisions refer to situational variances, ambiguous test items, careless respondents, reluctant or dishonest responses, all of which can effect reliability. In addition to problems with internal reliability, Kretch notes two sources of external variation: "(1) apparent variation in the attitude, which is caused by changes in the psychological conditions under which the measurements are made; (2) true variation in the
attitude over time" (p. 157). While we can't control for changes in the psychological conditions, the characteristic of involvement in litigation may indicate the direction of change attitudes go in over time and exposure.

The ultimate consideration concerning any measurement technique is its validity, i.e., the extent to which it measures what it purports to measure. The literature suggests several approaches to the determination of validity, one of which being the judgement by experts of the representativeness of the sample of items. Content validity can be estimated by getting the opinions of experts. The scaling method employed by the Likert method (initial collecting of a large and heterogeneous sample of items submitted to a sub-sample of the survey population) can be said to have content validity for the measurement of the belief and feeling components of an attitude. (Kretch, et al., p. 159).

A second approach to assessing validity is the accuracy of prediction of action (Kretch, et al., p. 160). By asking for a second measurement, the presence or absence of written rules and procedures for discipline, we can gauge actual compliant behavior with court policy in corrections and then compare this measure to the willingness index scores.

**Weighting**

Surveys are seldom if ever conducted for the sole purpose of describing the particular survey population. While we are cognizant of the limitations and the risks inherent in generalizing from a survey population to the universe of Ohio judges and correctional administrators, we are hopeful that we can adapt our inquiry to such limitations reasonably well and thus gain some insight into this larger population. The method
of weighting is one such adaptation. The decision to weight the responses in direct proportion to their appearance in the universe was based upon the assumption that the attributes of certain sub-grouping within the two populations were sufficiently important enough to create bias in reporting aggregate opinions. Of specific concern were distinctions as to the type of court or the level of government to which the correctional administrator was responsible.

Using the known population parameters for these categories we calculated the proportion of each sub-group within the universe. We then calculated the survey response rate based upon the universe size rather than the number of individuals in the survey population. The calculated response rate assumes random sampling and no systematic response bias. Missing values were assumed random and distributed evenly across sub-groups. The proper weighting factor was then applied to scores of actual respondents prior to statistical analysis.

It is important to note that this is not sampling in the strict sense. Taking into consideration delivery errors, for the most part every member of our specified correctional population and a large proportion of the judicial population received a test instrument. However, since the method of data collection is a mailed questionnaire, individually administered and respondent enumerated, essentially only a sample response is received from the universe. Therefore, it is assumed that the use of techniques and methods for developing confidence in the representativeness of the sample responses is applicable here. Each individual administration respondent has an assigned weighting factor dependent upon his subgroup affiliation.
Table 2
Assigned weights for administrative responses

<table>
<thead>
<tr>
<th>Sub-group</th>
<th>Proportion Before Weighting</th>
<th>Weighting Factor</th>
<th>Proportion* After Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>State (adult)</td>
<td>25.6%</td>
<td>.6130</td>
<td>15.5%</td>
</tr>
<tr>
<td>State (juvenile)</td>
<td>.6322</td>
<td></td>
<td></td>
</tr>
<tr>
<td>County</td>
<td>47.4</td>
<td>1.2340</td>
<td>58.6</td>
</tr>
<tr>
<td>Municipal</td>
<td>26.9</td>
<td>.9404</td>
<td>25.9</td>
</tr>
</tbody>
</table>

Missing values (2) assumed evenly distributed

*Weighted data reflects true proportion of subgroups in the universe.
Unweighted data reflects subgroup proportions among sampling respondents.

A Chi-square One-sample Test was used to analyze the differences in the proportion of sample respondents in the different sub-categories, State, County and Municipal, to those in the universe. The null hypothesis: that there were no differences in proportions except those due to fluctuations caused by sampling error, can be rejected at the .02 level of significance ($X^2 = 7.10, 2\text{df}$). This allows for the possibility of systematic bias in the representativeness of our sample and thus endangering the validity of our generalizations to the universe.

Aside from hypothetical musings on the possible errors that might bias the response rate, we have no real indication that the non-sampling error causing the discrepancies in the response rate is substantially more invidious than the bag of non-response random errors concommitant with survey research.
As with the respondent population of administrators, judicial responses, when reported for the aggregate, have been weighted according to subgroup affiliation and in proportion to their distribution in the universe.

Table 3
Assigned weights for judicial responses

<table>
<thead>
<tr>
<th>Sub-group</th>
<th>Proportion Before Weighting</th>
<th>Weighting Factor</th>
<th>Proportion* After Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal Court</td>
<td>27.8%</td>
<td>1.45</td>
<td>41.9%</td>
</tr>
<tr>
<td>County Court</td>
<td>11.7%</td>
<td>1.29</td>
<td>16.3%</td>
</tr>
<tr>
<td>Common Pleas Court</td>
<td>35.2%</td>
<td>.73</td>
<td>25.0%</td>
</tr>
<tr>
<td>Juvenile Court</td>
<td>3.7%</td>
<td>.73</td>
<td>2.1%</td>
</tr>
<tr>
<td>Court of Appeals</td>
<td>13.0%</td>
<td>.89</td>
<td>11.3%</td>
</tr>
<tr>
<td>Federal District Court</td>
<td>7.4%</td>
<td>.47</td>
<td>3.4%</td>
</tr>
<tr>
<td>State Supreme Court</td>
<td>0.0%</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Federal Circuit Court</td>
<td>0.0%</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

Missing values assumed to be evenly distributed across sub-groups
*Weighted data reflects true proportion of sub-groups in the universe.
Unweighted data reflects sub-group proportion among sampling respondents.
**Left out of discussion as no verifiable data is available.

Using the Chi-square One-sample Test to analyze the difference in the proportion of judge categories in the sample with the universe, we find that we cannot reject the null hypothesis that there is no difference at a significance level of below .20 ($X^2 = 4.53, 3df$). This still allows for an 80% risk of committing a Type II error, i.e., accepting a
false hypothesis. In this instance, it is the Type II error for which we are most concerned. The question which must be addressed is whether the error presumably responsible for non-response is also responsible for a respondent bias on attitude dimensions.

We have rather clear indicators that the non-respondents among the judge sample are biased by the factor of personal involvement. Those having no experience appear more reluctant to participate. However, the subsequent analysis of the data indicates that on only one item (Dimension 3, The Legislature willingly provides funds for compliance) is there a statistically significant association between personal involvement and attitudinal response. We have no obvious way of estimating the population parameters with respect to this factor. We cannot adjust or correct by some weighting technique. However, because of this potential bias we do not place a great deal of confidence on those measures estimating the degree of involvement in correctional litigation when making inferences about the universe (Palumbo, p. 359).

A second problem arises in investigating the effect of this factor on those who did respond, i.e. representativeness. Unless we have made a Type II error, representativeness does not seem impaired in terms of judge categories. Of those judges responding, 69.9% reported never being involved in correctional litigation. While we can't be confident or removing all respondent bias, in this case we can assume a statistically reliable comparison on this dimension in the sample population.

It should be noted that in addition to weighting, another statistical manipulation is proper in this instance. In cases where the population is small, the sample comprises a large proportion of the universe (5% or
more) and sampling is done without replacement, some researchers use a finite population correction factor. This correction is applied to the construction of confidence intervals for the estimate of the standard error of the proportion in the universe. It tends to reduce the estimate of the standard error to the conservative side. We have chosen to use the finite population correction factor in the analysis of the data (Palumbo, p. 112-113).

\[ P = \sqrt{\frac{PQ}{N}} / 1 - n \]
REFERENCES


Chapter V

DATA ANALYSIS

Chapter V consists of four sections which present the results of the data analysis. This analysis is based on one sample of two parallel populations: 82 correctional administrators and 61 judges. Data was coded on punched cards and processed using data analysis programs available in the Statistical Package for the Social Sciences (Nie, et al., 1975). Presentation of the data is as follows:

(1) A descriptive analysis of the parallel populations. This section provides an overview of population characteristics.

(2) A sub-group analysis. This section reports differences among administrators who have been distinguished by level of government affiliation and personal involvement in correctional litigation. The data suggests that state adult correctional officials are those most likely to be affected by court intervention; and as a consequence, they hold the most negative beliefs and feelings toward the court. This section also provides a sub-group analysis of judges distinguished by type of court, time in office and degree of personal involvement in correctional litigation.

(3) A mapping of attitudinal positions of the parallel populations. In this section, the relative aggregate perceptions of administrators and judges toward court intervention are interpreted within the context of sub-group differences. The
differences found in the responses do not necessarily suggest a disparity between the respective majorities on all dimensions but rather a difference in the range and intensity of responses. (Complete tables may be found in Appendix C)

(4) Analysis of the disposition (willingness) of correctional administrators to comply with court orders. While few relationships were found to exist, the court's power to mediate sanctions and involvement in correctional litigation are variables associated with greater willingness to comply.

(5) Appendix C presents tests of association on the traditional correlates of the affect toward court intervention in correctional administration among the aggregate populations and sub-groups.

Proceeding the data analysis it is useful to briefly restate the thirteen attitude dimensions:

1) The first dimension, favorableness towards court intervention, is defined as an affect obtained from the individual's perception of the court's role. Respondents were asked to indicate the degree of their agreement or disagreement (on four point Likert scales) on a series of 8 questions related to: (1) the desirability of judicial review, and (2) the benefits resulting from judicial review. The composite of these responses yielded an overall index of favorableness toward court intervention.

The subsequent dimensions are more particular and were extracted to gauge the affect and/or cognate response to possible correlates to the more general favorableness dimension.
2) Dimension two, coercion, is defined as a cognate obtained from the individual's perception of the court's ability to compel compliance with court orders through negative sanctions.

3) Dimension three is defined as a cognate obtained by the individual's perception of the willingness of legislative bodies to provide funds to correctional administrators necessary to compliance with court orders.

4) The fourth dimension is a rather specific item defined as a cognate obtained by the individual's perception of the financial expenditures required by court orders, and the extent to which they are beyond the administrator's ability to obtain. The dimension was originally conceived of as an indirect indices of ability to comply in economic terms, as were dimension three and dimension five. However, the three items were not sufficiently correlated to justify their use as an index and are thus treated separately.

5) Dimension five is closely related to the previous factor through its, albeit, indirect relationship with ability to comply. It is again a rather specifically defined item measuring the individual's perception of administrative superiors' (above the institutional level) willingness to provide funds necessary to compliance with court orders.

6) Dimension six corresponds to the belief obtained by the individual's perception as to the external support for court intervention in corrections. Respondents were asked to indicate their agreement or disagreement on a series of three items pertaining to: (1) public support of court ordered changes, (2) staff support of court ordered changes, and (3) legislative support of court ordered changes. The composite of these responses yielded an overall index of external support.
7) The legitimacy index is a composite of two items: (1) the court's meddling in the administrative affairs of corrections is unwarranted on the basis of law, and (2) court ordered relief generally goes beyond the legitimate concerns of the court.

8) Another classical relationship derived from organization theory is between dimension eight, and court's expertise in correctional litigation and the affect favorableness. This dimension is a composite of responses to the following items: (1) judges have shown considerable skill and ability in settling correctional disputes, and (2) judges seldom understand a correctional case well enough to make a really just decision.

9) The ninth dimension refers to the belief that the self-interest of the correctional administrator is negatively affected by his involvement in correctional litigation. This index was a composite of two items: (1) administrators discretion was limited by court orders, and (2) personal interests could not be protected when involved in correctional litigation.

10) Dimension ten, participation, is defined as a cognate obtained from individual perceptions as to the degree of participation the court allows the correctional administrator in the court decision-making process. Participation is reasonably a correlate of favorableness, at least from the perception of the administrator.

11) The eleventh dimension has to do with the degree of agreement in the responses of judges and correctional administrators to the statement: it is the professional obligation of the correctional administrator to comply with court orders. This statement is considered an indirect measurement of the normative value placed on compliance, a type of felt obligation.
12) Dimension twelve is defined as a cognate obtained by the individual's perception that the court is responsive to the needs and problems of the correctional administrator. Responsiveness is an assumed correlate of the affect favorableness.

13) Dimension thirteen is defined as a belief that the correctional system is in need of reform.

Population Characteristic Data

Descriptive statistics of the aggregate population of correctional administrators.

The first characteristic by which administrators are described is time in position. The mode for time in position was three to seven years. County administrators account for 5.8 percent of the population. Mixed custody was the modal response to type of custody and male was the modal response to sex of inmate. Fifty-three percent of the population administer to adult inmates. Police work represents 59 percent of the population of all prior professions reported.

Sixty-two percent of the survey respondents report having a high degree of program autonomy; 60 percent report a high degree of rule-making autonomy; 66 percent report medium to low budget autonomy and 66 percent report medium to high staffing autonomy. On the number of immediate superiors, 57 percent reported having one or less immediate superiors. Overall, the general picture is one of a fairly high degree of discretion over internal policy, but a moderately low amount of personal control over resources, i.e., budget and staffing. They, therefore, can be characterized as resource dependent institutions.
One third of our sample reported having been involved in correctional litigation. Seventy-five percent acknowledge their institutions as having written rules and procedures for disciplinary actions.

**Description of Sample Sub-populations: County Correctional Administrators**

The bulk of the State's correctional administrators are on the county level. This group of administrators manage institutions incarcerating both adult and juvenile offenders, male and female. The majority also report having a mix of security in their facilities.

County administrators report having the fewest number of immediate supervisors and the highest amount of rule making and program autonomy among the three sub-groups. A third of the county administrators also report having high budget and staffing authority.

Sixty-three percent of responding county officials listed police work as their prior profession. Twenty-four percent reported having been personally involved in correctional litigation. And 83 percent of the county administrators report their institutions as having written rules and regulations for disciplinary action. Fifty percent reported generally favorable attitudes towards court intervention in the administration of corrections.

**Municipal Correctional Administrators**

Municipal level correctional administrators make up the next largest sub-group in our population, accounting for 26 percent of the total. They administer primarily minimum security adult facilities for both sexes.

Fifty-nine percent report having one immediate superior, the balance having two or more superiors. Municipal administrators ranked themselves as having medium to high rule making and program autonomy,
medium to low budget and staffing autonomy. Ninety-three percent of the responding administrators list police work as their prior profession, and less than 22 percent have been personally involved in correctional litigation. Comparatively fewer, 60 percent, of municipal facilities report having written rules and regulations for disciplinary action. Fifty-four percent responded favorably towards court intervention in corrections.

**State Correctional Administrators**

State administrators represent only 15.5 percent of the total population of correctional administrators. They do, however, represent two distinct classes: (1) administrators of adult correctional facilities, who are employed by the Ohio State Department of Rehabilitation and Corrections, and (2) administrators of juvenile correctional facilities which operate under the Ohio Youth Commission. While there appears to be a good deal of commonality between them, relevant statistics will be presented separately for each.

State adult corrections administrators and State juvenile corrections administrators report having high program autonomy, medium rule-making autonomy, medium to low staffing autonomy and medium to low budget autonomy. Fifty percent of adult corrections administrators reported having one superior; the other half reporting three or more superiors. Eighty-eight percent of juvenile authorities report having three or more superiors. From the perspective of administrative ability, i.e. control over necessary resources, State officials appear the least able to comply with court orders on their own initiative.
Correctional work accounts for 73 percent of adult correctional administrators reported prior profession, and for 87 percent of responding juvenile administrators reported prior profession. Seventy-five percent of adult correctional officials said that they had been involved in correctional litigation compared to less than 40 percent of juvenile correctional administrators.

The two groups reversed each other on the favorableness toward court intervention index; 67 percent of State adult corrections administrators responded negatively as compared to 60 percent of juvenile officials whose responses were favorable.

Descriptive Statistics of the Aggregate Population of Ohio Judges

The first attitude by which judges are described is their personal involvement or non-involvement in correctional litigation. Judges responding to this question reported that 31 percent had personal experience in this area. The judge types having the greatest number of judges who have had personal experience were the State court of appeals (83 percent), and Federal district court judges (100 percent). Fifty-two percent of commonpleas judges and 14 percent of municipal judges also reported having been involved in correctional litigation. No county or juvenile judge samples reported any personal experience. However, 21 percent of the judge sample did not answer this item on the questionnaire.

Length of years in office was also thought to be a possible factor in explaining judicial response. The following table shows the array of responses on this attribute as well as the percent of judges involved in litigation by time in office.
Table 4

Time in Office

<table>
<thead>
<tr>
<th>Category</th>
<th>Percent</th>
<th>Involvement in Litigation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>1 to 2 yrs.</td>
<td>09.6%</td>
<td>00.0%</td>
</tr>
<tr>
<td>3 to 7 yrs.</td>
<td>30.5</td>
<td>05.8</td>
</tr>
<tr>
<td>8 or more yrs.</td>
<td>59.9</td>
<td>94.2</td>
</tr>
</tbody>
</table>

(61)100% (15)100% (33)100%

Municipal judges are the largest sub-group in the judge population accounting for over 40 percent of the total. The remaining judge types are ranked according to their proportion in the population: (2) common-pleas, (3) county, (4) court of appeals, (5) federal district court, and (6) juvenile court judges. (See Table 3)

Sub-group Analysis

It is always possible when reporting aggregate data that important individual effects are masked or washed-out by counter-balancing influences within the larger population. Therefore, this analysis of correctional administrators' and judges' attitudes, distinguished according to certain attributes, is presented to: (1) determine these differences and their effects, and (2) determine whether characterizations ascribed to the aggregate populations hold up when populations are divided along certain dimensions. The two populations can be distinguished according to several attributes which have been hypothesized as salient influences in individual's response. Among correctional administrators, three factors are tested:
(1) level of government affiliation, (State, county, municipal) (2)
personal involvement in correctional litigation, (yes, no), and (3)
prior profession: (police, corrections, educator, other). After analysis
it became clear that the antecedant variable, prior profession, and
level of government affiliation were so closely associated that it is
extremely difficult to tease out which influence is genuine and which is
a spurious association. While the two factors are empirically related,
there is no support for any causal relationship to be ascribed to their
association.

The attributes upon which judges are distinguished are: (1) type
of court, (Court of Appeals, Common Pleas, county, municipal juvenile,
and Federal District Court), (2) personal involvement in correctional
litigation, and (3) length of time in office, (1 to 2 years, 3 to 7
years, 8 years or more).

**Dimension One: Favorableness Toward Court Intervention**

When administrative responses to dimension one were compared by
level of government affiliation, substantially more State administrators
were unfavorable toward court intervention than were county or municipal
administrators.

Table 5

<table>
<thead>
<tr>
<th></th>
<th>Group</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State</td>
<td>County</td>
<td>Municipal</td>
<td></td>
</tr>
<tr>
<td>Dimension negative</td>
<td>85.0%</td>
<td>50.0%</td>
<td>45.5%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>15.0%</td>
<td>50.0%</td>
<td>54.5%</td>
<td></td>
</tr>
<tr>
<td>positive</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(20)100.0%</td>
<td>(38)100.0%</td>
<td>(22)100.0%</td>
<td></td>
</tr>
</tbody>
</table>

$X^2 = 8.37014$ 2df
Sig. = -.0152
$V = 0.32346$
$n = 80$ (unweighted data)
Dimension one was then compared by level of government affiliation controlling for involvement in litigation. Because of the small cell size the statistic is not reliable. However, as can be seen from the next table, the general trend was replicated. There are some notable differences from the aggregated data (see Table 22) when we look at municipal administrators involved in litigation. There is a distinct reversal among this sub-group from the population norm. When the control was for non-involvement in litigation, the null hypothesis of no difference could not be rejected. However, State administrators still maintained a more negative posture (75 percent) than their county or municipal counterparts.

Table 6
Administrators' response to dimension one by level of government affiliation controlling for personal involvement in corrections: value yes

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Group</th>
<th>X² = 8.49140 2df</th>
<th>Sig. - 0.0143</th>
<th>V = 0.54112</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State</td>
<td>County</td>
<td>Municipal</td>
<td></td>
</tr>
<tr>
<td>negative</td>
<td>91.7%</td>
<td>58.3%</td>
<td>20.0%</td>
<td></td>
</tr>
<tr>
<td>positive</td>
<td>8.3%</td>
<td>41.7%</td>
<td>80.0%</td>
<td></td>
</tr>
<tr>
<td>n = 29 (unweighted data)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Finally, when we separate State administrators of adult facilities, implying those who are affiliated with the Ohio State Department of Rehabilitation and Corrections, and State administrators of juvenile facilities, and thus affiliated with the Ohio Youth Commission, we find 91 percent of the State adult group holding unfavorable opinions of court intervention as compared to 50 percent of juvenile authorities. The
numbers in the sample are entirely too small for statistical relevance, and we can only cautiously extrapolate these trends to the population. Among county officials, those administering juvenile institutions were split on the favorableness dimension, while 64.3 percent from adult institutions were favorable towards court intervention. There was not enough data upon which to make a similar comparison for municipal administrators.

A comparison by prior professions did not yield any significant results.

When we look at judges separated out by type of court, our cell sizes are again much too small for statistical analysis. However, there are noticeable trends, that if interpreted cautiously should lend some insight into the differences between judge types. Table 7 describes the portion favorable and unfavorable of each judge type and the median response. Court of appeals judges are substantially more negative than other State judges. County court judges and Federal district judges responded most favorably.

<table>
<thead>
<tr>
<th>Court Type</th>
<th>No.</th>
<th>Response</th>
<th>Percent</th>
<th>Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal</td>
<td>(16)</td>
<td>negative</td>
<td>50%</td>
<td>2.500</td>
</tr>
<tr>
<td></td>
<td></td>
<td>positive</td>
<td>50%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>County</td>
<td>(7)</td>
<td>negative</td>
<td>15%</td>
<td>3.000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>positive</td>
<td>85%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Common Pleas</td>
<td>(19)</td>
<td>negative</td>
<td>32%</td>
<td>2.769</td>
</tr>
<tr>
<td></td>
<td></td>
<td>positive</td>
<td>68%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>100%</td>
<td></td>
</tr>
</tbody>
</table>
Dimension one tested on judges distinguished by personal involvement in correctional litigation yielded no significant differences. However, when compared by length of time in office, judges with longer terms in office responded less favorably to court intervention. Cell size makes the statistic unreliable. It should be noted that county court judges reported the greatest numbers in the one to two year category.

Table 8

Dimension one by length of time in office

<table>
<thead>
<tr>
<th>Category</th>
<th>No.</th>
<th>Response</th>
<th>Percent</th>
<th>$X^2 = 8.01800$ 2df</th>
<th>Sig. - $0.0182$</th>
<th>$V = 0.36146$</th>
<th>n = 61 (unweighted data)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 2 years</td>
<td>(6)</td>
<td>negative</td>
<td>9.8%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>positive</td>
<td>90.2%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 to 7 years</td>
<td>(19)</td>
<td>negative</td>
<td>24.1%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>positive</td>
<td>75.9%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 or more</td>
<td>(37)</td>
<td>negative</td>
<td>56.2%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>positive</td>
<td>43.8%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Tests for differences comparing correctional administrators on all three attributes with the belief in the courts' ability to compel compliance with court orders, dimension two, yielded no statistically significant differences. It seems likely that the response on this dimension is relatively uniform across the entire population of administrators. The same null result occurred when dimensions 3, 4, 6, 7, 9, 10, 12 and 13 were tested, distinguishing between administrators on all three attributes. This suggests the same general conclusion, that the responses in these dimensions is uniform across the aggregate population and do not account for any masked effects. However, there are some exceptions.

Keeping in mind the smallness of cell sizes, we note that when responses to dimension nine, administrators' self-interest, were tested by involvement in correctional litigation, controlling for the level of government affiliation, municipal and county officials, whether or not personally involved in litigation, replicated the aggregate trends. However, involvement in litigation did distinguish between State administrators. Fifty-eight percent of those not involved in litigation tended to disagree with the concept that involvement in litigation was damaging to the administrators' self interest. Similarly, proportionately less State officials, who had not been involved in litigation, disagree with the concept of court responsiveness, dimension 12, than indicated by the aggregate results.

Judges distinguished by attributes did not display any significant differences when tested on dimension two, coercion. The same null result occurred in the judges' cases when tested on subsequent dimensions 4 through 6 and 8 through 13. The response of judges to the statement,
legislatures willingly provide funds necessary to comply with court orders, dimension 3, is found to be related at the .06 level of significance to their having been or not been involved in correctional litigation. Ninety-five percent of the judges not in litigation disagreed with the statement, whereas only 73 percent of those having experience disagreed. It would be impossible from this data to discern whether personal involvement moderates the courts' attitude about the legislature's willingness, or whether the 73 percent majority just reflects a more reliable or informed opinion.

Further analysis of dimension five, belief in support from administrative superiors, does disclose statistically significant differences at a level of .0008, among the administrator population when distinguished according to level of government affiliation. The majority of State administrators agreed with the statement while county and municipal administrators, 84 and 80 percent, respectively, did not agree with the concept. Not unexpectedly, when administrators where distinguished by prior profession, prior correctional personnel, who comprise 79 percent of the responding State administrators, were the only subgroup whose majority was in agreement with the concept.

Judges' response to the courts' legitimacy changed relative to the length of time they had been in office. As on dimension one, favorableness, judges having served 8 years or more tended to be more negative. When we controlled for type of court, using county court as the test group (it has the largest n among judge types, 37), the trend was replicated. In addition, when judges were distinguished by type of court, juvenile (100%) and court of appeals (86%), judges both
rated the court intervention as not legitimate, dimension 7, contrary to their colleagues' majority responses.

Table 9

Response of judges, distinguished by time in office, toward dimension seven

<table>
<thead>
<tr>
<th>Category</th>
<th>Response</th>
<th>Percent</th>
<th>( X^2 = 9.52364 ) 2df</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Sig. - 0.0086</td>
</tr>
<tr>
<td>1 to 2 years</td>
<td>legitimate</td>
<td>31.7%</td>
<td>V = 0.39393</td>
</tr>
<tr>
<td></td>
<td>not legitimate</td>
<td>68.3%</td>
<td>n - 61 (unweighted data)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(6)100.0%</td>
</tr>
<tr>
<td>3 to 7 years</td>
<td>legitimate</td>
<td>16.4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>not legitimate</td>
<td>83.6%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(19)100.0%</td>
</tr>
<tr>
<td>8 to more</td>
<td>legitimate</td>
<td>59.0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>not legitimate</td>
<td>41.0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(37)100.0%</td>
</tr>
</tbody>
</table>

Dimension eight, expertise of the court, is the second case where prior profession is demonstrated to be associated with administrators' response. Eighty-one percent of the category police, the prior profession contributing to the majority of municipal and county correctional administrators, rated the courts low on expertise. Prior correctional personnel followed with 54.9 percent. The associational trend was replicated when controlling for the level of government affiliation.

When dimension eight, courts' expertise, was matched on involvement in litigation, 90 percent of those administrators having personal involvement in correctional litigation disagreed with the belief that the courts possessed a high degree of expertise in settling correctional disputes.
Table 10

Dimension eight, expertise, by involvement in correctional litigation

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>$\chi^2 = 3.54857$ 1df</th>
<th>Sig.</th>
<th>Phi</th>
<th>n = 75 (unweighted data)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>involved in litigation</td>
<td>not involved in litigation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>low expertise</td>
<td>88.5%</td>
<td>65.3%</td>
<td></td>
<td>0.0596</td>
<td></td>
</tr>
<tr>
<td>high expertise</td>
<td>11.5%</td>
<td>34.7%</td>
<td>(26)100.0%</td>
<td>(49)100.0%</td>
<td></td>
</tr>
</tbody>
</table>

This trend is replicated when tested on the county administrators' population.

State administrators again departed from their county and municipal colleagues on the dimension pertaining to the professional obligation to comply. While the majorities of all groups appear to agree with the normative value of compliance, 21.5% of State administrators responded in disagreement with the concept.

When administrators, distinguished by level of government affiliation, were further analyzed by controlling for personal involvement in litigation, those having been involved demonstrated the same trends but did not yield any significant results. Correctional officials not involved in litigation replicated the findings in the table below. The differences were statistically significant at the .01 level.
Table 11

Dimension eleven, professional obligation, by level of government

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>X² = 6.38043</th>
<th>V = 0.28601</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State</td>
<td>County</td>
<td>Municipal</td>
</tr>
<tr>
<td>disagree</td>
<td>21.1%</td>
<td>2.7%</td>
<td>4.5%</td>
</tr>
<tr>
<td>agree</td>
<td>78.9%</td>
<td>97.3%</td>
<td>95.5%</td>
</tr>
<tr>
<td></td>
<td>(19)100.0%</td>
<td>(37)100.0%</td>
<td>(22)100.0%</td>
</tr>
</tbody>
</table>

Summary

In summary, this section of the analysis suggests that State correctional administrators and State court of appeals judges, when separated out of their aggregate populations, do not consistently reflect aggregate trends.

In the case of the court of appeals judges, there are two other negative correlates which may be contributing to this overall effect: (1) court of appeals judges tend to have been in office for longer periods of time, and (2) they tend to be more personally involved in correctional litigation than other State and local judges. Secondly, court of appeals judges are popularly elected and thus reasonably sensitive to public opinion. Court of appeals judges responding to this questionnaire, were the most intense of the judge types in disclaiming public support for court intervention. This suggests that the greater the vulnerability of a given judge to the public sentiment and his perceptions of the direction of that sentiment, may be salient influences on his response to certain types of litigation. Support for this premise comes from a comment made to this researcher by a federal district court judge: (Note 1)
The responsibilities for operating county facilities are statutorily divided among the legislative, executive and judicial branches of the county government. The counties of Ohio have very considerable power and responsibility for the operation of the county commitment facilities, which few of them either recognize or exercise. When problems do arise, the judges of the State courts are often found to abdicate their power and responsibilities to the county, which is immune from public opinion. The public generally wants its prisons to be as harsh and demeaning as possible, and resists any effort toward change.

Beyond any tentative explanation for the posture of court of appeals judges, that they display, as a group, a negative bias towards court intervention is reflected in the empirical data. This data is further supported in the following excerpts from several court of appeals judges:

I have witnessed many extremes over the years, in problems suggestions and practices in the states—all of which point to the fact that:

(1) The judges should be left to do their judicial work, already overwhelming.

(2) Other than possible immediate probation (for economy reason) once a defendant is found guilty a third party or group should step in and resolve all future custodial (as distinguished from legal) problems. This would best be handled by a local or regional group (not a State board) consisting of a medical, social and a legal expert. This group could devote the time essential to individual problems and current attitudes of convicts. It would be aware of local facilities and what could be done in event of parole. (Note 2)

I am inclined to believe that compliance with operational and administrative procedure and proper funding thereof is a legislative function, not judicial. The rules to be complied with should be by the legislative bodies. Non-compliance would then be heard at administrative hearings and appealed therefrom. (Note 3)

My answers reflect my abhorrence to the interference of courts in the correctional process. But that does not alter my belief that corrections needs improvement. That is the function of the legislature and executive branches of government.
The latter have abandoned their duties because of court interference and the net effect is that we are all worse off." (Note 4)

And on the issue of public support:

The problem is with the taxpayers. They are not willing to provide adequate monies for an efficient correctional system. There are more plaudets for the construction of a college than for the construction of a jail." (Note 5)

However, another court of appeals judge (Ohio fifth district) did not answer the survey but instead made the following observation:

"...judicial review of administrative acts relating to correctional institutions is desirable when administrative acts of commission or omission are such as to be so unreasonable as to constitute an abuse of discretion of administrative authority, contrary to law, or unconstitutional." (Note 6)

Why the State correctional administrators are so noticeably more negative than their county and municipal colleagues, is considerably harder to discern. One possible explanation is the greater amount of personal involvement in correctional litigation State administrators are subjected to. Seventy-five percent of the administrators of State adult facilities and 37 percent of those administering juvenile facilities report having been in litigation. This compares to 24 percent of county administrators and 21 percent of municipal administrators. One might postulate that the threat of intervention is more real on the State level thus making the issue more acute and the reactions more intense.

The following excerpt is from a survey submitted by a State adult corrections administrator. The level of negativism suggested by the data is portrayed vividly in the following comments:

"One of the biggest negative by-products of the current level of litigation, is that correctional administrators become gun shy of making important decisions they should make forthrightly. This results in low morale, unsafe working conditions for staff and unsafe conditions for inmates. Other than relatively simple objectives; I have never heard of or
seen any real improvements in institutions as a result of litigation. Most of those things accomplished by court orders are things the administrator would do on his own if it were possible. The courts have a tendency to throw the baby out with the bath water. Of course the courts do pry money out of reluctant legislatures but tend to order it applied in a wasteful, non-productive manner.

Moreover, it is clear the courts are doing their best to eliminate whatever deterrent capacity institutions may be able to provide, and the courts are reinforcing many of the same anti-social attitudes and values of the inmates that led to their incarceration in the first place; such as negative attitudes toward authority, anti-social manipulation of others, disrespect for rules and orderly procedures." (Note 10)

It should be noted, although discussed in depth in another section, that despite the high level of criticism of court intervention, this respondent's willingness to comply with court orders measured moderately high.

Attitude Analysis: Mapping of Attitudinal Positions of Parallel Populations

One of the primary investigations of this research is to map the relative attitudinal positions of Ohio judges and Ohio correctional administrators toward court intervention in the administration of corrections. Each group was tested on thirteen affect/cognate dimensions which are thought to be salient factors in the effectiveness of the correctional litigation process. Effectiveness in this instance is defined simply as the degree to which court orders are complied with by correctional administrators.

Bivariate analysis was done on each of the thirteen dimensions. A Chi-Square statistic for two independent samples was employed to test the null hypothesis that there is no difference between the two groups relative to the given dimension except that which would normally occur due to sampling error. The null is rejected at a significance level of 0.10 or below. Cramer's V is reported as the measure of association.
Relative proportions are reported for comparison of intensity for any given dimension. Complete weighted and unweighted tables are presented in Appendix D of this chapter. The discussion which follows is based primarily on weighted data. However, as can be noted in the appendicized tables, weighting does not invalidate any statistically significant findings.

The data presented in the summary table (12) indicates strongly conflicting attitudes between the two populations on questions of the courts' legitimacy, its expertise in handling correctional matters, its impact on the administrators' self-interest, the degree of participation available to administrators in deciding court mandates, and the responsiveness of courts to administrators' problems and needs. Population positions on dimension one, favorableness toward court intervention, were opposite but differences were not statistically significant. Those areas indicating a degree of concensus were concerned with external financial and political support. Both judges and administrators perceived a lack of external support both toward court intervention and for compliance with court orders. Dimension one:

**Dimension One: Favorableness Toward Court Intervention in Corrections**

The null hypothesis could not be rejected on this dimension. However, the greater proportion of correctional administrators appear less positive towards the court's intervention than do judges. However, when we apply the standard error of the proportion within a 95 percent confidence interval, (+ 6 percent for administrators and + 10 percent for judges) it becomes more difficult to distinguish between the two groups.

Even when administrators were distinguished on the basis of personal involvement in correctional litigation, the basic position of the total population on dimension one was not noticeably altered. Nor was there
any statistically significant difference between those involved in litigation and those not having personal experience with litigation. Judges separated on this attribute also did not display significant differences from one another.

Dimension two: the courts' ability to compel compliance by imposing negative sanctions.

On this second dimension the majority of judges, 73.3 percent and of correctional administrators, 80.7 percent, were in agreement that the courts had this power or ability to compel compliance. However, 26 percent of the judges did not believe courts could compel compliance. It appears from sub-group analysis on the same dimension, that State Court of Appeal judges account in great part for the proportion of disagreeing judges. This is especially noteworthy as the two judge types most likely to be involved in correctional litigation are State court of appeals and Federal district court judges. No responding Federal district court judge disagreed with the concept that courts could compel compliance.

Dimension three: the willingness of legislatures to provide funds necessary to compliance with court orders.

The groups differed statistically on this dimension. But the majorities did not differ on their beliefs that legislatures do not willingly provide funds, but rather on the intensity with which they held their beliefs. Both judges and administrators had a comparatively more intense response to this dimension than to any other dimension.

Dimension four: the belief that financial expenditures required by court orders go beyond the administrators' power to obtain.
Again, the majority of the two groups agree that court orders go beyond the financial limitations of the correctional administrator, but the intensity and range with which that belief is held varies substantially.

Dimension five: Administrative superiors' willingness to provide funds.

Judges not having personal experience in correctional litigation were seemingly reluctant to respond to this item. Of those who did respond, 70 percent responded disagree to the idea that administrators willingly provided resources. Administrators tended to be more intense in their disagreement, 16 percent strongly disagreed; but otherwise there was not a statistically significant difference in the responses of the two populations.

It should be noted that when correctional administrators were distinguished by level of government affiliation, 68.3 percent of State administrators believed that superiors did provide resources willingly, as compared to 16 percent of the county administrators and 20 percent of the municipal administrators. The differences between the three groups was significant at the 0.008 level. Further State respondents report having a greater number of superiors on the average than do county or municipal respondents. One would suspect that on the county and municipal level the superior is often a sheriff or police chief—a person whose primary responsibility is not the correctional facility. The superior is possibly less disposed towards it as a priority expenditure. Or at least one could reason that on these lower levels of government the correctional facility is greater competition among non-correctional programs for resources from immediate superiors. State administrators are within a correctional system
where institutions are a major priority program. A case in point is excerpted from the judge's opinion in *Jones v. Wittenberg*, 330 F Supp. 707 (1971) a landmark Ohio correctional case concerning the Lucas County Jail.

The evidence shows that for the calendar year 1971, the defendant Commissioners have appropriated for the sheriff's operations the sum of $807,910.00. This is...15.3 percent in excess of the Sheriff's actual expenditures for the preceding calendar year. The evidence also indicates that a considerably larger portion of the Sheriff's expenditures goes for his law enforcement activities than for the operation of the jail, which is also his responsibility. ...It thus seems clear that in allocating his expenditures, there should be no serious risk to the public if the Sheriff were required to reduce his expenditures for police activities to whatever extent might be necessary to provide for the proper operation of the County Jail.

Dimension six: external support for court intervention from the public, the legislature and institutional staff.

The comparison between the two groups indicated no statistically significant differences between the two groups on this factor. The greater portion of each population believed there was no external support for court intervention in corrections.

Dimension seven: legitimacy of court intervention.

It is reasoned, based on the organizational literature, that this dimension should correlate highly with the affect favorableness. There is more distinct difference, however, between the two groups on this correlate than on the favorableness dimension. Fifty-nine percent of the judges perceived the court as legitimate as compared to 73 percent of administrators who did not. Since the classical correlates hold, (see Appendix C) one could speculate the minimal differences in affect on dimension one are more reliable than it first appears.
The possibility exists that the use of the term 'meddling' in item one biased the judges' response toward a more defensive posture accounting for the magnitude of difference in responses between the two groups on this dimension. The following comment from a respondent judge lends credibility to this reasoning:

Re question 19. Meddling is not a precise term in my view. Where there is a basic right to be vindicated, it is the duty of the court to act. To declare that every crybaby's complaint has merit or that the measure of creature comforts enjoyed by the self supporting who are striving to live uprightly deserve no consideration in these discussions is, in my view, unjustifiable. (Note 7)

Dimension eight: the courts' expertise in correctional matters.

The differences in the individual responses between the two groups was significant at 0.0006. Sixty-one percent of the judges credited the court with possessing expertise in this area. Seventy-two percent of the correctional administrators disagreed with the idea that judges possessed this expertise. The portion of correctional administrators, who had been personally involved in correctional litigation and who reported a negative perception of the courts' expertise, increased from 62 percent to 89.5 percent. In the population who had not been involved in litigation, the percentage decreased from 72 percent to 60 percent. The Chi-Square statistic of difference between these two groups was significant at the .0533 level. Judges distinguished on this same attribute did not display any significant differences from the aggregate response not controlling for involvement.

Dimension nine: administrators' self-interest.

The two populations differed in their responses to this dimension. This dimension seemed particularly appropriate for analysis controlling
for personal involvement in correctional litigation in the case of the administrator. Of the 13.7 percent of correctional administrators who strongly agreed with the concept that administrators cannot protect their personal interest when involved in litigation, 71 percent had personal experience in litigation. Of the 23.2 percent who disagreed with the concept, 67 percent had never been in litigation. There is a statistically significant difference at the .0369 level between correctional administrators when distinguished on the attribute of personal involvement in litigation.

Dimension ten: participation in the court decision-making process.

While both groups reported majorities in the negative, 58 percent judges and 85 percent administrators, the distribution of the overall responses were statistically different at a significance level of 0.0019. When distinguished on the attribute of involvement in litigation neither group significantly changed the pattern of response.

Dimension eleven: professional obligation to comply.

Disagreement with the statement was not expected in the judges' responses. This expectation was based on the belief that a negative response would conflict too severely with judicial norms. None were made. However, a small proportion, 6 percent of administrators did disagree. Those administrators who did agree were less strongly committed to the concept than were judges.

Dimension twelve: the courts' responsiveness to administrators' needs.

The distinction between the groups is more clearly demonstrated on this dimension than on dimension one. The trends, however, are in the same direction: 59 percent of the judges agreed with the concept of judicial responsiveness while 71 percent of the administrators disagreed.
Dimension thirteen: corrections is in need of reform.

The last dimension, thirteen, deserves a note of caution prior to presenting the data. It addresses the belief that the correctional system is in need of reform. The ambiguity arises in discerning the direction of the perceived needed reform: conservative or liberal. Obviously each choice conveys very separate connotations. Since the item only asks that corrections is in need of reform, any response to the affirmative only begs the question. Keeping this caveat in mind, the aggregate responses indicated majorities in both groups believed some kind of reform was needed.

Summary

In summary, statistically significant differences were found between the responses of judges and correctional administrators on all attitude dimensions with the exception of: (1) dimension one, favorableness toward court intervention, (2) dimension five, superiors' provision of resources, and (3) dimension six, external support for court intervention.

The differences in responses does not necessarily suggest a disparity between the respective majorities positive or negative responses on the dimensions, but rather a difference in the range and intensity of responses.

On the traditional correlates of a favorable affect, legitimacy, expertise, responsiveness and participation, each group displayed polar positions opposite to each other. Judges took a more favorable position while administrators responded less favorably.

I might note, however, that when similar analysis was performed on unweighted dichotomized data, the opposing postures of judges and
administrators in the sample population were more clear. In the case of
dimension one, favorableness, 60 percent of the administrators took a
negative position as compared to 58 percent of the judges who favored
court intervention. The null hypothesis of no difference was rejected
at the .04 level of significance. The trends established in the tests
on weighted data for all other dimensions were replicated in the un-
weighted data as well.

The last note refers to dimension three, legislative willingness
to provide funds necessary to compliance with court orders. Which legis­
lative body, i.e., State or local, was not specified on the questionnaire.
One can reasonably argue that the respondents were likely responding to
that legislative body with which they had the most interaction. How­
ever, this is only a reasoned guess.

Analysis of Behavioral Disposition of Correctional Administrators

The second major goal of this research is to test the hypothesis
that correctional administrators' willingness to comply with court orders
is consistent in specified positive or negative directions with the multi­
dimensional attitude indexes. While causal relationships are not
hypothesized, it is reasoned that these associations, if present, will
explain more adequately the behavioral disposition or willingness to act,
of correctional officials.

Very simply stated, few relationships were found to exist. With
one exception, none of the traditional influence correlates, i.e.,
favorableness, legitimacy, responsiveness or expertise demonstrated
any measureable association with the willingness to comply items either
in the aggregate population or among sub-group distinctions. In addition,
there is little support in the data for the majority of these associations
in the hypothesized directions. However, the direction of responses to dimension two (coercion), five (administrative support), ten (participation), eleven (professional obligation) and thirteen (correctional reform) suggest support for their hypothesized relationship with willingness to comply. The measure of association, Gamma, ranged from .33 to .80, generally higher in each of these cases than Gammas reported for the other eight associations tested. Still, only the Chi-Square for dimension two, coercion and willingness to comply, was statistically significant below the .05 level.

Table 13

Comparison of hypotheses and test results: direction* of hypothesized associations between administrators' evaluations and beliefs about court intervention in correctional administration and their willingness to comply with court orders

<table>
<thead>
<tr>
<th>Dimension</th>
<th>one</th>
<th>two</th>
<th>three</th>
<th>four</th>
<th>five</th>
<th>six</th>
<th>seven</th>
<th>eight</th>
<th>nine</th>
<th>ten</th>
<th>eleven</th>
<th>twelve</th>
<th>thirteen</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hypothesis</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Test Result</td>
<td>-</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td></td>
</tr>
<tr>
<td>Gamma</td>
<td>.01</td>
<td>.80</td>
<td>-.09</td>
<td>-.48</td>
<td>.33</td>
<td>-.00</td>
<td>-.13</td>
<td>-.09</td>
<td>-.31</td>
<td>.41</td>
<td>.68</td>
<td>-.32</td>
<td>.38</td>
</tr>
</tbody>
</table>

*Where Gamma is small, i.e., .15 or below, we can assume an essentially zero relationship even though the data in this sample fell in one direction or another.

What does this mean? The data suggest that willingness of correctional administrators to comply with court orders is generally independent of evaluations and beliefs about the court and its intervention
in prison administration. The one exception to this is the belief, held universally among this administrator population, that the courts have the power to compel compliance through the imposition of negative sanctions. This belief is critical in their compliance with court orders.

This leads us to consider the implications for the court/correctional administrator relationship based on the perception of coercive power. It raises questions for both the court and the administrator. It suggests concern about problems related to resistance to change, control and monitoring of compliance and the potential of stability and duration of change produced. These considerations will be discussed in the concluding chapter.

**Item Analysis**

Four items originally formed the willingness to comply component. One item, asking administrators to select a response that they believed other administrators would choose, is presented here. This item contains the least potential for role response distortion. (For a complete discussion of the index construction and analysis of companion items see Appendix E.

Administrators were asked to respond to the following:

When a court orders administrative changes in a correctional facility, correctional administrators generally would:

a. resist taking action if they did not agree with the decision
b. accept the decision as law and do what was minimally necessary
c. accept the decision and comply fully whether they agreed with it or not

A Chi-Square one sample test for association was used to test the association between this item and the other attitude dimensions. Responses
were dichotomized in some tests so that a response to (a) or (b) was coded low willingness to comply. The (c) response was coded high willingness to comply.

The median responses to this item from correctional administrators distinguished by level of government affiliation, was as follows: State - 2.550, county = 2.500, and municipal = 2.375. The range was 1 to 3.0. Proportions were roughly split between those indicating low willingness to comply and high willingness to comply. State officials indicated that they were the most willing to comply of the three subgroups.

Table 14*

Willingness to comply by level of government affiliation

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State</td>
</tr>
<tr>
<td>a. least willing</td>
<td>5.3%</td>
</tr>
<tr>
<td>b. less willing</td>
<td>42.1</td>
</tr>
<tr>
<td>c. most willing</td>
<td>52.6</td>
</tr>
</tbody>
</table>

(19)100.0% (34)100.0% (20)100.0%

*unweighted data

When this item was tested against each of the thirteen attitude dimensions, only one, coercion, indicated any measurable association with willingness to comply.
Table 15

Willingness to comply by dimension two, belief in the courts' ability to compel compliance with court orders

<table>
<thead>
<tr>
<th>Response</th>
<th>low belief</th>
<th>high belief</th>
<th>low belief</th>
<th>high belief</th>
</tr>
</thead>
<tbody>
<tr>
<td>less willing</td>
<td>89.9%</td>
<td>46.9%</td>
<td>88.9%</td>
<td>47.0%</td>
</tr>
<tr>
<td>more willing</td>
<td>10.1%</td>
<td>53.1%</td>
<td>11.1%</td>
<td>53.0%</td>
</tr>
<tr>
<td>(10)100.0%</td>
<td>(65)100.0%</td>
<td>(10)100.0%</td>
<td>(65)100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Cor. $X^2 = 4.43092$  
Cor. $X^2 = 4.02279$

Sig. = 0.0353  
Sig. = 0.0449

Gamma = 0.81930  
Gamma = 0.80064

n = 75 (weighted data)  
n = 75 (unweighted data)

Those administrators who indicated that they did not believe the court could compel compliance displayed less willingness to comply than those believing the courts do have this ability. The converse, that those believing in the courts' ability to compel are more willing to comply, also appears to have empirical support. However, the distinction is more moderate and hence less reliable. The only time this association was not replicated was under the condition where the administrator reported having received an unfavorable disposition. This perceived disposition appears to completely negate the association between coercion and willingness to comply among this small sub-set.

Analysis of Willingness to Comply by Contextual Attributes

Only two contextual variables, which when tested on weighted and unweighted data, display associations with willingness to comply. These are inmate age and involvement in litigation.

Inmate age, which generally distinguishes between adult corrections and juvenile corrections is a confounding variable when trying to make
inferences from the aggregate population. Juvenile administrators were most likely to indicate personal willingness to comply, and least willing to attribute willingness to other administrators.

Table 16

Willingness to comply by inmate age

<table>
<thead>
<tr>
<th>Response</th>
<th>Inmate Age</th>
<th>X² = 6.34938 ldf</th>
<th>Sig. = 0.0418</th>
<th>V = -0.29580</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>adult</td>
<td>juvenile</td>
<td>mix</td>
<td></td>
</tr>
<tr>
<td>less willing</td>
<td>46.4%</td>
<td>81.4%</td>
<td>39.5%</td>
<td></td>
</tr>
<tr>
<td>more willing</td>
<td>53.6%</td>
<td>18.6%</td>
<td>60.5%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(39)100.0%</td>
<td>(13)100.0%</td>
<td>(20)100.0%</td>
<td></td>
</tr>
</tbody>
</table>

On the whole, responses of State juvenile officials tend to reflect the aggregate responses of county and municipal officials thus moderating the more positive responses of State authorities when reported in the aggregate. When distinguished on this attribute, responses of State adult corrections administrators tend to be contrary to the rest of the population. State juvenile authorities, like all municipal and county administrators have a much lower rate of involvement in correctional litigation than do State adult administrators.

Table 17 demonstrates an association between the attribute of personal involvement and willingness to comply. Its findings suggest
that there is not a genuine association between inmate age and willingness to comply, but rather that where litigation is less intense, i.e., juvenile facilities, attitudes are more diffused and less consistent.

Those reporting having had personal experience in correctional litigation displayed a greater willingness to comply with court orders. Those not involved in correctional litigation were moderately unwilling or resistant. Further, the data suggest that persons involved in litigation, when coupled with a perceived unfavorable outcome, reverse this trend, as was the case for the association between coercion and willingness to comply.

The implications of this reversal are that when an individual administrator perceives himself as having received an unfavorable court order, his resistance towards compliance is hardened. It is hardened to the extent that even a belief in the court's coercive capabilities has little influence on his willingness to comply. This leads us to suspect that attitudes in response to specific interaction with the court may have a greater influence on intention to conform, than do the general set of attitudes an administrator may hold about court intervention in corrections.

The trends suggested by the data in the following table were replicated in all three sub-groups of administrators when distinguished by level of government affiliation.
Table 17
Willingness to comply by personal involvement in correctional litigation

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>Involved</th>
<th>Not Involved</th>
<th>Involved</th>
<th>Not Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. least willing</td>
<td></td>
<td>16.1%</td>
<td>6.6%</td>
<td>14.8%</td>
<td>6.5%</td>
</tr>
<tr>
<td>b. less willing</td>
<td></td>
<td>22.1</td>
<td>51.1</td>
<td>22.2</td>
<td>52.2</td>
</tr>
<tr>
<td>c. most willing</td>
<td></td>
<td>61.8</td>
<td>42.4</td>
<td>63.0</td>
<td>41.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(25)100.0%</td>
<td>(47)100.0%</td>
<td>(27)100.0%</td>
<td>(46)100.0%</td>
</tr>
</tbody>
</table>

Cor. $X^2 = 6.13974$ 2df  Cor. $X^2 = 6.55266$
Sig. = 0.0464        Sig. = 0.0378
$V = 0.29087$        $V = 0.29960$
n = 72 (weighted data)  n = 73 (unweighted data)

Summary

Correctional officials' willingness to conform with court mandates is associated with their belief that the court can compel compliance. In terms of social influence the data suggest that the basis of power from which the court exercises its influence in this particular relationship is coercion.* However, there is no support evidenced by this data that other factors associated with intent to comply in social influence theory are especially operable. We refer here to value orientations toward the court in terms of its legitimacy, expertise and referent power.

Involvement in correctional litigation appears to increase negative attitudes toward the court and court intervention. In those cases

*For a more detailed discussion on the basis of power, the reader is referred to French and Raven, 1969, p. 150-167.
where a court decision was perceived as being unfavorable to the respondent, willingness to comply is reduced considerably.

The data demonstrates that administrators of State adult correctional institutions are:

1) most likely to be involved in litigation
2) most negative in their orientation toward court intervention in corrections
3) almost unanimous in their belief that the court can compel compliance through the imposition of negative sanctions, and
4) report the greatest degree of willingness to comply with court orders.

In the interpretation of these findings one is faced with the possibility that the intent to comply indicator is biased by a role response. This bias could possibly inflate the measure of willingness to comply in an unreliable direction.

The alternative explanation is that the realities of the courts' 'contempt of court' power, underscored by personal involvement in litigation, is sufficient to influence at least a latent acceptance or resignation to comply with court orders by administrators.
REFERENCES


REFERENCE NOTES


Note 3. Hofstetter, E., Judge, (State Court of Appeals). written communication, March 1979.


Note 5. O'Neile, J. E., Judge, (State Court of Appeals). written communication, March 1979.


Note 11. Ambercomby, P., Information Officer, Department of Rehabilitation and Corrections. personal communications, June 1979.

Note 12. Sandborn, N., Historical development of the bureau of adult detention facilities and services and jail standards. memo presented to Ohio State Legislature by the Bureau of Adult Detention Facilities, Columbus, Ohio.
Chapter VI
CONCLUSIONS

In the mid 1960's the courts abandoned their "hands-off" attitude in the running of publicly mandated institutions. The result was that clientele and employees alike of social institutions began to focus on judicial intervention as a primary vehicle for inducing change. Corrections was not an exception. In the attitudes of those involved and the difficulties of the courts in obtaining compliance with orders arising out of correctional litigation, corrections mirrors the attitudes and behavior of administrative elites in education, welfare, law enforcement and mental health. The literature suggests that despite successful correctional litigation, compliance on the part of defendants has been minimal and grudging.

This research focused on the role of the courts in determining correctional policies and practices and, more importantly, on the inability of the courts to implement their decisions and bring about change. We sought to determine the legal-historic basis of power by which courts exercise authority and to examine the implications of such power on subsequent compliance by institutional administrators. An underlying assumption was that an understanding of administrators' perceptions of the courts' authority and processes was salient in explaining the courts' difficulty in effecting compliance with their orders. Secondly, we assumed that judges' perceptions of the courts' role and authority in this arena likewise yield insight into the courts' behavior.
In order to achieve these goals we undertook the following:

1. An analysis of the courts' historical precedents and constitutional grounds for judicial intervention in the administration of corrections. The impediments to compliance within the internal structure and processes of the court system were evaluated, as were the external and internal environment of corrections as it pertained to the ability of administrators to comply with court orders.

2. A test instrument was devised to measure attitudes toward court intervention in corrections. Administrators' attitudes toward accepting court dictates were also measured.

3. A Likert-type scale, composed of thirteen affect and cognate dimensions and an administrative scale of behavioral tendency was administered to 174 State and local Ohio correctional superintendents and associate superintendents, and to 200 judges from selected jurisdictions in Ohio.

4. In addition to attitude variables, important distinguishing contextual variables were measured and tested against the attitude dimensions. Among these were the level of government affiliations, institutional and inmate characteristics and particularly the individual's degree of personal experience with correctional litigation.

Findings

If the basis of the court's power to exercise its authority is reflected in the perceptions of those who must comply, then the court/correctional administrator relationship is based on coercion. That is
the belief held by correctional officials that the court can and will compel compliance with its orders through the imposition of sanctions.

Ohio correctional administrators responded to items which elicited their opinions toward court intervention in corrections. These responses reflected the officials' perceptions about legitimacy, expertise, approval and desirability of court intervention. Responses also indicated the extent the officials believed in the courts' punishment capabilities. These dimensions all refer to the process, or base of power by which the courts' authority is accepted and complied with.

Findings of the sampled correctional administrators indicated the following:

1) They were not receptive to court intervention.
2) They did not ascribe expertise in correctional matters to the court.
3) They did not acknowledge the courts' legitimacy in this area.
4) They did strongly believe in the courts' coercive powers.

Judges' responses, on the other hand, were generally positive. However, among the judges most likely to be involved in correctional litigation, federal district judges were strongly positive while State appellate judges were strongly negative about the court's role and involvement in the administration of corrections.

There is some support in the data that correctional officials do believe it is their professional obligation to comply with court orders, implying a measure of acceptance of court authority. Only the few most recalcitrant among State level correctional administrators disagreed with this notion. The data indicated that acceptance of professional obligation is positively correlated with the administrators' willingness
to comply, but these trends do not appear sufficient, by themselves, to provide a base of power for the exercise of the courts' authority.

Reinforcing the generally negative posture of correctional administrators were the following beliefs held by the majority of respondents:

1) The public does not support court intervention.
2) The courts are not responsive to administrative problems.
3) The courts do not allow administrators to participate in court decisions affecting their position and responsibilities.

This posture alone would suggest that voluntary compliance with court mandates would not be forthcoming. The data neither support nor refute this conjecture: none of these dimensions, except participation, were associated with intent to comply. And, only the association between coercion and willingness to comply is statistically significant. However, the data clearly demonstrate a positive association between the belief that the court allows the administrator to participate in court decisions and a generally positive affect toward court intervention in corrections. The importance of participation in facilitating compliance with court orders is noted by Breed in his discussion of his experience as a special master. Compliance "required input of all parties to a mutually agreeable decision." Support for the perceptions of correctional administrators in this study, that their participation in court decisions is generally lacking during litigation, is evident in Breed's observation that "the latter cannot take place without a third party neutral (p. 25)."

Finally, when we distinguish among correctional administrators by contextual dimensions, we find that State adult corrections administrators are both most likely to be involved in correctional litigation,
are the most intense in their negative perceptions toward court intervention. They also strongly believe in the courts' coercive power and indicate the greatest degree of willingness to comply with court orders.

The indications from the data are:

1) Personal involvement in litigation intensifies negative perceptions of the court's role in corrections.

2) Negative attitudes toward the court in this policy arena has little influence on the administrators' reported willingness to comply with court orders.

3) Correctional administrators reporting the least personal involvement in correctional litigation and coming from the least visible correctional institutions, i.e., local facilities report the greatest unwillingness to comply with court orders.

Implications

While each base of power is likely to be present in every influence attempt, the degree to which one is emphasized in a relationship produces a differential impact in terms of acceptance, and degree and stability of compliance. The data support coercion as the courts' dominant base of power as perceived by correctional administrators. Coercion, the imposition of sanctions, as the process by which authority is exercised, has implications for both the court and the administrator. Theorists such as Etzioni suggest that the use of coercion to influence change produces alienation, covert behavior and minimal compliance (p. 75).

It necessitates control and monitoring mechanisms to maintain any alterations produced by the court mandate. The influencing agent who uses coercion takes on a negative value for the complying agent, thus
reducing the possibility for stable and receptive relationships to develop. Trends in the data support certain of these generalizations. It should be noted that the perception of coercion as the courts' base of power is associated with negative attitudes toward the court.

Under these conditions the court has some obvious alternatives. Among these are to (1) increase its capacity to monitor and control the implementation of its decisions, and (2) to retreat from its present level of activity (in the federal courts) in the correctional arena to one which is less change oriented and therefore more acceptable to administrative elites.

Both approaches have been noted in recent writings about federal court activity in prisoners' rights litigation. A former Special Master and current Executive Director of the National Institute of Corrections, Allan Breed, discussed the need for and recent increase in the use of special masters by courts to monitor and help implement court orders in correctional settings. The increase noted by Breed of special masters in correctional settings supports the conclusion drawn from our sample that the Courts' power is coercive rather than arising out of a positive value orientation towards its authority or its actions in these matters. Compliance resulting from such value orientations, i.e., social accept- ance, approval, legitimate or expert power, does not depend upon the level of observability of the conforming behavior. One Ohio municipal correctional administrator summed up the implications in the following observation about compliance with court ordered change: "Even with court litigation, only those necessary changes that will be observed, will be effected." (Note 1)
Breed also described an Ohio example:

The Ohio trial concerning the Marion Correctional Institution...was held in 1969. The court used every non-coercive technique to elicit compliance to no avail, and finally, six years later the court appointed a special master (p. 19).

Further, Breed maintains that the appointment of special masters usually occurs only after there has been a significant history of failure on the part of defendants to comply with orders of the court.

If, indeed, compliance is the final measurement of the courts' ability to successfully exercise its authority, and is also a measure of their legitimacy, then both the increased use of special masters by the court in correctional cases and the documented lack of compliance by correctional administrators do not argue well for the courts' success.

Court critics such as Donald Horowitz maintain that the court does not have the capacity for continuous supervision of its orders for change and conformity with minimum standards, orders which often occur in correctional litigation. Further, he suggests that these broad decisions place the court in an administrative and legislative posture, i.e., law-making and appropriations. These roles are outside of the traditional purview of the court and its traditional resources (1977).

Put another way, Loutham (1979) states: "A great part of the courts' power is based on the myth that it is not a policy maker...that its decisions are neutral decisions made in the antiseptic environment of the courtroom." He contends that it is this perception which gives court decisions a sense of legitimacy. "The more the court makes policy decisions, the more likely [it is] to be recognized as a policy-maker and therefore lose this legitimacy base." Loutham concludes by stating
that since the court has neither "the power of the purse [nor] the power of the sword" it will likely lose out to the other branches of government when it tries to influence or make policy.

Some critics believe the (1979) Supreme Court under Justice Warren E. Burger is cognizant that the court cannot sustain its level of activity and is approaching the second alternative—retrenchment—and encouraging the lower federal courts to do likewise. A case in point is the Supreme Court decision in Bell v. Wolfish, 1979, where the court relaxed defenses for administrative action and admonished lower federal judges for becoming enmeshed in the minutiae of prison operations. Others ascribe the retrenchment to a lack of an ideological center on the Supreme Court. For whatever reason, Supreme Court decisions in prisoners' rights litigation in the late 1970's have diluted previous decisions and perhaps made the courts less attractive for those who would petition their aid.

Breed believes "Court involvement and often intervention into correctional matters will continue as long as correctional programs are operated which cannot be countenanced by the Constitution of the United States" (p. 25). While it is true that some level of court involvement is inevitable, the degree of that involvement in the near future will likely decrease. In the event that the lower federal judiciary, who, in our sample responded positively towards the courts' role in corrections, reduce their involvement; litigants will be left with the State appellate courts', internal administrative grievance procedures and the legislature for recourse. Considering the strongly negative response of State appellate judges toward court intervention in corrections,
it is doubtful that they would voluntarily fill the void left by the federal courts.

There is evidence that in 1979 the State legislature and the Department of Rehabilitation and Corrections are moving towards a more proactive position in order to bring Ohio corrections in line with constitutional minimums. Two such programs are the Unified Correctional Masters Plan for the State of Ohio and Ohio jail standards. The unified correctional plan is a collaborative effort on the part of legislators, correctional officials, and judges to develop a master plan to meet future demands of Ohio's correctional system. The new State of Ohio jail standards, promulgated by the Bureau of Adult Detention Facilities and Services, of the Department of Rehabilitation and Corrections, are intended for State-wide adoption. This program has its problems too, in terms of getting local, fairly autonomous facilities, to implement the new standards and in dealing with resistance from local officials to State intervention. As with court orders, local correctional administrators complain about the lack of funds to implement State standards.

It should be noted that both these projects were reactions to court intervention in Ohio corrections. Nonetheless, these activities do indicate legislative and administrative attempts to direct change in the administration of correctional institutions. However, in our fragmented system, featuring competition for funds and program priorities, it is unclear whether the courts will have to retain active jurisdiction in Ohio, or be allowed to return to their role as the arbiter of last resort. It is also unclear as to whether the legislative or
executive branch has a power base that will succeed in producing greater compliance by institutional administrators to their demands than do the courts.

**Legitimacy and the Court**

Archibald Cox (1977) warned that the courts may be reducing their effectiveness by reducing their legitimacy in the public mind. If we extrapolate to this from the court/correctional administrator relationship, we see evidence in the data to suggest that the legitimacy of the courts' involvement in correctional administration is being questioned by both the administrative elites of the Ohio correctional system and by members of the State judiciary.

This negative appraisal of the courts' legitimacy in corrections has both general and particular consequences for the court. The broader ramifications arise from the courts' role as a legitimizer of government. Petrick suggests:

> The court must be able to establish its authority as being something less than naked power, but something more than advisory influence. This task can be viewed as one of asserting and defending judicial jurisdiction—not only in the legal-procedural sense, but more importantly by garnering attitudinal acceptance for judicial prerogatives from potential legitimizing agencies. For only if and when the Courts' authority is accepted can its role as a 'legitimizing' of other agencies be justified. It would be absurd to assume that one body can validate the authority of other bodies unless the validator itself has received acceptance for its prerogative to perform the validating task. (1968, p. 7-8)

While we are not concerned specifically with the Supreme Court, it is assumed that all courts in the judicial system affect and are affected by responses to the institutions' legitimacy. Any court which attempts to maximize power or other values in the short run often takes
the risk of weakening the court as an institution in the long run. Disagreement or lack of consensus among units (types of courts) as to the legitimacy and propriety of judicial intervention in areas such as corrections also adds to the erosion of "institutional legitimacy."

Recommendations

Corrections is but one publicly mandated institution undergoing intense legal challenge and feeling the effects of judicial activism. It is not alone in its resistance to court intervention. Compliance with court orders in school desegregation cases, police procedures and affirmative action have all been difficult to achieve or maintain. Breed suggests that resentment to court intervention in corrections is so pronounced that there is a lack of voluntary compliance, even when the administrators are in agreement ideologically with court ordered changes. This research suggests that continued court involvement does not lessen negative attitudes toward the court and in fact tends to intensify them.

Still, the fact is that some change, some minimum compliance is being accomplished by court orders which use the courts' coercive power and limited monitoring capacity. The question is at what cost. What effect does court involvement in corrections or other equally resistant institutions have on the courts' overall effectiveness and authority? What impact have the courts had on the quality of corrections' administration and the ability and desire of administrators to maintain constitutional minimums in their institutions. What has been the cost to petitioners and defendants and are they less than the benefits derived from litigation? Even assuming a presumption in favor of prison
and jail reform as a result of court orders, would the accomplishment of those goals be quicker and more stable if pursued by some other means than through the courts?

It has been suggested that judicious use and selection of special masters can provide for the reasonable implementation of orders. They can, in turn, minimize resistance by mediating differences and providing the court with information with which to develop realistic and obtainable goals in the context of political and economic realities. This recommendation assumes that the court remain near its present level of involvement. Others who view the volume of correctional litigation as dysfunctional to both efficient judicial administration and just disposition of cases, recommend reducing the number of frivolous cases and improving the ability of the courts to identify the meritorious cases and fairly adjudicate them. To accomplish this end requires concerted action by the correctional system, the legislature and the courts.

The most desirable correctional response from all points of view might be the implementation of meaningful grievance mechanisms. "Prison administrators themselves are coming to realize the benefits of such a procedure (Turner, 1979)." Besides remedying complaints that might otherwise go to court, a grievance procedure helps administrators to identify trouble spots and potential personnel problems, moderates disruptions by quickly dealing with internal problems, gives the administrator the opportunity to resolve situations before having to defend himself in court, and a grievance procedure has the advantage of being far more economical for the system than litigation. Protracted litigation does not usually serve the needs of the petitioner, the court or the responsible administrator.
The Center for Correctional Justice in Washington developed standards for prison administrative remedies which have been distributed through the National Institute of Law Enforcement and Criminal Justice's "Prescriptive Package" project. Certain principles necessary for an effective internal grievance mechanism have been identified:

1) Some form of independent review by persons outside the correctional structure,

2) participation by both line staff and inmates in the design and operation of the mechanism,

3) short, enforceable time limits for petition and resolution of complaints,

4) written responses with reasons for adverse decisions,

5) advance planning, leadership training, orientation, and evaluation of the mechanism.

In addition to administrative remedies some judges and legislators have proposed an exhaustion of remedy requirement be placed on those who would be petitioners in systems with adequate administrative mechanisms in place (Turner, p. 642). Turner argues that while the exhaustion of remedy requirement would reduce the number of suits filed and improve judicial efficiency by narrowing the issues, it is inappropriate as in-prison mechanisms simply cannot resolve the spectrum of valid prisoner complaints (p. 43).

The appropriate legislative response is no less obvious than enacting legislation and appropriating funds so as to markedly improve prison conditions and reducing prison populations; such support would greatly reduce the number of complaints now before the courts. More
specific legislative alternatives to litigation are proposed as follows:

1) updating the State's archaic institutions, e.g. Mansfield Correctional facility and the Columbus Correctional Institution,

2) create legislative oversight of the correctional system through investigative teams who would routinely scrutinize local and State facilities,

3) promulgate State-wide standards for all State and local correctional facilities to raise them to universally constitutional minimums,

4) appropriate funding necessary to bring correctional institutions up to model standards in all areas including housing, subsistence, medical care, physical activity, treatment and training programs, segregation, personal safety, and disciplinary measures,

5) establish a corrections academy to provide training for rank and file correctional workers,

6) establish a centralized bureau of statistics over all institutional populations. The bureau should have the research capabilities of analyzing and projecting population levels and concomitant needs requiring new or revised legislative action and/or additional resources,

7) develop a systematic community corrections program, assuring that adequate community support services are in place and meet minimum State standards,
8) evaluate sentencing guidelines and statutes as to their impact on inmate population projections and subsequent resource demands,
9) evaluate and revise licensing and permit regulations so that inmate vocational training programs are realistically compatible with State and local employment opportunities.

Postscript: the Fundamental Issues Requiring Further Consideration

This research raises many more questions than it answers. The poignant issue which surfaces is the question of the courts' integrity as a social institution. Corrections is but one area of litigation where court intervention, brought on by the inaction of other governmental institutions, has created an attack on the courts' legitimacy and authority. The resistance to court intervention, so clearly manifest in this research, raises questions about the courts' ability to function. It casts in doubt the very power of the constitution.

This does not argue against the compelling need to raise conditions of confinement to constitutional minimums, or the desirability for inmates to have available an effective system of redress for their grievances. What is argued is that these needs must be balanced against the potential damage to the courts' institutional integrity and its long term effectiveness. One possibility is to explore mechanisms for shifting the burden from the courts' back to other institutions with the capabilities and popular mandate to resolve these social problems.
REFERENCES


Appendix A

Historical Background of the Court's Intervention in Corrections from a Legal Perspective

During the early 1960s and extending to the present time, local, state and particularly Federal appellate courts have tended towards abrogating what traditionally has been referred to as the "hands-off" doctrine relative to issues in correctional administration. "The hands-off doctrine represents a denial of jurisdiction over the subject matter of petitions from prisoners alleging some form of mistreatment or contesting some deprivation undergone during imprisonment" (Yale Law Journal, 1963). The past reluctance of the courts to grant review or relief to alleged deprivations stemmed from the conviction "held with virtual unanimity by the courts that it (was) beyond their power to review the internal management of the prison system" (Bershad, p. 49).

The alleged deprivations are the result of incarceration in a correctional institution. Persons who have violated legal norms of society and been confined in an institution mandated to provide custody, maintenance, discipline and rehabilitation will suffer the inevitable concomitants of prison life. The hands-off doctrine was a rational approach to the extent that this logic prevented review of all such petitions. Inmates, however, do petition for relief of other kinds of deprivations growing out of arbitrary or unduly restrictive regulations and policies as well as inadequate treatment and condition of the physical plant. Under the rubric of the hands-off doctrine, these alleged deprivations were also held non-reviewable by the courts (Place and
Sands, 1972, p. 906). Prior to 1960, the concept of "cruel and unusual punishment" was narrowly construed. Inmates were generally considered outside the substantive protection of the Bill of Rights, Johnson v. Zerbst, 304 U. S. 458 (1938). The Eighth Amendment had not yet been made applicable to the states. Unless due process cases presented to the court were so extreme as to "shock the conscience," Rochin v. California, 342 U. S. 165, 173 (1953), arguments were interpreted conservatively (Place and Sands, p. 906). This was particularly true when applied to acts of correctional officials exercising their discretion. Legal counsel for the corrections departments sufficed to keep most courts away by filing affidavits asserting executive branch management prerogatives and the absence of constitutional causes of action. However, it should be understood that we are not implying that decisions on these concerns were not occurring all along. For examples of some early substantive decisions see re Kemmler, 136 U. S. 436, and Louisiana ex Francis V. Resweber, 329 U. S. 459.

Furthermore, the concept of Federalism influenced the Federal court to refrain from impinging on the transitional domain of the state courts, in which correctional problems had been reviewed.

The Federal courts displayed a special reluctance to intervene in conflicts arising out of conditions in state correctional facilities. This was largely due to an unwillingness to create a forum in the Federal courts for state prisoners which would then implicate the Federal judiciary in the internal management of the state prison system. This was held to be undesirable for several reasons. The principal rationale was that "the separation of powers doctrine required non-intervention," as expressed in the dissent in Johnson v. Avery, 393
U. S. 483 (1969). It was believed that the courts should not impose their authority in an area directed by the executive branch. A formulation found in many Federal court decisions supported this belief: "The prison system is under the administration of the attorney general... and not of the district courts. The court has no power to interfere with the conduct of the prison or its discipline" (Yale Law Review).

A similar argument was advanced by the state courts. The logic, tautological, was that "administrative decisions made by duly appointed authorities are not subject to judicial review because they are administrative decisions and are therefore not subject to judicial review" (Yale Law Review). In addition, the courts were wary of their lack of expertise in corrections upon which to structure their decisions. They also feared that judicial action could threaten the correctional administrator's ability to maintain control over inmate behavior within the institution (Place and Sands, p. 51).

In a very pragmatic sense, one last argument against intervention was based on the courts' fear that they would be inundated with prisoner complaints, thus deploying an excessive portion of judicial resources to the process. This intentional limiting of review was addressed by the Supreme Court of the United States in Price v. Johnston, 334 U. S. 266, 285 (1948), wherein the court held that the rights of persons incarcerated were subject to limitations related to the proper functioning of the penal system. "Lawful incarceration brings about the necessary withdrawal of limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system" (The Journal of Criminal Law, Criminology and Political Science, (1972)). As a result the only legal questions which could be raised
by inmates were those relevant to the validity of their incarceration, i.e., sentence review, and not to the conditions of the institution. However, although limits were maintained in Price, the court was sensitive to the inmates' rights to standing. By Morrisey v. Brewer, 1972, the courts were reviewing a wide range of complaints including, as in this case, the right to a hearing prior to being returned to prison.

The swing from the non-intervention posture of the Federal judiciary based on the doctrine of Federalism became evident in Monroe v. Pape, 365 U. S. 167 (1961), which held that exhaustion of state court remedies was not a prerequisite to Federal jurisdiction over Civil Rights Act claims. Further "the court held that deprivations of constitutional rights by state officials came within the meaning of 'under color of' state law, even though the officials' unconstitutional conduct was not authorized by state law. Thus, section 1983, the scope of which is determined by reference to the measure of rights accorded under the Fourteenth Amendment, provided a meaningful jurisdictional basis for Federal review of a broad range of previously insulated state actions (Corrections Today, 1979, p. 37).

The trend of the 60's through the mid 70's indicated that in most serious cases involving internal prison matters, Federal courts did not hesitate to assume jurisdiction "and decide issues such as the rights of prisoners and the legitimacy of treatment afforded them" by correctional authorities (Spiller and Harris, pp. 12-14, Fox, 1972, p. 163). If it is determined that such rights have been abridged, then the courts have granted relief in various traditional and non-traditional forms. By that we mean that not only have remedies included injunctions
precluding correctional officials from specific illegal actions, but have awarded damages to inmates, ordered specific actions to commence, and even closed some correctional facilities (p. 14).

We note, however, that very recent correctional cases ruled on by the U. S. Supreme Court have been interpreted by some critics as a "laying on of (the) Hands-Off" doctrine (Corrections Today, p. 28). Decisions in cases such as Meachum v. Fano, 427 U. S. 215 (1976), Jones v. North Carolina Prisoner's Union, Inc. 97 S. Ct. (1977), and Bell v. Wolfish, (No. 77-1829, 1979) certainly reflect a moderation in the trend toward abrogation of the hands-off doctrine.

The New York Times (5/15/79) reported that the Court's admonishment of lower Federal judges "for allowing themselves to be enmeshed in the minutiae of prison operations" in Bell v. Wolfish was a signal "that the Court is not happy with the burgeoning field of prisoner's rights litigation," (Corrections Today, p. 28).
Appendix B

Judge's survey:

(1) Name (optional)________________________(2) Position ______________

(3) Time in position______years.

(4) Type of court___________ (5) County located in_____________________

(6) Number of cases you've heard involving the administration of a 
correctional institution? State institutions____,
County institutions____, Municipal institutions____.

(7) Number of dispositions in favor of the institution: State____,
County____, Municipal____

139
Administrator's survey:

(1) Name (optional) ____________________________
(2) Position ____________________________
(3) Time in position ___________ years. (4) Prior position ____________________________
(5) Type of institution: State____, County____, Municipal
(6) Type of custody: Minimum security____, Medium security____, Maximum security____, Mixed security____
(7) Type of inmates: Male____, Female____, Mixed____
(8) Adult____, Juvenile____

(9) Degree of personal autonomy in making administrative decisions:
   a. Programs High____, Medium____, Low____
   b. Rules and Regulations High____, Medium____, Low____
   c. Budget Allocations High____, Medium____, Low____
   d. Staffing High____, Medium____, Low____

(10) Number of administrative superiors that you are directly accountable to ____________.

(11) Have you been personally named in a correctional law suite? Yes____
     No____

(12) If yes, how many cases were decided in your favor____; how many against____?
CORRECTIONAL ADMINISTRATION SCALE

<table>
<thead>
<tr>
<th></th>
<th>strongly agree</th>
<th>agree</th>
<th>disagree</th>
<th>strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Judicial review of administrative acts within correctional institutions is highly desirable.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SD)</td>
</tr>
<tr>
<td>2. The legislature willingly provides funds necessary for institutional administrators to comply with court orders.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SD)</td>
</tr>
<tr>
<td>3. Court involvement in the administration of corrections has produced beneficial changes for most institutions.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SD)</td>
</tr>
<tr>
<td>4. The public generally supports court ordered changes in the administration of correctional institutions.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SD)</td>
</tr>
<tr>
<td>5. Public monies spent on court ordered changes in correctional administrative practices could have been used more wisely for other purposes.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SD)</td>
</tr>
<tr>
<td>6. Institutional administrators often find it difficult to obtain the necessary cooperation of the institution's staff for compliance with a court order.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SD)</td>
</tr>
<tr>
<td>7. Courts are too ready to interfere with the administration of corrections.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SA)</td>
</tr>
<tr>
<td>8. There really isn't much the courts can do to force correctional officials to comply with court orders.</td>
<td>(SA)</td>
<td>(A)</td>
<td>(D)</td>
<td>(SD)</td>
</tr>
</tbody>
</table>
9. The court is a proper source for directing administrative change in correctional institutions

10. Court orders generally require financial expenditures that are beyond the institutional administrators power to obtain

11. The courts should adopt more of a hands-off policy towards prisoners' rights cases.

12. The legislature is generally unsupportive of court ordered changes in correctional administration.

13. Judicial review of internal prison policy has detrimental effects on custody and discipline.

14. The penalties for non-compliance with court orders are severe enough that most correctional officials would rather comply than suffer the sanctions.

15. Court decisions mandating changes in policy areas have been generally beneficial to correctional administrators.

16. Administrative superiors (above the institutional level) willingly provide resources necessary for institutional administrators to comply with court orders.

17. Correctional officials have little chance of protecting their personal interest when involved in correctional litigation.

18. It is the professional obligation of correctional administrators to obey court orders.

19. The courts' meddling in the administrative affairs of corrections is unwarranted on the basis of law.
20. It is not the general public, but pressure groups (A.C.L.U., N.A.A.C.P., etc.) who are calling for changes in corrections administration.

21. Judges seldom understand a correctional case well enough to make a really just decision.

22. Court sanctions for non-compliance rarely affect the institutional administrator in corrections.

23. Judges have shown considerable skill and ability in settling correctional disputes.

24. Courts just do not have the necessary power to see to it that their decisions are complied with.

25. Administrators are so regimented by court decisions today, that there is not much room for individual decision-making in corrections.

26. If you read some of the court orders handed down recently, you'd think judges had never talked to a correctional official before making their decisions.

27. It is not difficult for an institutional administrator to get around strict adherence to a court order without suffering any severe penalties.

28. Judges generally respond positively to the problems of the correctional administrator.

29. Court ordered relief often goes beyond the legitimate concerns of the court.
30. The court generally allows the institutional administrator a high degree of participation in the court ordered formulation process.

31. There would be little progress in correctional administration without court intervention.

32. The administration of corrections is generally in need of reform.
Please check the appropriate response, or fill in your own response:

1. If a court in your jurisdiction rules against another institution holding similar procedures to yours unconstitutional and ordering changes, you would most likely:
   a. Make changes in line with the court's order even though your institution had not been legally challenged.
   b. Not do anything until someone in your institution filed suit.
   c. Not make any changes unless directly ordered by the court.
   d. (optional response) ________________________________

2. When a court orders administrative changes in a correctional facility, correctional administrators generally would:
   a. Resist taking action if they did not agree with the decision.
   b. Accept the decision as law and do what was minimally necessary.
   c. Accept the decision and comply fully whether they agreed with it or not.
   d. (optional response) ________________________________

3. If the court ordered administrative changes in your institution, which you felt were wrong, would you most likely:
   a. Suggest an appeal.
   b. Only minimally comply with it.
   c. Not do anything until you were forced to comply.
   d. Comply with it fully.
   e. (optional response) ________________________________
Does your institution have written rules and regulations for the disciplinary process? yes____ no____

If yes, would you please enclose a copy with your response.

Thank you for your kind assistance.
Appendix C

Tests of correlation Between the Affect Favorableness Toward Court Intervention and the Other Twelve Dimensions of the Attitude Survey:

To test the salience of popularly ascribed correlates of a favorable, and potentially receptive posture, to court intervention, dimension one was tested against each of the subsequent dimensions. These relationships were subjected to further analysis controlling for certain distinguishing attributes within the larger population. Using bivariate analysis the magnitude and direction of each relationship is described. By introducing multivariate analysis the replication or partial replication of these relationships are tested.

This analysis will primarily discuss data collected from correctional administrators, noting relevant comparisons among judges.

The test for association of dimension one, favorableness, and dimension two, coercion, in the population yielded a null result. Subsequent tests controlling for level of government affiliation, involvement in litigation and prior profession did not reveal any masked associations. However, one should at least tentatively note the direction and measure of association which suggests a moderate negative relationship between the two dimensions. These findings correspond to the organizational literature which suggests that when coercion is employed as the basis for influence, "P will not privately accept O's standards even though he may conform publicly" (Cartwright, p. 30).
Table 18

Dimension one, favorableness, by dimension two, coercion among correctional administrators

<table>
<thead>
<tr>
<th>Dimension One</th>
<th>Dimension Two</th>
<th>Cor. $X^2 = .66314$ 1df</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>negative</td>
<td>36.8%</td>
<td></td>
</tr>
<tr>
<td>positive</td>
<td>63.2%</td>
<td></td>
</tr>
<tr>
<td>(9)</td>
<td>(9)</td>
<td>(71)</td>
</tr>
</tbody>
</table>

Similarly, a test for association between dimension one and dimensions three and five (legislators' and superiors' willingness to provide resources necessary to compliance) displays no statistically significant results either within the aggregate population, or within sub-groups. The measures of association, gamma equals 0.01276 and 0.05178 respectively, are almost zero further supporting the null hypothesis.

However, the third and most direct measure of perceived ability to comply, dimension four (belief that court orders demand financial expenditures beyond administrators' ability to obtain) does show a moderately high measure of association, gamma equals 0.49933. While the null hypothesis cannot be rejected (Sig. = 0.1236) within the aggregate population, when tested on county respondents, the trend was replicated and at a significance level of 0.03.

A similar association between the two dimensions was found to exist within the aggregate judge population. This suggests that judges also consider ability to comply as a prime factor in the desirability of court intervention. The measure of association was Gamma equals 0.74239 and the null hypothesis could be rejected at the .01 level.
It was suggested by Wasby (note Chapter 3) that administrators often use the excuse of practical limitations to compliance to cover up philosophical resistance. However, while that may be the case, our data does suggest a definite perception of resource dependence and limits; and, that there is an association between that perception and attitudes toward court intervention. In addition to the empirical data, comments gleaned from administrators suggest funding to be the primary reason and/or excuse for non-compliance with court orders. Note the following:

The holding facility located in this county cannot possibly meet requirements set forth by the State. Although changes for the comfort of prisoners are recognized as being needed, many rural counties with limited funds find it increasingly difficult to comply with standards. Money seems to be (the) main subject which limits the things holding facilities can do. (Note 3)

So often change is a money item and this is where the problem lies. We all agree to change but we administrators are caught in the middle of orders to change without assistance to accomplish the order relating to money matters. (Note 9)

There appears at first blush to be a relatively strong association between favorableness toward court intervention and the perceived opinion or posture of significant others, i.e., staff, legislators and the public. However, closer examination discloses the true association to be between perceived public opinion and favorableness, while no association appears to exist between favorableness and the other two items in the index.
Table 19
Dimension one by public support for court intervention among correctional administrators

<table>
<thead>
<tr>
<th>Dimension One</th>
<th>Public Support</th>
<th>Cor. $X^2$ = 6.35383 1df</th>
<th>Sig. = 0.0117</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
<td>High</td>
<td></td>
</tr>
<tr>
<td>negative</td>
<td>68.3%</td>
<td>35.1%</td>
<td></td>
</tr>
<tr>
<td>positive</td>
<td>31.7</td>
<td>64.9</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(57)100.0%</td>
<td>(23)100.0%</td>
<td></td>
</tr>
</tbody>
</table>

These results were replicated for both county and municipal administrators when controlling for level of government affiliation. State responses showed no association between the two variables.

Legitimacy of court intervention, dimension seven, is among the traditionally hypothesized correlates with the more general affect favorableness. When tested on the aggregate population the null hypothesis was rejected at a .03 level of significance, with a moderate measure of association, Gamma equals 0.47959. However, when sub-groups were separated on level of government affiliation the trend was replicated among county and municipal administrators, but indicated a negative association among State correctional administrators.

Judges in the aggregate responded strongly to the classical correlates. Legitimacy and general favorableness displayed a strong positive measure of association, Gamma equals 0.88651, and the null hypothesis was rejected at 0.0000.

Similarly the measure of association between dimension eight, the courts' expertise, and favorableness among judges was high (Gamma equals 0.70426). The null hypothesis was rejected at the .005 level of significance.
Administrators also yielded a fairly high positive measure of association when tested on dimension one by dimension eight. Gamma equaled 0.64415 and the null hypothesis of no association was rejected at 0.0103 level of significance. The trend was replicated among county and municipal administrators, but again, not among State officials.

The results of tests between dimension one and dimension nine, which seeks to gauge the administrators' perception of the effect of court intervention on his self-interest, are very similar to the two preceding variable tests.

Table 20

Dimension one by dimension nine, self-interest, among correctional administrators

<table>
<thead>
<tr>
<th>Dimension One</th>
<th>Self-interest of the administrator</th>
<th>Cor. $X^2 = 4.43160$ 1df</th>
<th>Sig. = 0.0353</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Negative</td>
<td>Positive</td>
<td></td>
</tr>
<tr>
<td>negative</td>
<td>63.0%</td>
<td>32.4%</td>
<td></td>
</tr>
<tr>
<td>positive</td>
<td>37.0</td>
<td>67.6%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(62)100.0%</td>
<td>(19)100.0%</td>
<td></td>
</tr>
</tbody>
</table>

When sub-groups were examined the association was replicated among county administrators (Sig. = 0.07, Gamma = 0.66433) and municipal administrators (Fisher's Exact Test = 0.08271, Gamma = 1.000). Again tests controlling for State officials showed minimal association, their responses skewed to the negative.

Judges' responses also suggest a highly correlated association within the aggregate population between favorableness toward court intervention and the effect on administrators' personal interest (Gamma =
0.77312, Sig. = 0.0008). One might attribute a portion of this association to the judicial norm of impartiality, which suggests that self-interest should not be unduly affected if rulings are impartial and equitable. This explanation is supported by the following comment received from a responding judge:

I do not make decisions to favor anyone or anything; but I do strive to uphold my oath of office to uphold the U.S. and Ohio Constitutions and to 'administer justice without respect to persons agreeable to the best of my ability and understanding' and to exercise such judgment as I am able fairly, impartially and independently. In the case referred to I acted on a prisoner's letter indicating the Sheriff was not following my rules for the county jail. The Sheriff requested a hearing and after a full hearing in open court I was persuaded that there was no valid basis for the complaint made. I wrote a formal opinion and no doubt our Sheriff will provide you a copy if you ask him for one. (Note 7)

Dimension ten, belief in a high degree of participation allowed administrators in the courts' decision-making process, demonstrated the strongest measure of association with dimension one.

Table 21

<table>
<thead>
<tr>
<th>Dimension One</th>
<th>Degree of Participation</th>
<th>Cor. X² = 8.37911 1df</th>
<th>Gamma = 0.82107</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>High</td>
<td>Sig. - 0.0038</td>
<td>n = 79 (weighted data)</td>
</tr>
<tr>
<td>negative</td>
<td>64.9%</td>
<td>15.4%</td>
<td>84.6%</td>
</tr>
<tr>
<td>positive</td>
<td>35.1%</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(12)100.0%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Fisher's Exact Test (0.02980) on municipal administrators replicated the association, displaying a perfect association (Gamma = 1.0000). The trend was replicated among county officials, but not among State administrators.
Judges' responses on participation allowed administrators also correlated highly (Gamma = 0.7873) with their responses on dimension one. The alternative hypothesis that the two dimensions are associated within the population was accepted at the .001 level of significance.

No correctional administrator who disagreed with the professional obligation to comply, dimension eleven, held a favorable opinion of court intervention. While the test produced a Gamma = 1.0007, the null hypothesis could not be rejected (Sig. = 0.1236). Similarly no relationship appeared when correctional administrators were distinguished according to level of government affiliation. This suggests support for the assumption that felt obligation is a unidimensional variable but not unrelated to an individual's emotional response to a specific given object. It may, however, be more strongly related to a larger or more complex value dimension which we have not measured in this study.

Cautiously, we might couple professional obligation to correctional administrators' traditional style of leadership and the role expectations of correctional and police personnel. Certainly one could reason that persons who are daily concerned with compliance to laws or rules by those under their supervision or jurisdiction would adopt a similar mindset for their own actions.

Dimension twelve, belief in judges' responsiveness to the needs and problems of the administrator, is also a classical correlate to favorableness. The relationship within the aggregate administrators' population is positive and statistically significant at the 0.02 level. The measure of association, Gamma, equals 0.56633. The association is replicated at the county level, Sig. = .05, Gamma = 0.64706 and the trend is replicated at the municipal level. State administrators again differ from their colleagues. Their responses are negatively skewed.
Finally, dimension thirteen, corrections is in need of reform, demonstrates no relationship at all with attitudes toward court intervention, either among the aggregate population of sub-groups.

In summary, elaboration techniques disclosed that when the aggregate population of administrators were distinguished by level of government affiliation, many of the hypothesized associations between dimension one and subsequent dimensions could only be partially replicated. That is, only among county and municipal administrators did classical correlates hold up. When the tests were applied to State administrators, no measurable association could be found between the variables in that sub-population. Trends which did exist among State officials were generally negative correlations, suggesting even where court intervention was accepted, little of it could be explained by the traditional influence correlates.
### Appendix D

### Table 22

Comparison of aggregate responses on the affect dimension, favorableness, by judges and correctional administrators

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th></th>
<th>Group</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly</td>
<td>5.2</td>
<td>5.0</td>
<td>5.0</td>
<td>5.0%</td>
</tr>
<tr>
<td>negative</td>
<td>35.9</td>
<td>51.8</td>
<td>36.7</td>
<td>55.0</td>
</tr>
<tr>
<td>positive</td>
<td>55.2</td>
<td>43.1</td>
<td>55.0</td>
<td>40.0</td>
</tr>
<tr>
<td>strongly</td>
<td>3.7 (64)100.0%</td>
<td>0.0 (80)100.0%</td>
<td>3.3 (60)100.0%</td>
<td>0.0 (80)100.0%</td>
</tr>
<tr>
<td>positive</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\[ X^2 = 6.1569 \quad 3 \text{df} \]

\[ \text{Sig.} = 0.1109 \]

\[ V = 0.20443 \]

\[ n = 144 \quad (\text{weighted data}) \]

\[ X^2 = 6.77264 \quad 3 \text{df} \]

\[ \text{Sig.} = 0.0795 \]

\[ V = 0.21995 \]

\[ n - 14 \quad (\text{unweighted data}) \]

155
Table 23
Comparison of aggregate responses by judges and correctional administrators on the courts' ability to compel compliance

<table>
<thead>
<tr>
<th>Response</th>
<th>Judge Group</th>
<th>Administrator Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>strongly disagree</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>disagree</td>
<td>26.0</td>
<td>10.3</td>
</tr>
<tr>
<td>agree</td>
<td>73.3</td>
<td>80.7</td>
</tr>
<tr>
<td>strongly agree</td>
<td>0.8 (62)</td>
<td>9.0 (79)</td>
</tr>
</tbody>
</table>

X² = 9.66965 2 df  
Sig. = 0.0079  
V = 0.26204  
n = 141 (weighted data)

Table 24
Comparison of the aggregate responses of judges and correctional administrators on the willingness of the legislature to provide funds

<table>
<thead>
<tr>
<th>Response</th>
<th>Judge Group</th>
<th>Administrator Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>strongly disagree</td>
<td>37.3%</td>
<td>42.0%</td>
</tr>
<tr>
<td>disagree</td>
<td>52.3</td>
<td>33.0</td>
</tr>
<tr>
<td>agree</td>
<td>10.4</td>
<td>10.3</td>
</tr>
<tr>
<td>strongly agree</td>
<td>0.0 (55)</td>
<td>14.7 (80)</td>
</tr>
</tbody>
</table>

X² = 11.24624 3df  
Sig. = 0.0105  
V = 0.26204  
n = 135 (weighted data)

X² = 7.09044 2 df  
Sig. = 0.0289  
V = 0.22667  
n = 138 (unweighted data)
Table 25
Comparison of the aggregate response of judges and correctional administrators on court required expenditures

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th></th>
<th>Group</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly agree</td>
<td>13.7</td>
<td>31.2%</td>
<td>12.3%</td>
<td>31.6%</td>
</tr>
<tr>
<td>agree</td>
<td>55.5</td>
<td>50.6</td>
<td>54.4</td>
<td>49.4</td>
</tr>
<tr>
<td>disagree</td>
<td>27.2</td>
<td>17.0</td>
<td>29.8</td>
<td>17.7</td>
</tr>
<tr>
<td>strongly disagree</td>
<td>3.7</td>
<td>1.2</td>
<td>3.5</td>
<td>1.3</td>
</tr>
</tbody>
</table>

\[
\begin{align*}
X^2 & = 7.08297 \quad 3df \\
\text{Sig.} & = 0.0693 \\
V & = 0.22639 \\
n & = 138 \text{ (weighted data)}
\end{align*}
\]

Table 26
Comparison of aggregate responses of judges and administrators on the willingness of administrative superiors to provide resources necessary to compliance with court orders

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th></th>
<th>Group</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly disagree</td>
<td>8.1%</td>
<td>16.4%</td>
<td>10.2%</td>
<td>14.3%</td>
</tr>
<tr>
<td>disagree</td>
<td>70.7</td>
<td>58.7</td>
<td>67.3</td>
<td>55.8</td>
</tr>
<tr>
<td>agree</td>
<td>19.2</td>
<td>23.7</td>
<td>20.4</td>
<td>28.6</td>
</tr>
<tr>
<td>strongly agree</td>
<td>1.9</td>
<td>1.2</td>
<td>2.0</td>
<td>1.3</td>
</tr>
</tbody>
</table>

\[
\begin{align*}
X^2 & = 2.71724 \quad 3df \\
\text{Sig.} & = 0.4783 \\
V & = 0.14499 \\
n & = 129 \text{ (weighted data)}
\end{align*}
\]

\[
\begin{align*}
X^2 & = 1.93934 \quad 3df \\
\text{Sig.} & = 0.5851 \\
V & = 0.12406 \\
n & = 126 \text{ (unweighted data)}
\end{align*}
\]
Table 27
Comparison of the aggregate responses of judges and correctional administrators on external support for court intervention in corrections

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly disagree</td>
<td>6.6%</td>
<td>7.0%</td>
</tr>
<tr>
<td>disagree</td>
<td>71.0</td>
<td>61.1</td>
</tr>
<tr>
<td>agree</td>
<td>21.8</td>
<td>31.9</td>
</tr>
<tr>
<td>strongly agree</td>
<td>0.0</td>
<td>0.0</td>
</tr>
</tbody>
</table>

\(X^2 = 1.94518\) 2df
not significant
\(V = 0.11625\)
\(n = 144\) (weighted data)

\(X^2 = 1.96596\) 2df
not significant
\(V = 0.11850\)
\(n = 140\) (unweighted data)

Table 28
Comparison of the aggregate responses of judges and correctional administrators relating to the legitimacy of court intervention in corrections

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly disagree</td>
<td>10.2%</td>
<td>13.6%</td>
</tr>
<tr>
<td>disagree</td>
<td>30.9</td>
<td>59.4</td>
</tr>
<tr>
<td>agree</td>
<td>49.1</td>
<td>24.5</td>
</tr>
<tr>
<td>strongly agree</td>
<td>9.8</td>
<td>2.5</td>
</tr>
</tbody>
</table>

\(X^2 = 15.36401\) 3df
Sig. = 0.0015
\(V = 0.33212\)
\(n = 139\) (weighted data)

\(X^2 = 14.28455\) 3df
Sig. = 0.0025
\(V = 0.32529\)
\(n = 135\) (unweighted data)
Table 29

Comparison of aggregate responses of judges and correctional administrators on the belief that the court possesses expertise in settling correctional disputes

<table>
<thead>
<tr>
<th>Response</th>
<th>Judge</th>
<th>Administrator</th>
<th>Group</th>
<th>Judge</th>
<th>Administrator</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>strongly disagree</td>
<td>7.7%</td>
<td>18.5%</td>
<td>8.8%</td>
<td>17.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>disagree</td>
<td>30.8</td>
<td>53.7</td>
<td>35.1</td>
<td>55.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>agree</td>
<td>56.0</td>
<td>27.8</td>
<td>52.6</td>
<td>27.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>strongly agree</td>
<td>5.5</td>
<td>0.0</td>
<td>3.5</td>
<td>0.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\[ X^2 = 17.39102 \text{ 3df} \]
\[ \text{Sig.} = 0.006 \]
\[ V = 0.36055 \]
\[ n = 134 \text{ (weighted data)} \]

Table 30

Comparison of aggregate responses of judges and correctional administrators on the belief that court intervention negatively affects administrators' self interest

<table>
<thead>
<tr>
<th>Response</th>
<th>Judge</th>
<th>Administrator</th>
<th>Group</th>
<th>Judge</th>
<th>Administrator</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>strongly agree</td>
<td>0.9%</td>
<td>13.7%</td>
<td>1.7%</td>
<td>13.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>agree</td>
<td>39.8</td>
<td>66.9</td>
<td>42.4</td>
<td>62.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>disagree</td>
<td>58.5</td>
<td>23.2</td>
<td>54.2</td>
<td>24.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>strongly disagree</td>
<td>0.8</td>
<td>0.0</td>
<td>1.7</td>
<td>0.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\[ X^2 = 22.43678 \text{ 3df} \]
\[ \text{Sig.} = 0.0001 \]
\[ V = 0.39831 \]
\[ n = 141 \text{ (weighted data)} \]
Table 31

Comparison of aggregate responses of judges and correctional administrators on the belief that the court allows a correctional administrator a high degree of participation in the court decision making process

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly disagree</td>
<td>12.5%</td>
<td>27.7%</td>
</tr>
<tr>
<td>disagree</td>
<td>45.7</td>
<td>57.7</td>
</tr>
<tr>
<td>agree</td>
<td>37.6</td>
<td>14.5</td>
</tr>
<tr>
<td>strongly agree</td>
<td>4.3</td>
<td>0.0</td>
</tr>
</tbody>
</table>

n = 133 (weighted data)

n = 131 (unweighted data)

\[
X^2 = 14.88485 \quad 3\text{df} \quad \text{Sig.} = 0.0019 \\
V = 0.33432 \\
n = 133 \quad \text{(weighted data)}
\]

\[
X^2 = 15.75433 \quad 3\text{df} \quad \text{Sig.} = 0.0013 \\
V = 0.34679 \\
n = 131 \quad \text{(unweighted data)}
\]

Table 32

Comparison of aggregate responses of judges and administrators on the belief that it is the professional obligation of the correctional administrator to comply with court orders

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly disagree</td>
<td>0.0%</td>
<td>0.8%</td>
</tr>
<tr>
<td>disagree</td>
<td>0.0</td>
<td>5.2</td>
</tr>
<tr>
<td>agree</td>
<td>60.7</td>
<td>80.5</td>
</tr>
<tr>
<td>strongly agree</td>
<td>39.3</td>
<td>13.5</td>
</tr>
</tbody>
</table>

n = 141 (weighted data)

n = 137 (unweighted data)

\[
X^2 = 14.98136 \quad 3\text{df} \quad \text{Sig.} = 0.0018 \\
V = 0.33432 \\
n = 141 \quad \text{(weighted data)}
\]

\[
X^2 = 15.68583 \quad 3\text{df} \quad \text{Sig.} = 0.0013 \\
V = 0.33837 \\
n = 137 \quad \text{(unweighted data)}
\]
Table 33
Comparison of aggregate responses of judges and correctional administrators pertaining to the belief that the court is responsive to the needs and problems of the correctional administrator

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly</td>
<td>6.8</td>
<td>15.0%</td>
</tr>
<tr>
<td>disagree</td>
<td>33.6</td>
<td>56.2</td>
</tr>
<tr>
<td>agree</td>
<td>58.8</td>
<td>25.5</td>
</tr>
<tr>
<td>strongly</td>
<td>0.8</td>
<td>3.4</td>
</tr>
<tr>
<td>disagree</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

\[ X^2 = 15.40696 \text{ 3df} \]
\[ \text{Sig.} = 0.0015 \]
\[ V = 0.34144 \]
\[ n = 132 \text{ (weighted data)} \]

\[ X^2 = 16.22701 \text{ 3df} \]
\[ \text{Sig.} = 0.0010 \]
\[ V = 0.35330 \]
\[ n = 130 \text{ (unweighted data)} \]

Table 34
Comparison of aggregate responses of judges and correctional administrators on the belief that corrections is in need of reform

<table>
<thead>
<tr>
<th>Response</th>
<th>Group</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Judge</td>
<td>Administrator</td>
</tr>
<tr>
<td>strongly</td>
<td>25.6%</td>
<td>10.3%</td>
</tr>
<tr>
<td>agree</td>
<td>54.8</td>
<td>66.3</td>
</tr>
<tr>
<td>disagree</td>
<td>19.6</td>
<td>21.8</td>
</tr>
<tr>
<td>strongly</td>
<td>0.0</td>
<td>1.6</td>
</tr>
<tr>
<td>disagree</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

\[ X^2 = 6.53956 \text{ 3df} \]
\[ \text{Sig.} = 0.0881 \]
\[ V = 0.21721 \]
\[ n = 139 \text{ (weighted data)} \]

\[ X^2 = 8.81756 \text{ 3df} \]
\[ \text{Sig.} = 0.0318 \]
\[ V = 0.2557 \]
\[ n = 135 \text{ (unweighted data)} \]
Appendix E

BEHAVIORAL TENDENCY COMPONENT

A dilemma that must be addressed by most would-be index constructors is the frequent failure of external items to validate the index. If internal item analysis shows inconsistent relationships between the items included in the index and the index itself, the index is considered to be unreliable. But if the index fails to correlate with the external validation items, the conclusion to be drawn is more ambiguous. The researcher must choose between two possibilities: (1) the index does not adequately measure the variable in question, or (2) the validation items do not adequately measure the variable and thereby do not provide a sufficient test of the index.

Unfortunately, in this instance there is a possibility that both errors are true. The external measure of validation, developing rules and regulations for discipline, appears to be an indirect measurement of the impact of court litigation on correctional administrators, but not a valid or useful indicator for which it was intended, i.e., the degree of correctional administrators' willingness to comply with court orders. There seems no good indicator of this willingness beyond that which is self-reported (an indicator we know to be subject to all forms of distortion and mischief) personal observation, which is beyond the limitations of this research, and other reported attempts to comply with court orders such as court records of good-faith.

162
Returning to the internal validity of the index itself, we also find difficulties. The behavioral variables (1) personal willingness, V15, and (2) others' willingness, V16, are only moderately associated. Gamma equals 0.48262 and the association cannot be accepted statistically (P = .10). The association is even weaker between V15 and a second measure of personal willingness, V17. The relationship between V16 and V17 appears much stronger; however, it is greatly obscured and made untestable by the unfortunate use of the option "to appeal" in the response set. Finally, there are no associations between any responses to measures of willingness and whether or not the administrator indicated that his respective institution has written rules and regulations for disciplinary action.

Another major obstacle in interpreting dispositional responses is the concept of role response. That is a distortion of responses in the interest of presenting a certain picture of the self consistent with a view of what is an acceptable response for their position. This response is one made in lieu of private feelings (Cook and Selitz, p. 32). Role response was ameliorated to some extent by (1) offering anonymity, and (2) placing the question in the context of different situations with differing thresholds (Cook and Selitz, p. 33). For example V15 and V17 asked how the administrator would personally respond while V16 asked how other administrators would probably respond. The discrepancy between the two measures would suggest how much distortion was involved in the response. The data shows that those (66.9%) who responded that others were likely to be unwilling to comply on V16 indicated a high personal willingness to comply on V15, thus leaving only 33.1 percent who described
similar negative tendencies to themselves as well as to others. A situation that might occur in order to justify a negative and possibly objectionable posture. The congruency was higher among those who ascribed willingness to others as well as to themselves. Eighty-Five percent of those who answered positively to V16 answered similarly to V15. If we cautiously discount the "I would appeal" response to V17 and look at more interpretable positive and negative responses, we have a very consistent response pattern on V16 and V17 and a very similar response pattern between V15 and V17 as shown between V15 and V16. Those indicating a high willingness to comply consistently displayed that posture on all three items.

While the items unfortunately cannot be aggregated into an index, the individual items do display enough face validity sufficient to allow testing the hypothesis pertaining to attitudes, contextual characteristics and dispositional tendencies.

Variable 16 has been selected as the predominant measure of willingness to comply as it does not suggest, at least on the surface, the complications inherent in teasing out the influence of response to distortions likely to be present in V15. (For analysis of V16 see Chapter 4.)

Analysis of Personal Willingness to Comply, V15

The personal measure, V15 is derived from the following survey item:

If a court in your jurisdiction ruled against another institution holding similar procedures to yours unconstitutional and ordering changes, you would most likely:

a. ___ make changes in line with the court's order even though your institution had not been legally challenged.

b. ___ not do anything until someone in your institution filed suit.

c. ___ not make any changes unless directly ordered by the court.
The median responses to V15 by administrators at each level of government affiliation was positive; State - 2.833, county - 2.879, and municipal - 2.786. This pattern did not change when distinguished by inmate's age or by involvement in litigation except in the instance where the administrator and perceived receiving an unfavorable disposition from the court. In this case the administrator was unwilling to comply with a court order.

Obviously, the hasty conclusion is that correctional administrators are, in general, favorably disposed toward compliance. This behavioral tendency is independent of any inconsistency in their attitudes. However, as suggested earlier in this section, this conclusion is suspicious in light of the possibility of response distortion, discrepancies in the response pattern with V16 and V17, and the lack of consistency with any reported beliefs or feelings. Another possibility is always that it is just a poor measure, but even a weak indicator should have demonstrated some association if not systematically biased in some way.

There is, in fact, one contextual variable which when tested against V15 indicates a perceptible and consistent trend. When we look at those who claim willingness to comply by perceived job autonomy, we note that those having the lowest perceived administrative autonomy are the least willing to comply. It may very well be that the realities of the inability for self-initiated compliance with court orders moderated the role response to V15. It also lends support to the association noted in the analysis of V16 between staff cooperation and willingness to comply.
Table 35*

V15, personal willingness to comply by perceived administrative autonomy

<table>
<thead>
<tr>
<th>Perceived Autonomy</th>
<th>High (n)</th>
<th>Medium (n)</th>
<th>Low (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget</td>
<td>(15) 73.3</td>
<td>(31) 87.1</td>
<td>(30) 66.7</td>
</tr>
<tr>
<td>Rule</td>
<td>(43) 76.7</td>
<td>(30) 80.0</td>
<td>(2) 50.0</td>
</tr>
<tr>
<td>Program</td>
<td>(47) 72.3</td>
<td>(25) 92.0</td>
<td>(3) 33.3</td>
</tr>
<tr>
<td>Staffing</td>
<td>(25) 84</td>
<td>(31) 77.4</td>
<td>(19) 68.4</td>
</tr>
</tbody>
</table>

* unweighted data

In addition, only those administrators reporting no administrative superiors had a null cell in the less willing to comply response.

The only times the general posture of the majority of administrators changed on this item was (1) when they were distinguished by believing that they had received an unfavorable disposition in litigation (72 percent were unwilling to comply as compared to 28 percent who were willing); and (2) among those who administered minimum custody facilities (67 percent indicated unwillingness as compared to 33 percent who said they were willing). Minimum custody facilities are less likely to be threatened by court action and most likely to be on the municipal level, indicating a similarity between this data and Dolbeare's (1971, p. 136) findings: "with the prospect of no rewards and few punishments, local elements were especially free to exercise their own discretion."
Analysis of V17, Personal Willingness to Comply with Court Orders:

The last item which attempts to measure the behavioral tendency of the administrator is V17 which asks the following:

If the court ordered administrative changes in your institution, which you felt were wrong, you would most likely:

a. suggest an appeal.
b. only minimally comply with it.
c. not do anything until you were forced to comply.
d. comply with it fully.

Seventy-two percent of all correctional officials said they would file an appeal against a court order that they thought unfair. Ninety-four percent of State administrators chose appeal as the appropriate response as compared to 72% of the county administrators and seventy-six percent of the municipal officials. Persons involved in law suits in all three levels of government indicated appeal as the best choice to circumvent a bad ruling. This might suggest that those with court experience are more aware of legal options for disputing unwanted court orders, but says nothing in support of the use of appeal to circumvent court orders in general. Possibly with different emphasis in the situational framework of the question some insight may have been gained into that aspect as well.
Table 36

V17 by involvement in correctional litigation

<table>
<thead>
<tr>
<th>Responses V17</th>
<th>Involved in Litigation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>yes</td>
</tr>
<tr>
<td>appeal</td>
<td>90.6%</td>
</tr>
<tr>
<td>less willing</td>
<td>4.7</td>
</tr>
<tr>
<td>more willing</td>
<td>4.7</td>
</tr>
<tr>
<td></td>
<td>(26)100.0%</td>
</tr>
</tbody>
</table>

$X^2 = 4.48740 \quad 2\text{df}$

$V = 0.24306$

$n = 77$ (weighted data)

$X^2 = 5.23254 \quad 2\text{df}$

$V = 0.26239$

$n = 76$ (unweighted data)

Analysis of Response to Institutional Rules and Regulations

Finally, while we cannot use the measure of whether or not an institution has written rules and regulations for the disciplinary process as external validator of self-reported willingness to comply, it does offer certain information which should be shared.

Eighty percent of State administrators reported that their facilities had written rules as compared to 83.8% of county institutions and 62 percent of municipal institutions. All State and county administrators who reported personal involvement in litigation, reported having written rules and regulations.
Table 37

Having written rules and regulations by involvement in litigation

<table>
<thead>
<tr>
<th>Written Rules</th>
<th>Involved in Litigation</th>
<th>X² = 6.87423 ldf</th>
<th>Sig. = 0.0087</th>
<th>Phi = 0.32961</th>
<th>n = 78 (weighted data)</th>
</tr>
</thead>
<tbody>
<tr>
<td>yes yes 96.5%</td>
<td>no 67.6% yes 96.6%</td>
<td>yes 3.5 27 100.0%</td>
<td>no 32.4 51 100.0%</td>
<td>Phi = 0.30480</td>
<td>yes 100.0%</td>
</tr>
<tr>
<td>no</td>
<td>no 3.4 29 100.0%</td>
<td>yes 34.7 49 100.0%</td>
<td></td>
<td></td>
<td>n = 78 (unweighted data)</td>
</tr>
</tbody>
</table>

This association was not significant among State or municipal administrators, but was replicated for county officials.

Table 38

Having written rules and regulations by involvement in litigation by county correctional officials

<table>
<thead>
<tr>
<th>Written Rules</th>
<th>Involved in Litigation</th>
<th>X² = 2.65957 ldf</th>
<th>Sig. = 0.1029</th>
<th>Phi = 0.30480</th>
<th>n = 46 (unweighted data)</th>
</tr>
</thead>
<tbody>
<tr>
<td>yes yes 100.0%</td>
<td>no 76.0% yes 100.0%</td>
<td>yes 0.0 15 100.0%</td>
<td>no 24.0 31 100.0%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

There are multiple factors influencing institutions to have written rules and regulations for discipline, not the least among them, court orders compelling them to do so, for example: Taylor v. Perini, 413 F. Supp. 189 (1976). In 1972 the federal district court first ordered
E. P. Perini, Superintendent of Marion Correctional Institute, to promulgate rules and regulations for disciplinary actions. In a contempt of court action, 1976, the federal district court judge found that while there appeared to be a "good faith" effort on the part of Marion correctional authorities to develop these rules and regulations, they did not meet court standards. This instance carries with it two implications: (1) even the response by administrators that their institution has rules and regulations does not demonstrate either their quality or their conformity with current court standards for due process, and (2) the institutional administrator may not be the proper unit for analysis in this instance. Self-response by front line administrators to court orders may be enhanced or inhibited by systemic responses to court orders.

The following information is intended to illustrate this point. In the late 1960's the State of Ohio's adult correctional authority first began recording administrative practices. By the mid 1970's the Department of Corrections and Rehabilitation had promulgated written rules and regulations for the State system in response to court intervention. However, certain rules were not in line with current case law and rejected as in Taylor v. Perini, 1976. Rules have been consistently revised since then in order to keep them consistent with current case law. This is a response by the system and not by the individual State prison administrator to the court. However, it suggests that although a systemic response, its impetus grew out of individual administrator's needs to meet the demand of court intervention. (Note 11).

Following major court intervention into the administration of local jails and in particular the landmark Ohio case, Jones v. Wittenburg,
300 F. Supp. 707 (N. D. Ohio 1971) wherein comprehensive improvements in the institution and in institutional services were ordered at the Lucas County jail, the State legislature enacted Ohio Revised Code Section 5120 granting the Division of Parole and Community Services the responsibility for:

- Investigating and supervising county and municipal jails and workhouses...in addition to other powers and duties assigned by the Director, Department of Rehabilitation and Corrections.

and Ohio Revised Code Section 5103.18 which states:

- Plans for new jails, workhouses...and municipal lockups...important additions or alterations...shall be submitted to the Department of Rehabilitation and Corrections...for its approval.

Finally, in 1972 the Attorney General's opinion #72.061 addressed the interpretation of Section 5120.10:

The Division has the power to investigate and supervise the operation and construction of county and municipal jails and workhouses...and implied authority to use any method of enforcement which is necessary to effectuate the power expressly granted. (Note 12)

However, the legislature failed to appropriate funds concomitant with the enabling legislation. In 1976 the Director of the Department of Rehabilitation and Corrections established the Bureau of Adult Detention Facilities and Services (Bureau) and assigned to them authority to:

- prepare and publish adult detention facility standards...
- work in cooperation with sheriffs, chiefs of police, courts, etc....liaison between the department and the community...
- and seek technical assistance and other resources from government and professional associations... (Note 12)

Monies to finance the new Bureau's responsibilities were gotten, not from the Ohio legislature, but from a federal Law Enforcement
Administration Agency grant. Continuing since 1978 State Jail Standards have been introduced, through training seminars conducted by the Bureau, to local legislative, judicial and administrative officials. (Note 12)

In 1977 the Bureau conducted a survey of 44 randomly chosen county facilities. Each facility administrator was asked, among other items, the following two questions:

(1) Are there written policies and procedures for discipline?
(2) Are there written rules of conduct in which violations are clearly defined?

Fifty-one percent responded in the affirmative to question 1 and sixty-four percent responded affirmatively to question 2. In the survey sent out March 1979 which serves as the data base for this research, indications are that two years later eighty-three percent of county facilities had some kind of written rules and regulations for discipline. Many indicated that rules were being printed at that time in compliance with new State standards. Officials at the Bureau stated that standards are patterned after current case law and are a direct response to 6th Circuit Court of Appeals litigation. (Note 12) State standards applying to written rules for discipline, according to Bureau personnel, are patterned directly after Wolfe v. McDonnell, 94 S. Ct. 2963 (1974), a U. S. Supreme Court rights of prisoners' case. (Note 12)

This suggests, that in terms of the court's general impact on the administration of corrections in Ohio, (its demonstrated ability to cause changes in administrative policy or actions) its influence is first translated through a systemic response which in turn enhances administrative compliance on the institutional level.


Breed, Allen F. Special masters ease prison reform. Corrections Today, 41:3, 16.


Huntington, Samuel P. Political development and political decay. World Politics, 1965, 27:3, 386-430.


Lay, Donald P. The 'why' of federal judicial intervention in state correctional institutions. *Corrections Today, 1979, 44:3, 36.*


Note, Beyond the ken of the courts: a critique of judicial refusal to review the complaints of convicts. *Yale Law Journal*, 1963, 72, 506-526.


Place, Mike and Sands, David A. Symposium comments. *Buffalo Law Review*, 1971-72, 21, 905.


