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MANAGING THE IRRESISTIBLE FORCE

An analysis of the means by which
the Corrections Division of the Department
of Justice relates to voluntary
sector agencies.

A thesis presented in partial fulfilment
of the requirements for the
degree of Masters in Social Work
at Massey University.

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ABSTRACT

This thesis engages the work of French philosopher, Michel Foucault. I use his studies on government to explore the way in which the Corrections Division of New Zealand's Department of Justice relates to voluntary-sector social work agencies. The title "Managing the Irresistible Force" refers to the Division's management of its potential to over-regulate voluntary agencies.

This investigation is an historical one. It comprises two parts. The first part examines the development of community involvement policy within the Corrections Division, between 1950 and 1992.

The second part enquires into the administrative practices through which the Corrections Division has related to voluntary-sector agencies. Three case studies are used in this investigation. They are those of Marriage Guidance (between 1960 and 1992), the joint-hostel ventures (of the 1960s and 1980s) and the voluntary-sector involvement as a whole since 1988.

Three themes emerge from these two studies. The first is that the Corrections Division has sought public participation in the belief that such involvement improves the Division's ability to control crime. Community involvement has also been propelled by public belief about the superior humaneness of community-based sanctions compared to imprisonment.

The second theme argues that the Corrections Division has primarily related to the voluntary sector by creating normative frameworks through which it has intended those agencies to interact with itself and its clients.

The third theme demonstrates the Division's propensity not to interfere directly in the functions of voluntary agencies. This reticence to intrude mirrors the above observation that the Division has sought to regulate the voluntary sector indirectly through the development of normative frameworks.

A contemporary issue which arises from these three themes is how voluntary-sector agencies can influence the nature of the normative frameworks which the Division constructs. The pursuit of this goal is important if those agencies are to retain a say in how they interact with the Corrections Division and its clients.

**PART TWO : SETTING THE SCENE: THE DEVELOPMENT OF
COMMUNITY INVOLVEMENT**

Introduction to Part Two	57
4. Crime and Punishment. The Shifts of Discourse	59
<i>Introduction</i>	59
<i>Public Protection</i>	59
<i>Causes of Crime and Roles for the Community</i>	62
<i>The 1970s - The Rise of Social Causes</i>	69
5. Democracy under Stress	72
<i>Introduction</i>	72
<i>A History of Discontent</i>	73
<i>Repression, Incorporation and Reform</i>	74
6. The Response of the Department of Justice	79
<i>Introduction</i>	79
<i>The Penal Policy Review of 1981</i>	80
<i>Managerial Reforms</i>	83
<i>Summary</i>	85
7. The Reformation and Counter-Reformation of Government	87
<i>Introduction</i>	87
<i>Reformation</i>	87
<i>Counter-Reformation</i>	89
- <i>The Extension of Economic Rationalism</i>	90
- <i>Effects on the Department of Justice</i>	93
<i>Summary</i>	95
Summary of Part Two	96

**PART THREE : THE ADMINISTRATION PRACTICES OF THE
CORRECTIONS DIVISION**

Introduction to Part Three	99
8. The Growth of Public Participation within the Corrections Division	102
<i>Introduction</i>	102
<i>The Effect of Public Submissions</i>	102
<i>The Division and the Voluntary Agencies : A Balance of Power?</i>	105
<i>Summary</i>	109
9. The Case of Marriage Guidance	111
<i>Introduction</i>	111
<i>The Take-Over Bid</i>	112
<i>In Pursuit of Control</i>	119
<i>The Reformation of the Relationship</i>	128
<i>Summary</i>	137

10. "Non-Prison Atmospheres of Custody"	139
<i>Introduction</i>	139
<i>The Continuing Pursuit of Crime Control</i>	140
<i>To Control in a Manner so as not to Impede</i>	141
<i>The Demise of the Hostel Movement : The Limits of Disciplinary Power</i>	146
<i>Summary</i>	149
11. After the Act	150
<i>Introduction</i>	150
<i>The Role of Governmentality</i>	151
- <i>Physical Interventions</i>	151
- <i>Discursive Interventions</i>	154
- <i>An Absence of Files</i>	157
- <i>Summary</i>	158
<i>Contractualism and the Increasing Propensity to Control</i>	
- <i>The Theoretical Significance of Change</i>	159
- <i>The Winds of Change</i>	160
- <i>The Development of Measures of Success</i>	161
<i>Summary</i>	171
Summary of Part Three	172

PART FOUR : CONCLUSIONS AND IMPLICATIONS

Introduction to Part Four	174
12. A Summary	175
<i>Introduction</i>	175
<i>Themes - Reasons for Voluntary Sector Involvement</i>	175
- <i>The Construction of Normative Frameworks</i>	178
- <i>Minimal but Purposive Interventions</i>	180
- <i>Summary</i>	180
<i>On Foucault - Introduction</i>	182
- <i>Sovereignty - Disciplinary Power - Governmentality</i>	182
<i>Implications - The Challenge of Contracts</i>	185
- <i>Strategies</i>	188
<i>Summary</i>	190
Appendix One	191
Appendix Two	192
Bibliography	193

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ABBREVIATIONS

A number of abbreviations are used in this thesis. These primarily refer to agencies and Department of Justice managerial positions which are frequently cited.

AMG	Advisor to Marriage Guidance
AOP	Advisory Officer Probation
ASP	Assistant Secretary Probation
CEOP	Chief Executive Officer Probation
Corrections Division.	That Division of the Department of Justice which administers the prisons, Probation Service and Psychological Services. (In mid 1992 the Probation Service was renamed "Community Corrections")
DPO	District Probation Officer
GMC	Group Manager Corrections
JMS	Justice Management System
JPMS	Justice Performance Management System
MGNZ	Marriage Guidance New Zealand
NACMG	National Advisory Committee for Marriage Guidance.
NZMGC	New Zealand Marriage Guidance Council
NZPARS	New Zealand Prisoners Aid and Rehabilitation Society
Penal Group	The Division of the Department of Justice which administered the prisons and Probation Service prior to the creation of the Corrections Division.
Voluntary Sector agencies.	A generic term used within this thesis to refer to all the "community" groups and individuals with whom the Corrections Division of the Department of Justice relates.

References to books, articles, files and other manuscripts used in this thesis are cited in footnotes at the bottom of each page. References to books, articles and journals are cited using the Harvard system. That system however, is unable to adequately describe archival file material. For that reason the referencing conventions employed within the Humanities are used here to reference all file extracts.

PART ONE

THE RESEARCH PROCESS

INTRODUCTION TO PART ONE

Part One is entitled "The Research Process". The title derives from the process through which I moved in the development of this thesis. That process involved the construction of the research question, the finding of an appropriate theoretical perspective with which to study the question, and the examination of methodological issues which the theoretical orientation raised. I discuss these three elements of the research process in a series of three chapters. They, respectively, deal with matters of background to the research question, theory, and method.

CHAPTER ONE : TERMS, DEFINITIONS AND DIRECTION

INTRODUCTION

The power of the state and the manner in which government interacts with the public are topics which tend to interest people, whether they be state beneficiaries, judges, employers, union members, politicians or civil servants.

The most consistent way in which most New Zealanders interact with government is through the three-yearly general election of parliamentary politicians. At the same time many members of the public routinely interact with government through their involvement with government departments or special-purpose statutory bodies. Historically, this latter form of involvement has mainly occurred within the economic fields of trade and industry. The public bodies (producer groups such as the Dairy and Wool Boards) have tended to be large organizations with considerable bargaining power in relation to that of the state agencies. What situation exists, however, for small public bodies with little or no economic importance? What is their bargaining power when they must deal with state agencies? Furthermore, what situation exists for them when state agencies seek their incorporation because of governmental beliefs about the efficacy of such incorporation? How do they become affected by the process? How, it might be asked, can they resist the expectations placed upon them by the government?

The government is an active participant in its relationships with the public. As the ultimate authority within society government has expectations about how those state/civil relationships ought to be structured. It follows that government departments will play a role in outworking those beliefs. This thesis approaches the topic of state/civil relations from the perspective of those governmental bodies. It explores how government departments manage their Irresistible Force within their relationships with public groups. In what ways, the thesis asks, do Departments foster the autonomies of such groups or mutate their identities? For what reasons, it also asks, would it do either?

Given the number and diversity of Government Departments, however, the scope of the question in its widest sense is beyond this research project. Instead, this thesis pursues a case study of one department, that of Justice. Due to the diversity of that department, the focus of the thesis is narrowed down further to the operation of one Division, the Corrections Division.

The aim of this thesis becomes, therefore, to describe and analyse the means by which the Corrections Division of the Department of Justice relates to the voluntary agencies which provide social services to offenders. The "Management of the Irresistible Force" refers, here, to the Division's management of its potential to over-regulate those agencies.

This initial chapter of the thesis has two major goals. The first is to outline the objectives I pursue to complete the analysis. I also discuss my reasons for undertaking this particular research. Following this discussion I define the significant terms used within the thesis, the second goal for this chapter.

THE OBJECTIVES AND THEIR PURPOSE

The investigation for this research took two forms. The first was an historical investigation of the Department of Justice's policy of community development. That study charted the development of the policy from the early 1950s to the present period. Enquiry was made into that policy's dimensions and transformations, identifying the events and social contexts in which these occurred. The end result was an explanation of the developments which have happened within that Department's community involvement policy.

The second task was to identify the administrative practices, the "means", which arise in conjunction with these policy developments. The term "administrative practice" embraces both the actions of the Division's managers toward voluntary agencies and an attempted governmental management of New Zealand society by the Division through a wider policy of community involvement. To this end, public participation became an administrative practice in itself.

I chose this particular research topic for a number of reasons. The first arose in 1989 when I became interested in the intentions of the Social Welfare Transitional Provision Bill (1989) toward voluntary agencies. I was disturbed at the sponsoring Fourth Labour Government's presumption as to government's "right" to intervene in voluntary agencies.¹

This event fostered my interest in the nature of state/civil relations and this interest formed the basis of my study. Rather than enquire into the Department of Social Welfare, however, I decided to focus on the work of my own employer, the Department of Justice. This choice seemed particularly apt because of that Department's particular role as society's "constitutional watchdog."²

My goals in undertaking this study are threefold. First, I aim to produce information on the Community Corrections Division which will assist voluntary agencies in their joint-venture negotiations with that group. Second, I wish to employ that information within public discussion on the wider topic of the New Zealand Government's relationship with its constituency. Third, I seek to use and develop Michel Foucault's theoretical work on government in this examination of the Corrections Division's relationship with the voluntary sector.

1. Clauses 14–21 of the Bill outlined new accountability requirements for all voluntary agencies in receipt of Department of Social Welfare funding. These included rights of entry into agencies by Social Welfare employees. These employees were also allowed unfettered access to all documents relating to clients.
2. State Services Commission, "Extract from Briefing Papers for the Minister of Justice 1990 – Volume One : Key Policy Issues", in Performance Review of the Department of Justice. Wellington : Crown Copyright. 1991 : 98.

DEFINITION OF TERMS

Three terms play central roles within this thesis: community, community involvement and discourse. These are defined in a series of discussions which follow.

Community.

A central concept within this thesis is that of "community". Community has come to have a plethora of meanings, which predominately evoke positive sentiment. For criminological commentators such as Stanley Cohen, this deluge of meanings reduces "community" to a point of meaninglessness.³ Despite this possibility, however, the term does come to convey specific messages wherever it is used. For this reason a classification of these meanings is explored, in order to make sense of their use. The typology which is employed is that which is offered by British criminologist, David Nelken.⁴

At the basis of each use of "community", he suggests, is the idea that it is associated with social solidarity. The first use perceives of community in terms of *locality*. It starts with the premise that people's proximity to one another generates shared concerns. In this way the existence of "community" is taken as given. As a given, community becomes a resource to be used, a means through which ends other than social solidarity can be pursued.

Second, community refers to a nexus of *shared interests* which transcend the perimeters of neighbourhood. As Nelken suggests, the term "community" inaccurately describes this phenomenon. Shared interests are better understood as cumulative acts of individuals' altruism. The hope is, however, that these combined acts will reconstitute a sense of social solidarity.

3. Stanley Cohen, Visions of Social Control. Cambridge : Polity Press. 1985 : 116.

4. David Nelken, "Community Involvement in Crime Control", in Current Legal Problems. London : Stevens and Sons. 1985 : 255.

Third, Nelken describes community as a solidarity which is formed through the shared *identity* of the members. Solidarity in this sense transcends specific interests. It precedes those interests and exists beyond the realization of goals. In some instances membership of these communities requires the foregoing of personally held interests in the name of collective solidarity. "Community", according to this typology, can thus have three meanings : locality, shared interests and identity.

As suggested above, each of the word's usages has a different meaning and each use has a different social effect. For instance, where the term "community" is used to refer to a locality, such as the country of New Zealand, the competing interests and identities which exist amongst the population are dismissed from consideration. As a result of this exclusion, "the community" can be regarded as a fairly homogenous whole and the conflicts which inhere in it can be ignored. In this type of situation the art of making penal policy is fairly straightforward. The Department of Justice does not have to acknowledge or seriously contend with interests or identities which rival its own. Furthermore, its own viewpoint becomes something akin to a normative prescription.

In instances where the Department does acknowledge the legitimate interests and identities of its rivals (for instance, the judiciary or Maori tribal authority) the practice of policy making requires other strategies. In these situations the Department must either deconstruct the legitimacy of its rivals or it must incorporate them into consultative decision-making processes.

Community Involvement.

Community involvement is used here to refer to the participation of voluntary agencies in the provision of social services for offenders. To further explain "community involvement" another of Nelken's typologies is used.⁵ Within this typology he differentiates between initiatives which are produced *by* communities, *in* communities, and *for* communities.

5. Ibid., pp.241-242.

The first type of initiative refers to projects which originate within the community and which promote that community's governance of crime control. Control *in* the community refers to initiatives which keep convicted offenders out of institutions. Members of communities may or may not be involved in the running of these programmes. Community control in this sense is a governmentally driven crime control strategy with no intrinsic "community development" aim. Control *for* the community is an entirely different type of proposition. It recognizes the needs of community members and attempts to meet these. Examples of these initiatives would include victim support programmes or Neighbourhood Support Groups. Again these initiatives do not necessarily occur within the communities. Furthermore, they are not necessarily administered by communities.

Discourse.

This thesis initially focuses upon "what is said" about voluntary-sector involvement within the Corrections Division, that is, the discourse which surrounds that involvement.

For Foucault, the substance of discourse is the *difference* which exists between what is deemed to be "correct", according to the prevailing cultural, philosophical and ideological perspectives of the time, and what is actually said.⁶ The study of "what is said" is the identification of these *differences* of the discursive transformations. These transformations are signposts of historical change which may identify social dynamics missed within studies of society's physical aspects. Thus, in order to fully comprehend the social changes that have contributed to who we are now, we must identify both the discursive transformations of our past and the changes to society's physical structures.

6. Michel Foucault, "Politics and the study of discourse" (1968) in Graham Burchell, Colin Gordon and Peter Millar (eds). The Foucault Effect. Hempstead : Harvester Wheatsheaf. 1991 : 62-63.

The first form of transformation comprises those changes which occur within discourses. They are, for example, changes which happen when ideas are expanded beyond their original scope. An illustration of this is the enlargement of Departmental support of ad hoc post-war volunteer work within the prisons. This was enlarged from a general support of volunteers to belief in the efficacy of a nationally-organised network of prison visitors. Foucault calls these types of transformations "derivations".

The second category of transformation are those which effect whole discourses (for example, of criminology). The origins of these changes lie outside of "what is said". Instead such origins reside within the social structures within which the discourse occurs (for example, within the institutions of justice and punishment). Foucault calls these transformations "mutations" and suggests that their social effect is greater than that of the derivations.

The third form of transformation are those which simultaneously affect several discursive formations. Foucault refers to these transformations as "redistributions of function" and considers them to be superior in social effect to both derivations and mutations. In the first of these changes the hierarchy by which ideas are organized becomes inverted (for example, where science came to displace religious belief).

Further, changes occur in the nature of organizing principles. A shift in belief about the "correct" relationship between the state and the individual and the effect of these changes upon the nature of community involvement policies is a good example of this. Change also occurs where discourses appropriate functions previously held by others. Managerialism's displacement of criminology/penology as the main organizing principle within criminal justice is an example of this type of transformation.

As can be seen from above, these transformations result as much from physical changes in the organization of social institutions as from the ways in which those structures are discussed. "History", says Foucault, "is the descriptive analysis and the theory of these transformations".⁷

7. *Ibid.*, p.59. Foucault's pluralistic orientation is discussed further in chapter three.

To summarize the discussion on discourse, this thesis focuses upon transformations in the discourses which surround the Corrections Division's community involvement policies. These transformations are studied as events in their own right; events which have their origins both in shifts in how statements are made and in institutional changes which provoke new ways of thinking.

The goals of discursive analysis in this thesis are the discovery of what makes up the transformations that are evident within the Corrections Division's policy of community involvement and the identification of the social changes they reflect. The processes through which this thesis proceeds are outlined in the following section.

A READER'S GUIDE TO THE THESIS.

The thesis is organised in four parts. Part one continues by examining the theoretical orientations and methodology I use in this thesis. These discussions are contained, respectively, in the second and third chapters.

Part Two begins by outlining the social, political, economic and cultural settings within which the Correctional Divisions of the Department of Justice⁸ developed their policies of community participation. During the 1970s the Department's beliefs linked crime to a growing public disenchantment with New Zealand's systems of democracy. Chapter five traces the development of that public dissatisfaction. Chapter six examines the means by which the Department of Justice responded to the crises in public confidence by describing how the Department incorporated the public into its decision-making processes. This involvement of the "community" in policy-making significantly increased the amount of contact communities had with offenders. Chapter seven examines the parliamentary and state sector reforms which also evolved at this time. These developed both as a consequence of the public's growing dissatisfaction with representational politics and the Fourth Labour Government's desire to increase its executive control. It is suggested that those reforms affected the relative autonomy of the voluntary sector agencies which had become involved with the Corrections Division.

8. That is, the Penal Group and its successor, the Corrections Division.

Part Three of this thesis discusses the implications for voluntary agencies of these developments. It does so by examining the administrative practices through which the Department related to voluntary sector agencies between the late 1950s and 1992. Chapter eight begins this discussion by deliberating on the growth of community involvement within the Corrections Division. This discussion highlights the pertinent issues which arise for voluntary agencies as they become involved with the Department. An understanding of these matters is produced through an application of Foucault's ideas on government and power. Chapter nine begins a detailed examination of the Department's administration practices through an exploration of the history of Marriage Guidance. This detailed approach is continued, in chapter ten, with an investigation of the Department's involvement in joint Probation-hostel ventures with church social services agencies. These ventures operated between the late 1960s and early 1980s. Chapter eleven surveys the range of relationships which the Corrections Division of the Department created with voluntary sector agencies following the state sector reforms of the mid 1980s. Thus, the three chapters of Part Three develop overviews of the Department's administrative practices from the late 1950s to 1992.

Part Four distils these analyses of policy and administrative practice into a summarizing chapter. That chapter also discusses the implications of those analyses for voluntary sector agencies and the value of Michel Foucault's work in the investigation of governmental relations.

CHAPTER TWO : THEORETICAL CONSIDERATIONS

INTRODUCTION

This chapter outlines the theory I use to study the means by which the Corrections Division relates to voluntary agencies. My choice of theoretical orientation, that of Foucault's analyses of governance,¹ is one which allows the organizational behaviour of the Division to be explored in a particular way. That approach allows the Division be understood as a site of plural, competing interests. Simultaneously, however, Foucault's approach allows for the development of a structural analysis of the Corrections Division's organizational behaviour. This result contrasts with a directionless narrative, as might often occur from a pluralistic orientation.

Foucault's analysis of governmental administration² suggests that the act of governing involves a number of contradictory functions. On the one hand governing requires the maintenance of political, social and economic conditions which allow government to continue. At the same time governance requires that the needs of the voting public are met (that being the "public good"). In so doing, however, government comes to define the nature of those needs. Following this, the governing body must persuade the public to accept its definition of "the public good" and find means for enacting policies which reflect that definition.

These three issues, the maintenance of government, the definition of the public good, and the creation of means to administer associated policies, are pertinent to this thesis. First, it is suggested that the Corrections Division decides that it is in the public interest for it to establish joint ventures with voluntary agencies. At the same time the Division is aware that it must remain the dominant partner in the relationship in order to ensure that the state remains socially pre-eminent. Simultaneously, the Division must persuade those groups that the relationship benefits them (or, at least, the "public interest" at large).

1. My primary sources of Foucault's work on governance are Michel Foucault (1977) and Michel Foucault (1978) "Governmentality" (a lecture given at the College de France), in Burchell, G., Gordon, C. and Millar P. (eds). The Foucault Effect. Hempstead : Harvester Wheatsheaf. 1991 : 87-104.
2. Foucault, 1978.

Foucault examines governmental practices such as these in terms of the type of relationship which governments form with their constituencies. In his lecture entitled "Governmentality"³ he describes three such forms of relationship. He entitles them sovereignty, discipline and governmentality.

The first of these (the judicial theory of sovereignty) identifies the central concern of political power as the self-preservation of government. Characteristic of its administrative techniques are law, prohibition and repression. The second is a political form which purposefully reconstitutes individuals in ways which enhance their social utility. Administrative techniques of training, surveillance and normalization are associated with this scheme (the disciplines). The third form perceives of political administration as an "art" of governance. It seeks to evoke a "right manner of disposing things ... to an end which is convenient for each of the things which are to be governed".⁴

These three ways of conceptualizing statutory administration are now considered with a view to determining what might be the efficacious use of each within the empirical study which follows.

SOVEREIGNTY

The Maintenance of Sovereign Power

The central idea in Foucault's analysis of sovereignty is that the stability of princely rule (or latterly, that of the State) depends on its ability to retain authority over the public. Foucault develops this point through a study of European sovereignty in the sixteenth and seventeenth centuries. In Foucault's discussion of the debates which surround Machiavelli's treatise, "The Prince", he identifies a particular understanding of sovereignty within sixteenth and seventeenth century European thought.⁵ Significantly, The Prince is viewed as being "external" to his principality. The link between he and his principality is synthetic and fragile as it only exists through "violence ... family heritage ... or treaty". This fragility requires the sovereign to complete two contradictory feats. First, he must strengthen his relationship with the principality he owns through ensuring their protection and well-being.

3. Foucault, 1978.

4. Ibid : 95.

5. Ibid : 89-93.

Simultaneously, he must perform public rituals which announce his authority. These primarily, display his power over life and death.⁶ They involve ceremonies which vary from the ritualist destruction of those who break his laws on the one hand, to demonstrations of his singularity with the divine on the other. Through these displays the sovereign symbolically reproduces his right to rule.

The tension produced by the prince's need to coterminously protect his subjects and to exercise a totalizing control over them produces a particular political dynamic. First he must constantly identify his rivals and demarcate their power from his own. This is essential if he is to adequately explain and justify the differences between them. The continuation of his rule then depends upon his successful deconstruction of their legitimacy and the suppression of their interests.

In order for sovereigns to maintain their position in society they also had to foster affectual bonds with those to whom they had delegated political responsibilities. These intermediaries were autonomous both from the subject population and the discipline which is normally imposed by modern bureaucratic systems. As a consequence of this relative independence, the sovereigns had to entreat their delegates through provisions of favours and the warmth of friendship. Through these provisions however, sovereigns were able to enhance the security of their own social positions, as the patronage allowed them to personally supervise their social inferiors. Such systems of patronage were characteristic of societies which lacked strong market forces or effective centralized governments.

As already outlined, the prince's successful promotion of his subjects' welfare was an essential ingredient in maintaining his legitimacy. The maintenance of the public's "common good", however, entailed the situation wherein all subjects without exception "obey the laws ... and accomplish the task expected of them".⁷ The "common good", therefore, involved constant submission to the sovereign. This situation of constant submission meant that the end of sovereignty became circular; it was no more than the exercise of sovereignty; an "essential circularity ... whatever its theoretical structure, moral justification or practical effects".⁸

6. Refer, for instance to Foucault's description of the execution of Damians the Regicide in Foucault, 1977 : 3-6.

7. Foucault, 1978 : 94

8. Ibid : 94.

Christopher Dandekar in his book "Surveillance, Power and Modernity" claims that this tautological circularity did not create a repressive juggernaut within pre-state societies.⁹ Rather, the theoretical power of the sovereign was dissipated by two elements. These were the limited technological facilities that were available to sovereigns for the surveillance of their principality and their reliance on patronage-based forms of administrative organization. To these elements Foucault adds the increasing difficulty which sovereigns experienced in maintaining social order during executions of popular criminals.¹⁰

Over time, however, changes occurred which ameliorated these problems. First, technological advances in communication and travel increased sovereigns' abilities to know and regulate their subjects. Second, the steady transition to rational-bureaucratic forms of national organization overcame the tenuous hold which sovereigns had over those in whom they had invested administrative authority. Third, strategies of punishment were devised which were more economical, in the sense that they did not engender popular resistance. In time, therefore, the theoretical potential of judicial-sovereign power became more realisable.

At the heart of this judicial theory of sovereignty lies the problem of the sovereign's legitimacy (or contemporaneously, that of the state's legitimacy). On the one hand the sovereign must enhance the people's welfare by, tautologically, defining their "good". Simultaneously the sovereign requires the public to submit to its authority to do so. The associated question posed for contemporary democracy by the judicial paradigm can be stated as follows: how do we, as citizens, maintain control over the body to whom we give authority to pursue our collective good (that is, the state)?

9. Christopher Dandekar, Surveillance, Power and Modernity. Cambridge : Polity Press. 1990 : 42, 46-49.

10. Foucault, 1977 : 60-68.

The Tyranny of the Popularly Elected Government.

Alexis de Tocqueville termed this constitutional problem the "tyranny of the popularly elected government"; standing, as this government does, "absolute, differentiated, regular, provident and mild".¹¹ The tyrannical aspect of the elected state derives from the englobing effect of its regulatory power, which is legitimated by the consent of the governed. This problem becomes especially marked, suggests John Keane, when it becomes unclear how the government draws its legitimacy from the implied consent of individuals.¹² The ability of government to impose its will becomes magnified, he continues, in conditions where citizens have difficulty in legitimately or effectively withdrawing that consent.

To summarize this discussion, sovereignty is comprised of two competing processes. On the one hand sovereigns act so as to ensure their continual pre-eminence within society. This need sees the sovereign identifying rival interests and subjugating those to his own power. On the other hand the sovereign must use his power productively in promoting the welfare of his subjects. He must do this in order to strengthen the tenuous bonds which exist between he and his subjects. In spite of these closer ties, sovereignty requires the sovereign's subjects to maintain the existing social order. In order to ensure that a situation of social stability remains, sovereigns must continually exercise sovereign power. The end of sovereignty is thus circular; that is, the maintenance of sovereignty. The status of the sovereign is legitimated through two processes: the successful submission of the public to the sovereign's authority and the public's acceptance of the sovereign's right to define their welfare. Within modern democratic states the problem of sovereign power is magnified. It increases because governments are elected by popular vote and their actions are tacitly legitimated by the voters' freely-given consent to be governed.

11. Alexis de Tocqueville, De la democratie en Amerique Volume 1. (1835-1840)

Preface by Francois Furet. Translated by John Keane, Paris. 1981 : 385.

12. John Keane, Public Life and Late Capitalism. London : Cambridge University Press.

1984 : 247.

Implications for this Thesis

Foucault's sovereignty paradigm, and the associated idea of an englobing public authority, have important implications for consideration of the Corrections Division's relationship with voluntary agencies. Primarily, these ideas suggest that the Corrections Division ultimately decides the nature of the relationship which is to exist between itself and voluntary agencies. If it is further held that our self-understandings are shaped by the nature of our relationships with others, then a particular possibility emerges for those agencies; that their view of themselves will be influenced by their involvement with the Corrections Division.

The sovereignty paradigm also suggests that this construction of subjectivity occurs through the government's construction of "the public good". This process is seen within the manner by which the Department of Justice justifies to the voluntary agencies, its incursions into their fields of social work.¹³ These incursions include interventions in the Marriage Guidance movement, the provision of accommodation facilities, and the development of Maori initiatives with offenders. According to the sovereignty paradigm, an important aspect of the process through which the state is legitimated is the suppression and deconstruction of competing interests. These tactics are important aspects of the Department's incursions into voluntary sector social work. The forms which this suppression takes are outlined within the discussions on Departmental involvement in the Marriage Guidance movement, the accommodation facilities and voluntary sector involvement during the 1980s.

At the same time as the Department sought to maintain its social pre-eminence, over the voluntary sector, its Divisions fostered inter-personal relationships with the individual voluntary sector agencies with which the Department wished to relate. This need to engender affectual bonds¹⁴ corresponds with Foucault's observations about the 'external' status of sovereigns within pre-state societies. The distance which existed between sovereigns and their constituency, plus the absence of strong bureaucratic governments, required the sovereigns to cultivate relationships of patronage between themselves and their intermediary officials.

13. These processes are identified and discussed in Part Three's exploration of the Corrections Division's administrative practices with voluntary agencies.

14. For instance, of friendship, co-operation, loyalty and service.

This thesis suggests that systems of patronage remained central to the Penal Group and to the Corrections Division's relationships with voluntary sector agencies between 1950 and 1992. The principal issue with patronage is the measure of its centrality within organizational relationships.¹⁵

The role of patronage is explored through an enquiry into the experiences of voluntary agencies with the Department of Justice. That enquiry examines the degree to which the agencies were able to influence the outcomes of their negotiations with the Department. From this investigation I ask to what extent sovereign pre-eminence is a requirement of the Corrections Division's relationship with voluntary agencies. Within this question the thesis suggests that the continuing role of patronage ameliorates the potential of the Division to dominate the voluntary sector. This conclusion implies that a role exists for participatory forms of voluntary sector involvement within the development of penal policies. This possibility theoretically allows the incorporation of penal initiatives that are created by communities. It also suggests that communities can significantly influence penal initiatives that originate from the Corrections Division and which are subsequently developed within communities. The sovereignty paradigm predicts, however, that the Corrections Division will attempt to retain control over such processes. That need to retain control potentially diminishes the influence of voluntary agencies. Part Four of this thesis explores the means by which the voluntary sector can moderate the sovereignty-impulse of the Division and enhance its own influence within the policy-making processes.

DISCIPLINARY POWER¹⁶

In contrast to judicial sovereignty, whose end is intrinsic to itself and whose means are ultimately repressive, disciplinary power seeks to enhance people's productivity and utility. This, additionally, requires the inculcation of conformity and docility.

Understood as a strategy for inculcating utility and conformity, discipline is a rationalized art of domination. For Foucault all such domination utilizes three elements: the body, power and knowledge.

15. Dandekar, 1990 : 46-47.

16. Foucault discusses Disciplinary Power in Foucault, 1977 : 133-228.

The Body

Following the work of Friedrich Nietzsche, Foucault suggests that the body is the ultimate target of all control systems. Successful control is achieved through the body's thorough subjugation. The disciplines, therefore, do not seek behavioural change through persuasion and rational argument. Rather, they focus on bodily movements and tasks – observing, measuring, correcting, training. Disciplinary techniques may employ external constraints, such as boundaries. Conversely, they may seek the internalization of commands, routines or deference to physical layouts. This corporeal form of learning inculcates habitual patterns of behaving and, following on from this, thinking.

Despite the centrality which Foucault accords to the body within disciplining power, I emphasise other aspects of his work in this thesis. These are discussed in the following sections.

Power

Power is the second element of Foucault's tripartite scheme. Foucault's definition of power reflects his pluralistic convictions. Within this, power is not conceived as an element which can be grasped or possessed. Rather it is a strategy which is employed. In this way no group or site, for example the proletariat or the state, has privileged access to power.

Within his book "Discipline and Punish" Foucault uses a variant of Nietzsche's concept of the "will to power" to underpin this idea. Here, the rational exercise of power is seen to be constitutive of sociality; all social life is constructed by the twin struggles of domination and resistance.

In contrast however, to the judicial use of power which represses and destroys so as to ensure the sovereign's survival, disciplinary power produces. It produces in the sense that it constructs outcomes through harnessing human bodies towards specified ends. In another sense also, it produces ways of thinking. It thus creates realities.

The linguistic style of "Discipline and Punish" portrays power as a juggernaut over which little control can be exercised. Within this book Foucault suggests the possibility of resistance but he does not develop this theme until his later works. In

his 1982 essay "The Subject and Power" Foucault redefines power as that which is addressed to individuals who have the freedom to choose their response.¹⁷ This new view presupposes, rather than annuls, their capacities as agents. The idea of a political form based on this kind of power profoundly interests and disturbs Foucault, writes Colin Gordon. It is "the idea of a kind of power which takes freedom itself and the soul of the citizen ... as in some sense the correlative objective of its own suasive capacity".¹⁸ This understanding presupposes that social relations are more complex than suggested by the view of disciplinary-power-as-domination. This issue will be examined further in the section on governmentality.

Knowledge

The third element in Foucault's construction of the disciplines is knowledge, the cognitive act of "knowing" the target subject (its regularities, characteristics, limitations and potentials). "To know" becomes the prerequisite to act. The greater the knowledge available about an object, the greater its capacity to be controlled. As a correlate to this Foucault dispenses with the view that knowledge can be created independently of political interests:

"We should admit ... that power produces knowledge ... that power and knowledge directly imply one another; and that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations".¹⁹

Power and knowledge are thus inextricably entwined. In keeping with the role of the body within the power/knowledge framework, a further proposition can be added to this. That proposition is that all plans for the regulation of organizations seek the bodily subjugation of their personnel. The extent to which these propositions hold true are major empirical questions within this study.

17. Michel Foucault, "The Subject of Power" in Dreyfus, H. and Rainbow, P., (eds) Michel Foucault, Beyond Structuralism and Hermeneutics. Brighton : Harvester Press. 1982 : 221-2.
18. Colin Gordon, "Governmental Rationality : an introduction" in Burchell, G. et al, 1991 : 5.
19. Foucault, 1977 : 27.

The Practice of Discipline.

Using this framework of the body, power and knowledge, Foucault identifies a number of disciplinary techniques which evolved during the fifteenth and sixteenth century in Europe.²⁰ These developed in various social sites – the army, monasteries, schools, hospitals, plague infested towns – coming to be reproduced whenever and wherever applicable. The disciplinary techniques perform three functions: the training of bodies, the normalization of deviants, and the surveillance of the individual. These three functions are discussed below.

The training of bodies is a "political anatomy" of detail. It focuses on bodily movements and gestures, seeking the efficiency of each and its co-ordination with the whole. In so doing training produces an optimally functioning unit. Training comprises the following elements: the placement of bodies relative to one another so as to enhance their corporate effectiveness; the submission of bodies to timetables and routines; and co-ordination of bodies with the machines they are to operate.

In addition to producing outcomes, all social systems must be able to contain disobedience and deviance. Within the disciplinary scheme, training systems do not simply punish troublesome cases. Instead they correct ("normalize") them. It is people's conformity which is required, not their expiation.

The minimization of deviance, itself, requires several preconditions. In the first place deviance must be made visible through surveillance of the subject population. Second, rules (norms, averages) must exist against which behaviour can be measured. For Foucault the examination is the principal means through which these events occur. Examinations can identify, in detail, the areas of deviance which require attention. At the same time they individualize and isolate the subject, emphasizing the relative power of the one who examines.

Of a similar genre to the examination is the file, an assessment document accumulated over time, revealing regularities, deficiencies and potentials. Its capacity as a tool of domination can be enhanced in several ways: when its capacity is increased to allow for the storage of more details; when it is centralized allowing amalgamation and

20. Ibid : 133–228.

comparison of information; when the speed of information flow is increased between information gatherers (managers) and file analysts, allowing for speedier correction of identified deviances; and when the number of reasons for contact increases between the surveyor and the surveyed, leading to a wide range of knowledge available on the latter.²¹

For Foucault, the processes of training, normalization and surveillance are further optimized when operated in a "panoptic" form.²² Panopticism refers to a spatial arrangement whereby individuals are potentially under constant surveillance. In this design²³ each inmate is located in the perimeter of a circular building, dominated by a central observation post. This arrangement does not allow the inmates to see their watchkeeper's movements. This system thereby induces them to perpetually conform.

In this way the inmates come to coalesce in their own subjugation. This replacement of repression by gentle domination represents a "perfection of power"; one which "should tend to render its actual exercise unnecessary".²⁴

One final point is made here, with respect to the role of the disciplines within democracy. Foucault observes that the construction of democratic constitutions during the seventeenth and eighteenth centuries presupposed that mechanisms, namely disciplines, existed whereby individuals would be socialized to be free, yet law-abiding citizens. He argues, however, that the subsequent use of these mechanisms contradicts the idea of equality between people, as espoused by the formal legal codes. The disciplines, therefore, come to operate "beneath" legal statute, as a form of "counter law".²⁵ In this way our social systems thus come to encompass both formal legal freedoms and perpetual domination.

21. The framework for the analysis of recording systems is drawn from Dandekar, 1990 : 40.

22. Foucault, 1977 : 155-228.

23. This was derived from Jeremy Bentham's idea of a "Panoptican" prison - designed in 1791.

24. Ibid : 201.

25. Ibid : 222.

To summarize this section, Foucault's idea of the "disciplines" presents a particular picture of political power. It is one that operates at the inter-personal (micro-physical) level. For Foucault this is the starting point for political analysis. It is, he argues, a more appropriate starting point than larger sites such as the State. The disciplines are a series of techniques which enhance the usefulness of the human body. They rely on the accumulation of knowledge about people and the imposition of routines and habits. Their concern with productivity, their non-repressive characters, their concern with the minute details of everyday life plus their ubiquity give the disciplines an aura of "naturalness". Their existence, as a form of counter-law, enhances their concealed nature within society. These matters make the disciplines relatively immune from regulation by law.

Theoretical Developments in the Use of Disciplinary Power

Within the study of criminal justice Foucault's idea of disciplinary power has almost reached a status of theoretical orthodoxy. This orthodoxy has galvanised around the analytical concept of "the dispersal of discipline". Increasingly, during the 1980s and 1990s, the theoretical efficacy of this approach has been challenged and the analytical use of disciplinary power reevaluated. I briefly comment below on the direction of these developments, as they have influenced my use of the concept of disciplinary power.

The "dispersal of discipline" thesis suggests that the disciplines – formally located in disparate sections of society – are incorporated by the state's institutional control apparatus. From there they are disseminated into non-institutional (community) sites, enhancing the state's control of the population at large.

This reading of Foucault is predicated upon the belief that human behaviour is fundamentally propelled by reason rather than by sentiment, accident or contingency. It maintains that the desire, or perceived need, to control overrides other human dynamics such as the way public and governors feel about social control. Barry Smart argues, however, that the extrapolation of the "dispersal of discipline" thesis from "Discipline and Punish" in fact abrogates Foucault's entire methodology.²⁷

26. Refer to Stanley Cohen, Visions of Social Control, Cambridge Polity Press, 1985 and Thomas Mathesian, "The Future of Control Systems – the Case of Norway" in Garland, D. and Young, P. (eds). The Power to Punish. London : Heineman. 1983 : 130–145.
 27. Barry Smart, "On Discipline and Social Regulation", in Garland and Young, 1983:72–73.

For Smart, Foucault's methodology does not presuppose the possibility of an englobing system within which social control processes move perpetually towards fulfilment. Instead, such processes, as they exist, are equally the product of non-rational mistakes, interruptions and resistances. The dispersal of the disciplines which occurred within early capitalist development does not, therefore, presuppose its continued extension within late capitalism. Any contemporary dynamic of discipline can only, therefore, be identified through detailed empirical analysis.

David Garland is another social theorist who uses Foucault's work on the disciplines, but in such a manner as to avoid the logic of the "dispersal of discipline" thesis. For Garland, punishment (of which discipline is a part) is made up by a constellation of competing logics. It is simultaneously

"a kind of technical apparatus which forms an instrumental means to an end a coercive relationship between the state and the offender a legal procedure, a form of power, an instrument of class domination, an expression of collective feeling, a moral action, a ritual event, or an embodiment of a certain sensibility".²⁸

Rather than being a "singular kind of event", punishment is better understood as a "social institution". It is a complex structure wherein recurring needs, relationships, conflicts and problems are managed in an orderly and normative way.²⁹

What Garland does is demonstrate how this process is both determined by and manages the conflicting demands of our rationality and irrationality. Furthermore he suggests that the value of any institution of punishment (or regulation) cannot be determined solely through an estimation of its instrumental performance. If that were so all systems of punishment would have been dismantled long ago. Instead, their value ought to be understood through an appreciation of the way in which their use comes to define, express and reinforce who we are.³⁰

28. David Garland, Punishment and Modern Society. Oxford : Clarendon Press.

1990 : 281.

29. Ibid : 282.

30. Ibid : 228-229.

Implications for this Thesis.

Foucault's analysis of disciplinary power is used in this thesis in the following manner. At a general level this study enquires into the appropriate theoretical use of Foucault's concept of disciplinary power. Thus, the investigation asks whether or not the Corrections Division's relationship with voluntary agencies can be understood as an increasingly intensified process of surveillance, training and normalization. This study enquires into that question through examining the files which the Department of Justice holds on the voluntary agencies with which it relates. These files reveal that in particular circumstances the Department officials have used disciplinary techniques in order to pursue their organizational goals within voluntary sector agencies.

The analyses of these situations seek two ends. First, the analyses identify the social and political circumstances which have facilitated the Division's utilization of disciplinary power. Second, the analyses examine the forms which these disciplinary incursions take.

One of the significant investigations of disciplinary power occurs in chapter seven, in the discussion of the state sector reforms. The idea which prompts that investigation concerns the managerial reforms of the 1980s which the Department of Justice instigated during that era. Those reforms were prompted by two social elements – the Department's perception that it needed to enhance its internal management in order to increase its ability to control crime and the New Zealand Government's introduction of a neo-liberal form of state sector management during the late 1980s. Common to both these initiatives is the proposition that organizational relationships ought to be hierarchical in nature, with a unilinear delegation of power emanating from the organization's apex. This system of management theoretically enhances the hierarchical control of subordinate organizational tiers. The thesis asks three questions with respect to the Department's introduction of this managerial system.

First, to what extent do the principles of this system accord with Foucault's concept of disciplinary power? Second, to what extent does the Corrections Division utilize these principles within its management of voluntary sector relations? Third, in what way can Foucault's tripartite framework, of sovereignty, disciplinary power and governmentality, make sense of the degree to which the Division utilizes disciplinary power?

THE ART OF GOVERNANCE

In Foucault's discussions on the art of governance (which he terms governmentality)³¹ he seeks to determine the existence of a governmental logic which is different from that of sovereignty or the disciplines. The logic which he deciphers indicates that western governments are able to rule through *securing public prosperity*, rather than by exercising domination or repression. Foucault does not approach the study of "security" in an uncritical, functionalist manner. Rather, he is fascinated by modern government's extraordinary ability to incorporate the desires and freedoms of people into itself.

For the purpose of this thesis, governmentality is explored as a potential explanation for the development of community participation within penal policy. Evidence of governmentality within penal policy is found in the existence of "mechanism of security", of social policies and interventions which foster public prosperity through the support of vulnerable social institutions.

Foucault developed this line of analysis following the Left's criticisms of his concentration on the micro-physics of power.³² For his critics, Foucault's form of analysis can produce three deleterious effects. First, it prevents consideration of the politics of state/social relations. Second, the omnipresent nature of subjugating power seems to preclude meaningful human freedom. This view of power potentiates a politics of despair. His subsequent analysis seeks to address these concerns.

The starting point in Foucault's analysis is that practices of government determine the nature of the state rather than that the nature of the state determining governmental practices. For him, governmental practices emerged out of eighteenth century shifts in political and ethical thought about the status of the individual, rather than through any structural determinants such as economic necessity.³³

31. Foucault, 1978.

32. Gordon, 1991 : 4.

33. Graham Burchell, "Civil Society and 'the system of natural liberty'", in Burchell et al., 1991 : 122.

At the heart of Foucault's analysis is his concern at what he perceives to be a trend, within western societies, towards a form of political sovereignty which governs "each and all"; a simultaneous "totalization" and "individualization" of social life.³⁴ This trend occurs through the historical development of three forms of governmental practices; reason of state (*raison d'etat*), science of police (social policy) and liberalism.

In Search of a Logic for Government – the "Reason of State"

The "reason of state" might be fruitfully described as an initial attempt to define the reasons for state governance and the material basis upon which that governance can be exercised. For Foucault this problematic was propelled by the disintegration of European feudal society, by the associated rise of territories plus the religious dissidence of the Reformation and Counter Reformation. Together, these conflicting trends produced a generalized "problematic of government".³⁵ The debates which surrounded Machiavelli's "The Prince" sought, for Foucault, "a kind of rationality" for government, one which did not subordinate the art of government purely to the Prince's relationship with that which he owned.³⁶

To assist his history of government, Foucault points to the influence of French philosophers La Perriere and La Mothe La Vayer. They discovered, respectively, a multiplicity of governments within society – "heads of families, superiors of convents, teachers, tutors" and a tripartite "art of self government ... art of properly governing a family (and) ... science of ruling a state". For Foucault the developing art of government came to infuse all of these levels, becoming characterized by "the essential continuity of one type with another".³⁷ This continuity occurred in both an upwards and downwards direction.

34. Gordon, 1991 : 1.

35. Foucault, 1978 : 87.

36. Ibid : 89.

37. Ibid : 91.

The upwards motion refers to the pedagogical learning to which the prince was subjected. The downwards move, conversely, refers to the transmission to the individual and the functioning of the family the principles through which wise statutory governance occurs. At this point in the development of the "Reason of State" the continuity became known as "economy" and it focused upon the pastoral oversight of family life.³⁸ The second point with regard to economy is that governance can only occur in accordance with the sovereign's strength. If government is to exist indefinitely it must come to "know" its population and develop each individual in ways which will foster its own strength.

Foucault further considers La Perriere's thoughts on the appropriate ends of government by examining his proposition that "government is the right disposition of things, arranged so as to lead to a convenient end".³⁹ Within the sovereignty paradigm, "things" referred to territory and inhabitants. What Foucault extrapolates from La Perriere is that "the things ... are in fact men, but in their relations ... which are wealth, resources, means of subsistence ... climate ... fertility ... customs, habits ... accidents, misfortunes ... famine, epidemics, death".⁴⁰

By taking these elements into consideration, government becomes characterized by a general form of management. In comparison to these matters issues such as landed property rights or sovereignty over territory become secondary matters, two of this management-style's many variables.

As a result of this emphasis on the relationships between people and their milieu, government comes to have a finality which is separate from the circulatory of sovereignty. Its goals become the right disposition "of things" to ends which are "convenient" for each of the things to be governed. The issue in understanding this governmentality now becomes that of identifying the tactics through which it is operated.

For Foucault two apparently antithetical forms of tactic emerge; the construction of a "science of police" and liberalism.

38. Ibid : 92.

39. Ibid : 93.

40. Ibid : 93.

Government by the "Science of Police"

The science of police had its genesis in the sixteenth century growth of monarchical administrative techniques. The science progressed through various initiatives: the gradual establishment of more permanent governmental apparatuses, the creation of a set of analyses and form of knowledge ("statistics") and mercantilism.⁴¹ The growth of these elements requires favourable material conditions and mentalities. The wars, rebellions and financial crises of seventeenth century Europe retarded their development, however, as did the centrality of the sovereignty paradigm within political thought.

Mercantilism eventually enabled ideas about government to be separated from the sovereignty paradigm. It did so because mercantilism represented a way of organizing society which did not rely upon the use of the law. The form of government to which mercantilism was tied at this time, however, (sovereignty) eventually ensured its demise. Its demise occurred because the sovereign's aims remained the expansion of its own wealth rather than that of the population. For Foucault, however, mercantilism raised the possibility of a new foundation for government based upon *savoir*, that is upon surveillance and the accumulation of knowledge.⁴²

In order for this fledgling art of government to progress it had to reconcile itself with the antagonistic, yet pre-eminent theory of sovereignty. This reconciliation occurred during the seventeenth century through the development of principles which were derived from that same theory of sovereignty; a reconstitution within which individuals and sovereignty became attached through the dynamic of contract. At the heart of the contractarian ideal is the notion that individual citizens corporately assent to be governed. Their voluntary consent is seen to be the element which legitimizes the existence of the state. As the democratic theorist John Keane argues,⁴³ however, the strength of this idea was eroded as the functions of the state expanded and became increasingly bureaucratized. In addition, individuals progressively became obliged to have a pre-eminent allegiance to the state, in exchange for benefits which they received as citizens. This reversed the earlier assumption, that citizens have inalienable rights to which the state must acquiesce.

41. *Ibid* : 96.

42. *Ibid* : 98

43. Keane, 1984 : 245–249.

As a result of these trends, individuals became less able to affect the activities of state agencies. Rather, they have become able to influence state policy only through their membership of large collectivities. This issue is pertinent in the examination of voluntary agencies' "contracts" with the Corrections Division. It raises questions about those agencies' abilities to influence the content of their "mutual agreements" with that Division.

An additional problem which the art of government faced during the seventeenth and eighteenth centuries was its analytical reliance on the model of the family. This model was unable to comprehend problems associated with issues such as the management of territory and national finance. In Foucault's view this impasse was overcome during the seventeenth and eighteenth centuries as a result of increases in and concentrations of population. Notions of political economy progressively became reconstructed around the phenomenon of population rather than family. "Family" became relegated to "an element integral to population, and ... a fundamental instrument in its government."⁴⁴ The element which facilitated this change was the governmental collation of statistics on populations. Statistics revealed that populations have regularities (fertility, life cycles, mortality). The idea of a population with regularities which ought to be managed, provided a conceptual dynamic by which the problem of government could be recentred away from sovereignty. The welfare of the population and the improvement of its conditions "thus became the end of government".⁴⁵ According to this view population is the subject of particular needs and aspirations; it also now becomes the object of government. Through the government the population now becomes aware of what it needs. At the same time, however, it remains ignorant of what is done to it. This "police" state (as it is known) becomes a rationalized form of social order. It is the assurance of an order which the state itself creates.

The maintenance of this security and prosperity further changes the idea of "economy". "Economy" now requires a form of governmental surveillance which is inseparable from that of a knowledge of all processes related to population in its larger sense. "Economy" thus becomes political (the "political economy") in that it involves the infusion of population, territory and wealth.

44. Foucault, 1978 : 99.

45. Ibid : 100.

Foucault regards this conjunction of *raison d'état* and the science of police as both unique and profound in its effects. It provides governmentality with both a separate rationality from that of sovereignty and a practical form which allows the pastoral government of all and of each. Its immediate goal is public prosperity. This prosperity is pursued through social policies, the logic of which however, is not always accessible to and legitimated by the public.

Despite the public's inability to always perceive what is done in their name, the emphasis on "prosperity" creates an important and unintended social effect. Within this, members of the public have come to use this precept, of prosperity and welfare, as a political platform from which to demand various improvements to their quality of life. Their actions represent a form of political "counter demand".⁴⁶

46. The impact of public "counter demands" within penal policy is discussed in chapter eight's investigation of the growth of community involvement during the 1980s.

Liberalism – the Tool of Critique.

Foucault's interest in liberalism lies in its critique of the art of governing (rather than its own substantive political programme). The historical role of liberalism, Foucault argues, is the education of state reason "by displaying to it the intrinsic bounds of its power to know".⁴⁷

Thus liberalism has not functioned historically simply as a perpetually failing political doctrine, such that it advocates a minimalist state while simultaneously constructing an incessantly growing administrative apparatus. Instead:

"Liberalism is not a dream which clashes with reality and fails to insert itself there. It constitutes – and this is the reason both for its polymorphic character and its recurrences – an instrument for the criticism of reality".⁴⁸

According to Foucault liberalism critiques both the abilities of government and prevailing ideas about the nature of the reality to be governed. With regard to the former, liberalism's first target is the belief in government's limitless capacity to "know" its principality. This belief is typified in the assumptions of *raison d'etat* and the science of police. Early physiocratic doctrine, Gordon tells us, held that *laissez-faire* economic relations remained fully within the sovereign's purview. This occurred via a device – Queseny's Economic Table – which permitted a sovereign to monitor the array of economic processes within the territory.⁴⁹ At the hands of Adam Smith and Immanuel Kant, however, the theoretical possibility of knowledge of social processes became an illusion. As a consequence, economic sovereignty also became a conceptual impossibility.

A further liberal argument which developed against the idea of an "all knowing" government grew out of the development, within British empirical philosophy, of a particular view of human subjectivity.⁵⁰ Within this view people are seen to be ultimately motivated by interests (passions) rather than rational calculation. This "irrational" base for behaviour further eradicates the possibility of a purposive, calculable economy.

47. Cited in Gordon, 1991 : 15.

48. *Ibid* : 18.

49. *Ibid* : 15.

50. *Ibid* : 21.

For Foucault the real beginning of liberalism occurred when it identified that an incapability existed between the "non-totalizable multiplicity which characterizes subjects of interest and the totalizing unity of the judicial sovereignty".⁵¹ In turn liberalism sought to construct a new definition of the domain of government, one within which both economic and judicial sovereignty co-exist. Foucault identifies "civil society" as the invention of liberalism through which this occurs. Civil society is not an "aboriginal nature which repeals and contests the will of government."⁵² Rather it is principally an instrument of government. Civil society is the vehicle through which government seeks to shape, and thus control, the public sociality. Rather than control people directly, as with disciplinary power, the construction of sociality controls people indirectly. The governmental shaping of sociality influences how we think of ourselves, of others and of how we ought to conduct our mutual relationships. The government's moulding of civil society thus constructs a conceptual framework from which we gain our ideas and which we subsequently outwork.

For Foucault, civil society contains an interesting relationship between the ideals of security and liberty; ideals which liberalism seeks to foster. Foucault holds that security is a precondition of liberty. Equally, however, he argues that within liberalism, liberty is a prerequisite for security. Without liberty there can be no laissez-faire. Thus, liberalism becomes an injunction not to impede the course of "natural" sociality. The basic rationality of governmental action thus becomes the securing of social conditions which maintain these "natural" systems of regulation. Government encourages the identification and support of social processes which are vulnerable, by framing them within "mechanisms of security". To this end the sponsorship of liberty becomes an indispensable element of governmental rationality.

"Civilian" activity occurs through two processes. The first, originally suggested by the French economists, is the idea that "spontaneous" public activity ought to play a role in the solution of society's variable and accidental problems.⁵³ Paradoxically, in order for government to ensure that such occurrences are adequately attended to, it must organize that "assistance" in a rational manner.

51. *Ibid* : 22.

52. *Ibid* : 32.

53. *Ibid* : 23.

Second, a state-sanctioned system of private authority develops. For instance, this occurs in the field of employee/employer relations. Government does not necessarily become involved in the operation of this tutelage of private, social regulation. Rather, it condones that which is useful by allowing its continuation. Private tutelary authority thus becomes an aspect of government's general policy of order. To this end "liberal security means ... not so much a bonfire of controls as a recoding of the politics of order".⁵⁴

To summarize the analysis thus far, governmentality comprises three approaches to governance. The first is a reorientation of the end of government away from sovereignty to the convenient disposition of people and their relationships. The other two approaches to governance scrutinize that transformation's ability to achieve "the right disposition" of things. The first of these forms, the science of police (social policy), emphasizes government's capacity to survey and know its constituency, and to intervene with it. The second, liberalism, emphasizes the opacity of social life. It develops the idea of "civil society" wherein society's processes of interpersonal interaction are created and protected. These social processes contribute to government's policy of order and security.

Liberalism has remained a fertile source of ideas on governance. The critiques and political visions that it inspires have important consequences for contemporary styles of government. The following section of this chapter introduces the notion that liberalism affected the Corrections Division's view of its roles during the 1980s. Furthermore, it outlines Foucault's thoughts on the directions of recent neo-liberal thought.

The New-Look, Neo-Liberal Governmentality.

Since the mid 1980s New Zealand has experienced a rise in neo-liberal political thought.⁵⁵ This has impacted upon penal policy and changed aspects of the Corrections Division's relationship with voluntary agencies. Significantly, the

54. Ibid : 26

55. Refer, for instance to Bruce Jesson's Behind the Mirror Glass. Auckland : Penquin Books, 1987 and N. Shirley's "New Zealand : The Advence of the New Right" in Taylor, I., (ed). The Social Effects on Free Market Policies. London : Wheatsheaf and Harvester Press, 1990 : 351-406.

Division has come to simultaneously support society's "natural" regulatory systems, while introducing a managerialistic form of rationality into its relationships voluntary agencies. This introduction of managerialism in turn, imposes an expectation upon voluntary agencies that they too must function in the same way. This innovation represents a new means by which government shapes the nature of "the community" (civil society). Gordon points out that in the last stages of Foucault's life he enquired into the different means by which forms of neo-liberalism reconstruct public life toward ends which those forms define as expedient.⁵⁶

For the German neo-liberal faction (the Ordoliberalen) the starting point in this construction is the realization that the market place is not a natural social reality. As such, governments must construct social policies which will enhance the market's functioning and progress. The central problem of such politics, as the Ordoliberalen perceive it, is not the anti-social effects of the market place but the anti-competitive nature of society at large. The Ordoliberalen advocates a legally constructed base for the unhindered operation of the market, a conscious notion of "economic right". In this way it maintains that the enterprise-form ought to be dispersed throughout the entire social fabric.

Foucault believes that the American variant⁵⁷ radicalizes this concept further. Instead of the enterprise-form being dispersed in the name of the economic, the Chicago School advocates that all social life ought to be redefined in economic terms. Thus sociality ought to be understood in terms of allocating scarce physical and emotional resources to alternative social ends.

Implications for this Thesis

Foucault's idea of governmentality raises several issues for this study of the Corrections Division's relationship with voluntary sector agencies. First, governmentality suggests that modern states primarily maintain social order through enhancing the security of their populations. These processes of security enhance individual citizens' welfare in ways which contribute to the state's needs. In order for individual welfare to do so, however, government must successfully define what

56. Gordon, 1991 : 41-44.

57. Specifically, the variant which developed within the Chicago School of Economics.

that state of personal wellbeing ought to consist of. This issue is pertinent to the choices which the Corrections Division made in its involvement of the voluntary sector. This thesis develops the idea that the Department of Justice facilitated voluntary sector movements which had the potential of securing the aspects of New Zealand sociality, which the Department perceived to be under threat. This is the analysis that is pursued with respect to the Department's involvement in the marriage guidance movement⁵⁸ and the incorporation of the Church and employers in the socialization of offending adolescents.⁵⁹

Second, the self-professed ability on the part of Department senior officials to determine those aspects of sociality which ought to be secured, represents a particular aspect of Foucault's governmentality; that is, the legacy of the "science of police". A principal tenet of police science is that government ought to superintend the pastoral welfare of the public. Simultaneously, however, a competing tenet of governmentality, liberalism, holds that government is incapable of comprehending the opacity of public life. It is out of these competing principles that the idea of "civil society" was born. Governmentality has thus come to involve the governmental construction of civil society, of the sociality through which public life occurs. This enquiry into the Corrections Division explores the degree to which the Corrections Division has sought to influence the public life of the voluntary sector. Two propositions emerge within this enquiry. The first is that the Corrections Division has tended to relate to civil society through facilitating, rather than repressing, sociality. The second proposition is that these processes of facilitation periodically have entailed the construction, or redevelopment, of the forms of social interaction which the Division encountered within the voluntary sector. The Division's reconstruction of organizations' sociality is most evident in the Department's initial interactions with agencies which it wished to incorporate into its mission. The marriage guidance movement and joint-hostel-venture partners are good examples of this.⁶⁰ The rise of contractualism during the late 1980s further illustrates the point.⁶¹

58. Refer to chapter nine.

59. Refer to chapter ten.

60. Refer, respectively, to chapters nine and ten.

61. Refer to chapter eleven.

After the Department's initial structuring of its relationships with voluntary sector agencies, it tended not to intervene in their functioning. Its proclivity not to do so corresponds with Foucault's observation that the liberalism of governmentality behoves governments not to impede the "natural" order of society. That injunction not to impede ironically follows governmentality's injunction for governments to actively shape the nature of that sociality. This thesis examines the degree to which the Corrections Divisions of the Department of Justice has sought to influence the nature of voluntary sector sociality, thus influencing the manner in which those agencies relate to the Department, the Department's clients and how they view themselves.

Third, for Foucault, governmentality's emphasis on the development and support of sociality also facilitates the generation of public demands for increased levels of welfare. This thesis explores the impact of these "counter-politics" upon the development of penal policies and of voluntary agencies' resistance to Departmental overtures or requirements. This possibility of resistance fundamentally subverts the idea that government is the sole determinant in the development of public life. The affects of this resistance upon the Division further deepens the dynamics of voluntary sector involvement with the Corrections Division.

SUMMARY

This chapter has set out the key aspects of three components of work on governmental practice. These three components – sovereignty, disciplinary power and governmentality – provide powerful tools for my exploration of the relationship between the Corrections Division and the voluntary agencies.

Foucault's framework for studying governance is used in this thesis in the following way. The theory of sovereignty suggests that the Corrections Division ultimately decides what form of relationship is to exist between itself and the voluntary sector agencies. In order to gain the ability to make such decisions the Division has to successfully suppress or deconstruct (discredit through critical analysis) any competing viewpoints. This thesis examines the extent to which the Division did so within its relationships with voluntary agencies, between 1950 and 1992. The theory of sovereignty also suggests that the Division may cultivate relationships of patronage with those voluntary sector agencies which it seeks to incorporate. This patronage would form a means through which the Division supervises those agencies' involvement. The centrality of patronage within the relationships would however, subvert the hierarchical control which sovereignty seeks. This subversion occurs because of the influence which subordinates bring to bear on their organizational superiors. A further question which the sovereignty paradigm raises for this enquiry concerns the roles which patronage has played within the Division's various voluntary sector relationships. Despite the subversive effect of patronage, the sovereignty paradigm suggests that the Corrections Division would seek to remain dominant within its relationships with voluntary sector agencies. The thesis examines the extent to which the Division was able to retain such a dominance in light of its need to cultivate patronage, and thus placate the expectations of the agencies.

Foucault's idea of disciplinary power is used in two ways within this thesis. First, it is explored, and rejected, as a theoretical explanation for the dynamics of the Corrections Division's relationships with the voluntary sector. By way of an alternative hypothesis, it is posited that disciplinary power merely describes some of the strategies through which the Division approaches voluntary agencies.

Before beginning the analysis of the Corrections Division's relationship with the voluntary agencies I need to set out the methodological approach used and the issues surrounding the use of that methodology. That is the subject of the next chapter.

CHAPTER THREE : METHODOLOGY

INTRODUCTION

This thesis examines the manner in which the Corrections Division interprets and subsequently interacts with the social world which it inhabits. Through this study of interpretation and action the thesis constructs an analysis of the Corrections Division's organizational behaviour toward voluntary sector agencies.

The sociological study of interpretation is conducted through a research method called ethnography. This chapter discusses the various ethnographic approaches which exist and the manner in which they are employed within this thesis. It also examines the means by which simple quantitative measures enhance the meaningfulness of the findings obtained through ethnographic enquiry. The chapter progresses through discussions of this methodology, the types of data employed in this research and the methods of analysis used.

METHOD

As stated above this research employs two methodologies: ethnography and quantitative measurement. These are considered below.

Ethnography

Following David Silverman's synthesis of the various ethnographic approaches,¹ my study draws from the cognitive, interactionist and ethnomethodological schools. Respectively they focus on issues of social structure, the interpretation of meaning and the formal systems of logic we employ to construct our realities.

Using this methodology my research topic is explored through developing an understanding of the actions and interactions of the senior management of the Corrections Division. It develops this understanding by comprehending the concepts through which these personnel create and manage the policy of community involvement. To expound further on this approach, the contributions and uses of the three schools of ethnography are discussed below.

1. David Silverman, Qualitative Methodology and Sociology. Aldershot:Gower, 1985 : 55-

Cognitive ethnography seeks to describe cultures. It does so by focusing on their structural components, for example their communication processes and social hierarchies. These descriptions are developed from the study of the individuals' collective interactions.² Within this approach the observer seeks to identify the "rules" of these interactions. This approach presumes that coherent and all-encompassing rules exist, that each culture possesses a discernible "logic".

The epistemology of the interactionist school of ethnography stands in apparent opposition to this belief in the existence of one discernible logic. As with cognitive ethnography, interactionism begins by "taking the actor's point of view", for example, that of the senior managers. It does so in order to apprehend two matters: the meanings which those managers ascribe to events and practices (their everyday conceptions of reality) and the interactions (events) through which meanings arise.

Contrary to the belief that a coherent and all-encompassing reality exists, interactionism holds that the nature of reality is equivocal. It is perceived through a variety of symbols, for example beliefs about crime, democracy, government etc, and is established through the assembly and communication of those symbols. Viewed in this way, reality is a social construct.

Foucault employs this approach in a method called "geneological analysis". Again, geneological analysis differs from cognitive ethnography on several counts.³ First, geneology is concerned with the "singularity of events". It dismisses the contention that such events are only explicable in terms of totalizing linear processes (that is, evolutionary forces). Second, it focuses on aspects of sociality which are normally bypassed, for example reason, sexuality, madness and punishment. Within this geneological analysis the voices of the subjugated are privileged. They are privileged in the belief that their histories disqualify the englobing assumptions about reality promulgated by the dominant functionalist theories. Finally, this form of analysis rejects the imperatives of traditional theorization, that is, to pursue "primary causes". Instead, the geneological approach views history as a tapestry of interacting agents, accidents and contingencies.

2. In the case of this thesis the individuals involved are the Corrections Division senior management.
3. Barry Smart, "On Discipline and Social Regulation" in David Garland and Peter Young (eds) The Power to Punish. London : Heinemann. 1983 : 64.

The epistemological distance between the cognitive and interactionist schools appears substantial. The first believes in the existence of a totally encompassing social ordering, such that, for example, social control can be understood as the systematic imposition of disciplinary power. Interactionism, however, perceives social existence in terms of plurality. Thus, social control would be seen as being made up by various competing interests and accidents. As such, interactionism gives rise to partial, context-specific explanations.

From a third school of ethnography (ethnomethodology) comes attempts to bridge this impasse. In constructing its explanations of culture, ethnomethodology focuses on the systems of logic which people employ to construct their reality. Such systems of logic might include inductive/deductive, modernist/post modernist and structural/post structural approaches. Within this emphasis on forms of logic, the central question becomes one of how participants in an event find its character and reproduce it in a communicable form. A good example of this process is how senior managers come to decide what "community involvement" is, and how they make that into policy.

This latter approach to interpretive research questions the injunctions of cognitive and interactionist ethnography to "take the managers' point of view". To do so takes for granted the means by which these managers construct their viewpoints. Ethnomethodology holds that an understanding of this process is a fundamental component of adequate explanation. First and foremost, however, this approach requires the researcher to be fully aware of the forms of logic they themselves use to construct and analyse the data. As demonstrated in the above discussion on cognitive and interactionist ethnography, different views of reality constitute alternative ways of "structuring" and thus attributing meaning to data. These different assumptions about the nature of reality are in themselves, therefore, social structures.

In light of the conclusion that assumptions about the nature of reality are social structures, ethnomethodology can be seen to share the same intent as cognitive ethnography. That is, they both seek to identify the structures which order society and give rise to behaviour. The difference between the two approaches is that the cognitive school is interested in the relationships of material structures (for

example language processes and social hierarchies) while ethnomethodology focuses upon the social processes whereby those material structures gain their significance. Thus studies which focus on the logic that organisational managers might use, would examine the situated rationality of what those managers do rather than explain their actions in terms of historical and evolutionary forces.

In keeping with this belief in the situated nature of narratives it is suggested that interview-data is a product of two factors, namely the interview process and the social setting within which it occurs. Interview data from this study thus displays behaviour, actions and opinions which are the manager's reproductions of the cultural particulars of the Corrections Division. Analysis of this data therefore reveals both displays of the Corrections Division's cultural particulars, for example its beliefs about right and wrong forms of state/civil interaction, and displays of the social processes through which the managers assemble those beliefs for the interviews.

A final consequence of the ethnomethodological approach is that researchers ought to enquire into not only their chosen subject but also the nature of the framework by which they construct their subject. This appears to be a paradox which can inhibit reliable research. This problem raises the question of how a framework can be relied upon to uncover "what is" when its nature determines that it will interpret "what is" in a particular way.

For Silverman this impasse can be overcome through synthesising elements of the three ethnographic schools.⁴ The result of this synthesis is the employment of both deductive and inductive approaches in the construction of generalizable knowledge.

The ethnographer, Norman Denzin, takes this point further,⁵ suggesting first of all that research projects should always be regarded as stepping stones in the construction of generalizable propositions, that is, theory. In advocating this view, Denzin follows Barney Glaser and Anselm Strauss's distinction between "substantive" and "formal" theory.⁶ Substantive theory is that which develops out of grounded empirical enquiry and which speaks to a defined analytic field. An example of such

4. Silverman, 1985 : 111-116

5. Norman Denzin, The Research Act in Sociology. London : Butterworth, 1970 : 195.

6. Barney Glaser and Anselm Strauss. The Discovery of Grounded Theory. Chicago : Aldine, 1967 : 79-100.

a field is the Corrections Division's relationship with voluntary agencies. These empirical enquiries are initially informed by formal theory, for example, Foucault's ideas on government. The enquiries, in turn however, inform and reshape that theory so as to enhance its explanatory usefulness. Utilized in this way the interactionist and ethnomethodological approaches come to share the cognitive school's belief in the possibility of generalizable, though not necessarily universal, explanations. This enhances the analytic depth of the explanations and hence their usefulness.

Silverman suggests that the formal means to accomplish this task is the process of inductive analysis. This proceeds as follows. To begin, an explanation of the phenomenon to be studied is formulated from an existing analytic framework or theory. An example of this is the discussion of Foucault's framework contained in chapter two. A case study is then constructed in light of this. The analysis of the means by which the Corrections Division relates to voluntary agencies, as contained in chapters eight to eleven, is a good example of this. If the explanation does not fit, either it is reformulated or the phenomenon-to-be-explained is redefined so as to exclude the dissenting case. "Practical certainty" is obtained when a number of empirical enquiries such as these have been examined. The discovery of negative cases disproves the explanation and requires the reformulation of the original theory. This process continues until coherence exists between the observed and the explanation.

This approach to research presumes neither the "correctedness" of beliefs in the pre-existence of a social totality, nor of the relativity of all explanations. Instead, Silverman suggests that we ought to accept that our knowledge is imperfect, whatever its state.⁷ As such, our theories always require reformulation and development. The potentially pessimistic view, that this dismisses the possibility of achieving "ultimate" knowledge, need not be an obstacle in the production of solutions to practical problems. As Silverman points out, physicists have long gone about their science in the face of the same uncertainty, but without dismay.⁸

7. Silverman, 1985 : 116.

8. David Silverman, "Six rules of Qualitative Research : A Post Romantic Argument," in Symbolic Interaction, Volume 12, 1989 : 228.

The Use of Simple Measurements

Simple, quantitative measures are used, in this primarily ethnographic account of the Corrections Division, in order to enhance my description of that Division's account of their activities. They are employed because of a defect which all ethnographic schools share.

Ethnographic accounts require the reader to place full trust in the ethnographer. The reader has to trust that the researcher has not been partisan in selection of "evidence" and that the data presented is representative of the phenomenon-in-question. Confidence can be highlighted where deviant cases are disclosed and explained. Doubts might still exist, however, about the persuasiveness of claims where they are made on the basis of a few selected examples.

Silverman suggests the use of simple quantitative measures in order to overcome this problem.⁹ Simple counting techniques, he says, can offer a means to survey the whole corpus of data ordinarily lost within intensive, qualitative research. This allows the researcher to test and revise her/his generalizations and to satisfy doubts they might have about the accuracy of impressions. In addition, the inclusion of quantitative data provides readers with an overall "flavour" of the research field.

In keeping with the ethnographic traditions, the categories used to classify the quantitative data ought to reflect those used by research subjects. Thus the actual ways in which actors invoke features of their culture ought to be employed in preference to the imposition of categories which are alien to them.

The forms which quantitative measurement take in this research are canvassed in the following section's discussion on my sources of data and data gathering methods.

9. Silverman, 1985 : 140

DATA GATHERING METHODS AND SOURCES OF DATA

This research focuses on two aspects of the Corrections Division's relationship with voluntary agencies. The first is the policy of community involvement; the second is the administrative practices which this policy involves. Two forms of data are used in the study, namely textual and semi-structured interviews. The following descriptions of these two forms include discussions on my sources of data.

Textual

The primary sources of data on the policy of community involvement are official documents such as Department of Justice Annual Reports to Parliament, sundry reports of the Department of Justice and New Zealand Parliamentary Debates.

In much sociological work texts such as these are viewed as "official" or "commonsense" versions of reality. These are then critiqued and displaced by the researcher's own analysis of the same phenomenon. In keeping, however, with this study's focus on the situated rationality of events, a different approach is taken to their use. Within this approach, attention is placed on the practices involved in the assembly and interpretations of the texts. This involves analysis of the texts' content, the logic employed in their construction and the social context from which they speak. Viewed in this way, texts are not reduced to the status of "secondary sources". Rather, they are seen to exist in their own right with substances specific to their contexts. The methods by which they are analysed also reflect this. They are understood as context-specific interpretations of reality rather than as competing versions of "the truth".

Texts other than Departmental records are also used in this study. These consider the contexts within which the community involvement policy develops. As transpires in chapter four, the Department of Justice's Annual Reports to Parliament begin to display concerns about the public's perception of prevailing democratic arrangements. This, I argue, has implications for the way in which the Department manages its policy of community involvement. In order to find suitable explanations for the modifications which occur, enquiry is made into the dynamics of democratic discourse during the period under study. Further to this examination enquiry is made into associated changes in styles of state-sector management.

My starting point for the textual analysis of these matters is the New Zealand Periodicals Index and its successor, Index New Zealand. These indexes itemize articles written on various topics. The key reference for my investigation into democratic discourse is "New Zealand—Politics and Government". The articles which are cited within "New Zealand—Politics and Government" also point to other literature written on the subject of democracy. With the same aim in mind, namely of enquiry into the dynamics of New Zealand democracy, the Parliamentary Debates between 1950 and 1991 are also examined.

The second field on which this research focuses is that of administrative practice. This could, potentially, be divided into two areas of enquiry. The first would canvass the practices involved in the disbursement of funding to voluntary agencies. The second would relate to the transfer of non-monetary services such as the giving of information, support and managerial assistance. For logistical reasons this research does not attempt to examine the latter area.¹⁰ Rather, it focuses on those practices which relate to the administration of funding. This is done in the belief that the issues relating to the means by which the Corrections Division relates to voluntary agencies will be highlighted where money is involved.

The primary textual sources for the research into administrative practices are the Division's records (files) of applications for the disbursement of funding grants. I have classified these files into three groups. Each relates to a different period of time. These three categories are discussed below.

During the late 1950s and throughout the 1960s the Department of Justice was intimately involved in the creation and development of Marriage Guidance New Zealand (MGNZ) and the New Zealand Prisoners' Aid and Rehabilitation Society (NZPARS). These were the primary voluntary agencies with which it related during this period. This study examines the Department's files which relate to its involvement in the development of MGNZ, and to a lesser extent, that of NZPARS.

10. The logistical reasons refer to the difficulties involved in surveying the administrative practices of local, district probation offices. The study of localized practices would however, be useful for the creation of a full assessment of the Corrections Division's administrative practices. For the purpose of this thesis, however, I did not have the time or material resources to conduct such a study. Where appropriate I suggest areas of localised enquiry which may be relevant to this study of the actions of senior management.

During the late 1960s and 1970s the Department of Justice entered a series of joint-ventures with Christian social service agencies. Together they operated a series of boarding houses and Probation Hostels. Again, this study draws its data on the establishment, development and termination of these ventures from the Department's files.

The third group of files relate to successful funding applications, by voluntary agencies, between 1989 and 1992. These files indicate that 167 applications were successful during that period. Of these, records are available on 44 of them (26.5%).¹¹

Together these files cover a period extending from the late 1950s to 1992. The study of community involvement, which this thesis includes as a background to its enquiry into the Corrections Division's administrative practices, also covers a similar interval. The beginning of this period, the early 1950s, corresponds to the introduction of the 1954 Criminal Justice Act. That Act is significant for two reasons. First, the Act collated into one piece of legislation the variety of statutes that had previously related to the administration of penal sanctions.¹² The amalgamation of these statutes represents an important step toward the rationalization of New Zealand's penal responses to crime.

The second significant aspect of the 1954 legislation was its intention to emphasize the prevention, rather than expiation, of crime. Thus the Act strengthened the provisions of Probation orders, increased the maximum possible length of Borstal-training sentences, introduced the sentences of Corrective Training and Preventive Detention and strengthened the provisions of parole measures for ex-inmates. These provisions sought the correction of the offenders rather than the punishment of their offences.¹³

11. This leaves 122 cases (73%) for which the Corrections Division's central filing system has no further records.

12. Such statutes included the Offender's Probation Act 1920, the Prevention of Crime (Borstal Institutions Establishment) Act 1924 and the Crimes Amendment Act 1910.

13. New Zealand Parliamentary Debates, Vol 304 (1954) p.1927 (Webb).

It is within this rehabilitative framework that the Department of Justice systematically began to marshal the energies of the public. Prior to the 1954 Act much of the community's involvement within the Justice Department had occurred on an ad hoc basis.¹⁴ The unco-ordinated nature of those endeavours might be explained by the subordinate, palliative role which they played within the primarily punitive culture of the pre-1954 penal system. The 1954 Act began to emphasize the reformation of offenders, however, and during the ensuing years the Department of Justice deemed the public to have a strategic role within the rehabilitation of criminals.

Thus for these two reasons, namely the rational organization of penal legislation which occurred in the early 1950s and the role which that new legislation created for the public, the study begins its enquiry into the Department of Justice's involvement of "community" in the early 1950s. The study continues this enquiry up to the beginning of 1992. It does so in order to apprehend contemporary developments in the Department's relationships with voluntary sector organizations.

To summarize this section, texts are used to examine both the development of the community involvement policy and the administrative practices which evolve in the implementation of the policy. The texts include official reports of the Department of Justice, commentaries on the state of New Zealand's democracy and Departmental files on the funding and functioning of various voluntary agencies.

14. An exception to this is the field of Probation. The practice of Probation began within the public sphere and largely continued in this way until the 1954 Act. From 1954, however, the Department's Probation Service grew rapidly so as to displace the role of voluntary probation workers.

Semi-structured interviews

Interviews are the second form of data-capture I employ. For the purpose of this thesis I sought interviews with senior management of the Corrections Division, namely the Secretary of Justice, the Group Manager of the Corrections Division and the Assistant Secretary for Probation. The Secretary for Justice declined to be interviewed and instead nominated the two managers named above.

In an attempt to standardize the context within which the interviews occurred, my letter of introduction to the participants outlined several issues.¹⁵ These included the topic of my enquiry, its immediate intended audience and possible future uses for which the material might be used. In this way, it was assumed, the interviewees would respond to my questions knowing how the material might be used and who would be assessing it. The degree to which this occurred, however, is unclear.¹⁶

The interview schedule¹⁷ sought information on several matters relating to the community involvement policy and its administration. These issues are drawn from the thesis's central concepts and theoretical orientation, as discussed in chapters one and two. Issues in the interview schedule included the following: definitions of "community" as used by the Division; definitions of "partnership" as they relate to the involvement of voluntary agencies; definitions of success and failure within the community involvement policy; the role of contracts with voluntary agencies; the mechanisms by which the Division protects the autonomy of voluntary agencies; and management styles of the Division.

The interview schedule was forwarded to the two participants prior to the interviews. This allowed them time to prepare their answers. The interviews were recorded on audio-cassette tapes and sections were transcribed. Portions of these transcriptions appear in the following chapters.

15. Refer to Appendix One.

16. At the conclusion of my interview with Mel Smith he asked "What's your actual project; I mean what's your topic?" – Smith/Tie, interview Wellington, June 1992.

17. Refer to Appendix Two.

These portions of transcript illustrate an issue which is raised by the interactionist school of ethnography. Interactionism holds that we develop our understandings of ourselves and our world through interacting with others. It follows, therefore, that the interviews for this research are also sites wherein we, the participants, redevelop our interpretations of the world. This realization, about what happens within interviews, suggests that I cannot interpret the interviewee's statements as reflections of "reality". Rather, of equal importance to the content of the participant's statements is the manner in which they assembled those ideas. Questions which I asked may have required the interviewees to collate ideas in ways which they had not previously considered. Thus, for instance, at one point in the interview of the Assistant Secretary for Probation (ASP) Murray Short, he links the ideas of partnerships between Maori tribal authorities and the Corrections Division with the concept of the Division's status as an agent of Parliament. In such situations, he stated "it's very difficult to establish any equal partnership". To that statement I reflected, "So you are always going to have that unequal balance?" The contemplative manner in which Short then made his next statement illustrates his spontaneous redevelopment of his ideas, in light of his preceding comment. He stated, "Yeah, (pause) that's, that's, the (pause) the, uh (pause) that's the danger." The reflective style of Short's reply is as important as the content of his sentence. In this case I have interpreted his contemplation to mean that he was developing a new thought concerning the implication of partnerships for tribal authorities. Thus, the new thought does not reflect his previously existing interpretation of the Division's relationship with tribal authorities. Rather, the thought becomes a new element in the Division's interpretation of its role - an interpretation created by the interview. When interviews are understood in this way, as sites wherein the participants' world views are reconstructed, then the interview data becomes as a scene in a play entitled "The Corrections Division's relationship with voluntary sector agencies". This contrasts with the perception that the data represents a "photograph of reality".

This development and re-interpretation of ideas, which occurred for both myself and the interviewees during the interviews, meant that those interviews often took on a conversational form. This form contrasts with the question/answer format which the interview questionnaire suggested. I had not anticipated this change but given the semistructured nature of the interview schedule I ought not to have been surprised at the outcome. Within my own western culture question/answer interview formats are not a common means through which we interact. Interactions tend to occur through conversational idioms. Within the interviews for this thesis I found myself

repeatedly reverting to this more culturally dominant form of interaction. My propensity to converse with the participants, rather than purely question them, added to the manner in which the interviews engaged us in the development and reformulation of our viewpoints.

Due to the suggestion that the interview data consists of these "reformulated viewpoints" that data cannot be interpreted as a simple reflection of the Division's relationship with voluntary agencies. Rather, the data reflects one small episode in the participants' respective ruminations on how they ought to act with respect to the Corrections Division's relationship with voluntary sector agencies. The data thus demonstrates the two managers' articulation and subsequent reformations of the Division's cultural perspectives on its relationship with voluntary agencies.

THE ANALYSIS OF DATA

The data which was generated through the interviews and textual analyses was analysed through various processes. Discussion of these specific data-analysis methods proceed as follows. The first methods to be outlined are those concerned with the analysis of the community involvement policy. The analysis of administrative practice follows on.

The Analysis of Policy Development

The first goal in this analysis was the identification of the subjects to which the policy refers. In the case of the community involvement policy this included subjects such as crime, the criminal, penal policy, the Probation Division, the family, the community, society and government.

Second the contexts within which the discourses occur, and thus reflect, were identified.¹⁸ These contexts were identified through an examination of how the discourses construct their subjects. In particular, I focused on the ideas which cause subjects to be discussed in the manner which occurs. Allied to this examination of contexts was the identification of the people who formed these descriptions and the organizational and social contexts within which they acted.

18. That is, the social, political, cultural and economic spheres of New Zealand society.

The third research task involved the identification of the manner in which these subjects were combined to produce the discourses on community involvement. This form of analysis draws upon the work of Swiss linguist, Ferdinand de Saussure.¹⁹ The essential elements of his analysis are as follows. In Saussure's view linguistic signs (words, descriptions etc) derive their meaning from their place within an articulated system (a discourse). Signs can be linked through their purposeful combination, for example crime and control, or their contrastative properties, where one form necessarily excludes the other. Despotism and democracy are examples of the latter. Signs have no essential unity, as might be defined by external forces such as, for example the economy or history. Some connections between signs may, however, reflect the needs of a given social order. The task of analysis is to identify the system by which elements are articulated within a discourse so as to discover the relationship which is constructed between them. It is this relationship which conveys the message of the discourse.

The fourth task is to understand the politics of these articulations. Silverman, following Laclau,²⁰ demonstrates how discourses (in this case, political statements) gain ascendancy by deconstructing their competition through creating a "politics of the unthinkable".

"Any discourse is neither innocent nor indifferent to the presence of other discourses; it can only constitute the conditions of the thinkability of certain objects through the construction of the unthinkable of other objects. We can thus speak of discursive intervention, which is to say politics, as the process of the construction of the unthinkable".²¹

19. Ferdinand de Saussure, Course in General Linguistics. London : Fontana. 1974.

20. E.Laclau, "Politics as the construction of the unthinkable", unpublished paper (1981); translated by David Silverman., Mimeo : Department of Sociology, Goldsmith's College; cited in Silverman 1985 : 62-68.

21. Laclau, 1981 : 13.

Discourses thus become tools of political struggle through their deconstruction of "the alternatives" and their identification with, or construction of, its audiences' needs. For example, the Department of Justice's statements on crime argue that the Department ought to retain overall responsibility for crime control.²² These statements do so by suggesting that if this did not happen, anarchy would result.

Silverman suggests that discourses gain popular support when they articulate the material realities of their audiences.²³ The relative abilities of discourses to resound with popular sentiment determines their degree of political usefulness. In light of these matters a central task of textual analysis within this thesis is to chart the production of discourses through identifying the politics of their articulations.

The fifth task within the analysis of policy development is to discuss the explanations which arise from this discursive analysis in light of the competing hypotheses which arise from Foucault's framework. This is presented as the final research task. It is a process, however, which is inherent to the entire procedure. As described earlier, this is the process of analytic induction.

The Analysis of Administrative Practice

As noted in a previous section of this chapter, the initial sources of data in the study of administrative practices are the Department's files on its relationships with various voluntary agencies. The primary analytic tool used in their examination is Foucault's works on the micro-physics of power, the disciplines,²⁴ and of governmentality.²⁵ As suggested in the preceding chapter, these two approaches can produce conflicting explanations for phenomena such as the Corrections Division's relationship with the voluntary sector. The research task of this thesis is to discover which explanation is the most appropriate.

The data on administrative practices is extracted from the files through the distillation of evidence of disciplinary power and governmentality. Thus, the reports, correspondence, applications for funding, performance reviews and internal handwritten memos of each file were perused and instances of disciplinary incursions and governmentality-derived interactions categorized. As discussed in chapter two,

22. Department of Justice, Annual Report to Parliament. Wellington : Government Printer. 1981 : 3.

23. Silverman, 1985 : 67.

24. Foucault, 1977.

25. Foucault, 1978.

disciplinary techniques refer to the following: the construction of standards and the normalization of deviations from these; the surveillance of voluntary agencies; the accumulation of knowledge about their operations; and the physical inculcation of desired behavioural patterns amongst agency personnel. Governmentality-derived interactions refer to those whereby the correctionalist Divisions of the Department attempt to construct the normative framework within which Divisional/agencies relations are to occur. Allied to these attempts is the Division's overall surveillance of that framework. Coterminous to these processes, according to governmentality, is the Division's facilitation of agencies' freedoms. These freedoms, however, are bounded by the forms of sociality that have been constructed. The presence of governmentality is thus revealed in interactions which display government's twin and competing desires; that is, to remain sovereign over its relationships, while allowing its subjects the freedom to develop within the sociality which has been created for them.

By means of the above I seek to canvass several issues with respect to the examination of files. These involve the following: the extent to which the Department utilizes disciplinary power or the principles of governmentality within its relationship with voluntary agencies; the forms of disciplinary technique used; and the changes which occur to governmentality within the different social, political, economic and cultural situations which the Department experiences.

As outlined earlier, this study of administrative practice uses a mixture of qualitative and quantitative approaches. This discussion concludes with some notes on such uses of multiple research techniques.

A common practice within sociology is to analyse data which is gained by differing methods, through an "adjudicating" between them. This, adjudication, it is contended, will determine "the truth". Triangulation, as this process is known, is seen as a means by which data "bias" can be overcome. This assumes, however, the existence of a single social reality and treats interpretive accounts as multiple mappings of that reality. These different mappings are then contrasted and the "most appropriate" explanation chosen. The epistemology of this research design adopts an alternative understanding about the construction of knowledge. The central tenet in this thesis is, again, that all accounts of a phenomenon are "situated". Their

content and logic are products of, and will reflect, the context in which they are constructed. Thus, differences between accounts of an event does not mean that one is "right" and others are "wrong". Rather, the differences may simply reflect the incompatible perspectives of the commentators and the divergent reasons for which they made their commentaries.

This is the logic which is employed in the analysis of data on administrative practice. In the light of this approach, for instance, the interview accounts of administrative practice are not "tested" against the pictures which emerge from the textual analyses. Rather it is suggested that the managers' statements reflect particular "displays of reality". These displays contain the managers' perceptions as to what are appropriate social norms, morals and roles, thus reflecting their ideas about social structure. The data also reveals the managers' assembly of those norms and roles, reflecting the "political strategies" of their discourses. As such these interviews must be interpreted as "different phenomena" to what gets written in files. They ought to be understood in terms of the context in which they occurred.

SUMMARY

This study, of the means by which the Corrections Division relates to voluntary agencies, has three aims. First, it identifies the social processes whereby voluntary agencies become involved with the Corrections Division. Second, it identifies the practices through which the Division's management of community involvement occurs. Third, it assesses the nature of those practices with the goal of suggesting their implication for voluntary agencies.

Within this latter point, it is acknowledged that this research is unable to assess the affect of Divisional practices upon voluntary agencies. This is due to the dyadic nature of power. Dyadism implies that the construction of a relationship requires the active involvement of two parties. For instance, what is and what is not deprivation or enhancement of autonomy is determined by how the voluntary agencies perceive their situations. As such only they can decide if Departmental practices affect their autonomy or identity. What this thesis does is identify the means by which that Division relates to voluntary agencies. Through an analysis of these means, I suggest in chapter twelve the implications which exist for those agencies.

PART TWO

SETTING THE SCENE : THE DEVELOPMENT OF COMMUNITY INVOLVEMENT WITHIN THE CORRECTIONS DIVISION

INTRODUCTION TO PART TWO

The following section of this thesis describes and analyses the policies through which the correctional Divisions of the Department of Justice have historically involved voluntary agencies. The line of argument along which this analysis proceeds is as follows. Community involvement, as it occurs from the 1950s onwards, resulted from prevailing beliefs (aetiologies) about the natures of crime and criminals and of the correct means of responding to them. Up until the 1970s these ideas primarily suggested that crime results from individuals' or their families' inadequacies. Community involvement thus came to be viewed as a means by which each was "corrected". During the 1970s this aetiology changed to include systemic explanations for offending behaviour. Such explanations included changes in demography, prosecution practices and tolerance to crime. The one enduring explanation during this period was that increases in crime, particularly violent crime, correlated with widespread public discontent about New Zealand's system of democracy. Chapter five examines the political developments between 1950 and 1980 to determine the basis for this belief. It is observed that in addition to popular calls for increased public participation in political affairs during the 1960s and 1970s community involvement came to be encouraged, politically, as a means of quelling the public discontent that was seen to be developing.

In addition to this emphasis on community involvement in the political sphere, attention turned in the early 1980s to the accountability of state agencies. Within this new emphasis the Department of Justice's ability to "serve the public", was questioned. This inspired a variety of administrative reforms which sought to enhance that Department's public accountability. This critique of the Department of Justice extended, in the mid 1980s, to that of government as a whole. The reforms which followed focused on both parliamentary procedures and the state sector. These reforms came to further propel the managerial reforms which were already established within the Department of Justice. These reforms, it is suggested, create a framework within which the Department functions. This framework has implications for the way in which the Department subsequently relates to the voluntary sector.

The four chapters which make up Part two of the thesis examine these developments in light of Foucault's concepts of sovereignty, disciplinary power and governmentality. Two theoretical questions are pursued in this enquiry: how does this framework explain the development of community involvement? What relationship evolves between sovereignty, disciplinary power and governmentality as a result of the explanation that develops?

CHAPTER FOUR : CRIME AND PUNISHMENT THE SHIFTS OF DISCOURSE

INTRODUCTION

This chapter introduces discussion on the development of community involvement within the Corrections Divisions of the Department of Justice, between 1950 and 1992. The chapter does so by identifying and analysing the Department's discourses on crime. These discourses are analysed in a series of discussions. The first of these examines the Department's view of crime and punishment between 1950 and 1970. Following this, discussion turns to the forms of community involvement which were subsequently sought. The third section of the chapter examines the manner in which the Department's discourse on crime changed after 1970. These discourses and their transformations are explored in light of Foucault's ideas on governance.

PUBLIC PROTECTION

Between 1950 and 1990 a wide array of ideas arose about the causes (aetiologies) of crime. The aetiologies which developed between 1950 and 1970 tended to explain crime in terms of offenders' personal characteristics.¹ This emphasis on the offender reflected particular governmental concerns of that time. The Honourable Mr Webb (Minister of Justice in 1954) outlined the first of these in his introduction of the 1954 Criminal Justice Bill. "This Bill ... represents an attempt by the Government to deal constructively with the serious problem of the *protection* of the public against the activities of criminals".² In stating this he signalled that the emphasis of criminal justice ought to shift away from the retributive expiation of offenders, to the protection of the public. To achieve this, attention had to turn to individual offenders to their propensity to reoffend, and to the causes of their behaviour. Three forms of penal strategy emerged from the emphasis on protection, namely, deterrent sentencing, reformation of the offender and prevention of crime.

1. For example, the Department of Justice's Annual Reports to Parliament contain the following discussions: Maori offending (1957, 1958, 1959 and 1963); "adolescent" offending (1960); "uncontrollable and redeemable" offenders (1960); young offenders (1961, 1962, 1963 and 1967), "hardened" criminals (1966); and women offenders (1973).

2. NZPD. Vol.304 (1954) p. 1925 (emphasis added).

This emphasis on the reformation of the individual was also propelled by a pragmatic, administrative concern – the swelling prison population.³ In conjunction with this situation the Department of Justice studied "Maori offending rates" and established that the Maori conviction rate was disproportionately high.⁴ In order to address this problem the Department of Justice initiated substantial inter-Departmental research into the causes of Maori offending.⁵ The significant aspect of this study, for the purposes of this discussion, is that the researchers chose to focus upon the personal and social characteristics of these offenders.

This emphasis on the collation of information on the characteristics of individual offenders reflects Foucault's beliefs about the interconnectedness of knowledge and power.⁶ For Foucault any creation of knowledge presupposes that reasons exist for its assembly. These reasons, he further contends, are invariably linked with the instrumental goals of those who seek the knowledge. In this case it was the Department of Justice, seeking to avert a projected increase in prison musters.

Later, in the 1960s, the abolition of the death penalty reinforced the shift in emphasis from retribution to reformation. According to John Robson the subsequent success of that campaign (in 1963) was not that the "life of a wretch would be saved every now and then". Rather, it was that abolition stamped a more constructive approach upon penal policy for the rest of the decade.⁷

3. Department of Justice 1959 : 6. In 1954 the average lay at 1,138.72 inmates. By 1959 it had increased to 1,536.71.
4. Department of Justice 1958 : 17. The report cites the percentage of Maoris who offended in the years 1954, 1955 and 1958 as being, respectively, 3.33%, 4.36% and 4.79%. This compares with the non-Maori rates of 1.41%, 1.43% and 1.52%.
5. This research sought extensive information on 199 Maori offenders aged 17 to 25 years and was conducted by a body called the Inter-Departmental Committee on Maori Crime. Its work is discussed in Department of Justice, 1959 : 14.
6. Foucault, 1977.
7. John Robson, Sacred Cows and Rogue Elephants. Wellington : Government Printer, 1987 : 200.

As a consequence of the above measures, namely the emphasis on offenders' deficiencies and of abolition of the death penalty, rehabilitation came to gain an established role within penal practices during the 1950s and 1960s. Rehabilitation's concern with the correction of the individual also reflects Foucault's thoughts on the role of the disciplines within criminal justice.⁸ For Foucault, the expiation of offences has come to be superimposed with concern for the normalization of offenders' deviancies. Only through the correction of their abnormalities, suggested the penal discourses of the late 1950s and early 1960s, could criminal justice hope to protect the public.

These discourses also illustrate an aspect of Foucault's observations about the legacy of 'police science' within the art of government.⁹ A central tenet within police science is the belief that government can, or at least ought to, superintend society. The art of governance (governmentality) which developed during the seventeenth and eighteenth centuries in Europe, sought to do this through attending to the welfare of the population. It is as a result of this governmentality framework that the Honourable Mr Webb highlighted the government's protective role toward the public.

The ability of Webb's government to decide that the public primarily needed protection from criminal behaviour, rather than the provision of symbolic and punitive recompense,¹⁰ illustrates another of Foucault's observations about governance.¹¹ For Foucault, the state regulates a social order which it creates. The state, according to this view, determines what constitutes the public interest. It is, therefore, through the government that the public comes to know what it needs.

8. Foucault, 1977.

9. Foucault, 1978.

10. Webb's proclamations that the 1954 Act ought to focus on public protection from crime appears to have gone against public expectations. According to John Robson (1973) : 195-196) the prevailing expectation was that criminal behaviour ought to be responded to punitively.

11. Foucault, 1978.

To summarize the discussion thus far: two ideas emerged which made possible the emphasis on individual offenders. First, it was perceived that whereas the criminal law can punish effectively, it could not protect adequately. What was sought, instead, was a law which could diagnose, classify and treat individual deviancies. Second, the Department of Justice foresaw an uncontrollable prison expansion. At the heart of this expansion was a disproportionately high level of Maori offending. In order to avert this trend, detailed information was sought on the reasons for individuals' offending behaviours. These two ideas required that a large corpus of knowledge be developed about the causes of crime. The Department's ability to determine that this knowledge ought to be obtained illustrates two of Foucault's observations about governance. The first is that the Department of Justice acted with the goal of securing the welfare of the public. The second observation is that in so doing the Department acted as if it had the ability, and right, to determine what constituted the public interest.

CAUSES OF CRIME AND ROLES FOR THE COMMUNITY

In addition to establishing an emphasis on the individual offender, the Department's Annual Reports between 1950 and 1970 contained several discussions on the reasons for offending behaviour. These discussions resulted in one of three conclusions: that crime is caused either by individuals' deficiencies, by familial inadequacies, or by societal and systemic dysfunctioning. Discussion on individuals' deficiencies occur five times (1952:5; 1959:8; 1960:37; 1960:23-28; 1963:3). The thrust of these arguments is typified in the comment "it remains true that each offender will be the product of a number of individual deficiencies or weaknesses".¹² These same reports equally highlight the role of familial inadequacy in offending behaviour (1959:14, 1960:10, 1963:7, 1967:7, 1969:5). The report of 1963 states, for example, that "A criminal career often has its roots in a child's home environment and associations a stable and happy home life is a poor breeding ground for criminals".¹³ The writers of these reports also attend to systemic theories of criminality, with six discussions on various topics (on demographic changes, 1959:8 and 1960:9; on the cultural dislocation of Maori, 1959:13-15; on the effects of rapid urbanization, 1963:12 and 1969:5; on schools and the moral tone of society 1969:5).

12. Department of Justice, Annual Report to Parliament, 1952 : 5.

13. Department of Justice, 1963 : 6.

A significant characteristic of these latter discussions is their repeated conclusion that systemic problems are social in essence, rather than penal. It is thus said of Maori offending, for instance, that "the problem is social rather than penal and penal measures, though they may alleviate, cannot cure it."¹⁴ Social and penal policies are, in the eyes of these writers, completely different matters. This conclusion suggests that the corrective interventions of disciplinary power were seen to be limited in their abilities to effect social change. In order to address the large public issues a different style of governmental intervention was required, one which could protect groups that were at risk. This approach began to emerge within penal policy from 1957 onwards with the Department of Justice's initial discussions on intervention in the field of "family".¹⁵ The emphasis on family life which subsequently developed within the Department's Annual Reports to Parliament was closely linked with prevailing thoughts about the relationship of family disintegration and crime. Thus, statements such as the following are common within the Annual Reports to Parliament during the late 1950s and 1960s.

"There is nothing original in the proposition that the cause of much crime and anti-social behaviour lies in the home and it is known that a high proportion of delinquents have in their background an unhappy or broken home life."¹⁶

Concern for the welfare of family life also found support within Parliament. For example, the New Zealand Parliamentary Debates record that "the twentieth century must be regarded as the century of the family (A)ll nations ... are rediscovering the fundamental role of the family group in society".¹⁷ This concern for family life and its influence on crime resulted, in the early 1960s, in the Department of Justice's co-ordination of the disparate marriage guidance agencies which existed throughout New Zealand. This co-ordination marked the beginning of Marriage Guidance New Zealand (MGNZ).

14. Ibid : 12.

15. Department of Justice, 1959 : 34-36.

16. Department of Justice, 1967 : 6.

17. NZPD Vol.336 (1963) p.1288.

The Department's departure from its traditional, individualistic means of approaching crime, plus its dismantling of the social/penal policy distinction represents, in Foucauldian terms, a discursive transformation.¹⁸ The transformation occurred as the Department began to express and then enact practices which went beyond what was traditionally considered appropriate for penal policy.

This discursive transformation reflected the emphasis on public protection that had been highlighted by the 1954 Criminal Justice Act. As suggested earlier, that Act had emphasized the correction of individuals. The Department's dismantling of the social/penal policy distinction also reflects this emphasis on "correction". Thus, the amalgamation of social policy into penal affairs signalled that penal policy was now to pursue the 'correction' of society. In the Foucauldian terms of discursive transformations this change is a 'derivation'. The derivation is one in which an idea, in this case that of the correction of individuals, was enlarged beyond its original scope. The correction of individuals was thus expanded to encompass the "correction of society".

This particular transformation, reflects two aspects of Foucault's ideas on governmentality.¹⁹ The first is that the place of the family within governmental thought had changed historically, from being the goal of government to its tool. "Family" thus became a vehicle through which social order could be shaped and strengthened. This idea is illustrated in the politician's statement above, that governments "are discovering the fundamental role of the family". Thus, in light of the family's "fundamental role", it became a target for governmental intervention.

The particular form of intervention used reflects a second aspect of governmentality. This is that social control is frequently maintained through the creation of "mechanisms of security", mechanisms (such as MGNZ) which are established to ensure the survival of fundamental social institutions (such as the family). These mechanisms are used to create particular forms of social order, but in a non-repressive manner. As will be illustrated in chapter nine's discussion on Marriage Guidance, such movements can also resound with popular sentiment. This serves to enhance their status within society. The suggestion that successful forms of social control can be supported by (and in fact be propelled by) popular sentiment illustrates another of Foucault's observations, namely that much of western society's social control depends upon the ability of that social control to reflect popular sentiment.

18. Foucault, 1968.

19. Foucault, 1978.

A further discursive transformation of some significance also occurred during the 1960s. Again this focused on the control of crime. This transformation was a mobilization of New Zealand's "natural" regulatory systems by the Department of Justice. It was a transformation in the sense that it moved penal practices away from their immediate focus on the individual offender to that of society as a whole.

The Assistant Secretary for Probation, Murray Short, describes this policy in terms of the liberal component within governmentality.²⁰ The decision to stimulate societies' natural control systems occurs, he argues because the Corrections Division does not have "the answers to social problems such as crime". Short's statement reflects liberalism's criticism of police science, that the State is physically unable to adequately administer society. The answers to social problems instead lie within families, whanau, churches and other social groups. Thus, if the Division is to effectively control crime it must incorporate these sites into its own programmes.

During the 1960s this idea of incorporating communities expanded to include activities with offenders sentenced to non-custodial sanctions. In part, this initiative arose out of the Department's critique of its prison programmes. In this it recognized that institutions can only create "good inmates." In order to create "good citizens," offenders had to be treated within mainstream society, living amongst "decent" folk.²¹ Departmental publications such as "Crime and the Community"²² make the point forcefully. It states: "Here is the core of the matter. Crime is a community problem – it can be met only by the whole community".²³ The theme of "community responsibility" which then developed in the penal discourse sought several ends: the development of a public attitude which eases inmates' reintegration into society; voluntary participation within prison-visiting groups; and a diminution in public fear through increases in the public's knowledge about crime, criminals, and the criminal justice system.²⁴ During the 1960s this programme of enhancing "community responsibility" led also to the incorporation of christian social service

20. Short/Tie, interview, Wellington, June 1992.

21. Department of Justice, 1959 : 28.

22. Department of Justice, Crime and the Community. Wellington : Government Printer 1964.

23. Ibid : 15.

24. Ibid : 50.

agencies, trade unions and employer associations in the creation of remedial interventions with non-imprisoned offenders. The first such initiative was a committee which established the Periodic Detention sentence in 1962.

Church-based agencies and social service agencies also came, over the decade, to construct a network of non-custodial residential facilities (hostels) in conjunction with the Department. These Probation and post-release hostels were seen to provide a "non-prison atmosphere of custody"²⁵ for probationers and ex-inmates. Hostels were valued for more than their accommodation facilities, being "an important tool in probation case work".²⁶ Hostel life diverted offenders from "old haunts" and acquaintances, they regulated leisure time and provided important supervision and discipline. Their primary value was their ability to construct, in conjunction with the activities of employers and probation officers, a Foucauldian-type network of "constant" surveillance over offenders.²⁷

This incorporation of New Zealand's employment, labour and religious communities into the Department's supervision of offenders provides further support for Foucault's observations about modern governance. Foucault notes²⁸ that the governmental incorporation of "spontaneous" civilian assistance into the management of society's problems, was advocated by the liberal French economists of the seventeenth and eighteenth centuries. Paradoxically, however, in order for that assistance to have any instrumental value to government the state has to organize that assistance in a rational manner. As a consequence of this rationalized organization, the idea of "spontaneous" civilian activity dissipates. In its place arises a governmentality co-ordinated form of civilian enterprise.

Foucault also makes an interesting observation about the forms of civilian activity that are chosen by government. Government, according to Foucault, sanctions systems of private, tutelary authority. These systems are comprised of hierarchial power relationships. They exist between employers and employees, social workers and clients, teachers and pupils and priests and parishioners. The government does not necessarily become involved in the evolution of these systems. Rather, it merely condones those which are useful by allowing their continuation. In addition,

25. Minister of Justice/Allen. Letter, 28 August 1974. Department of Justice File (PROB 10-8). "Tauranga Probation Hostel". Wellington : National Archives.

26. Ibid.

27. Department of Justice, 1961 : 14..

28. See Gordon, 1991 : 23.

however, government can utilize these private systems of authority as vehicles by which to strengthen various forms of social order. This thesis suggests that the Department of Justice's choice of the inherently hierarchical church and employer-based civilian groups reflects this move toward the governmental incorporation of private tutelary authority.

Not all of the Departmental/voluntary sector joint-ventures met with the same success as the hostel network. In 1965 the New Zealand Prisoners' Aid and Rehabilitation Society suggested an "associate" probation officer scheme whereby its volunteers were to operate as unofficial officers with ex-inmates. Although the idea initially found support within Departmental management, researcher Angela Lee notes that the scheme was quickly discarded once in place.²⁹ She cites reasons of ex-inmate suspicion of associates, of "inappropriate" associates and of "successful" associates preferring to work independently of the Probation Division. The failure of this initiative illustrates a point made in opposition to the Foucauldian-derived "dispersal of discipline" thesis. This point is that power is not all-pervasive. Rather, initiatives that might potentially increase the power of groups can simply fail. The associate Probation Officer scheme is a good example of this.

As a result of the initiatives which were successful (the development of a national Marriage Guidance service for the maintenance of family life and the successful enlistment of "natural" sources of social control – churches and employers – for the supervision of offenders) the Department of Justice came to supplement its primary role of intervention with individuals with the facilitation of community involvement in penal activities.

A series of international events also propelled this movement towards social interventions. These were the United Nations Congresses on Crime and the Treatment of Offenders. Their impact on New Zealand penal policy was such that in 1973 John Robson felt moved to write a paper on their influence.³⁰ The third Congress (held in 1965) established, he claims, that most developing nations suffered from diminishing sources of informal social control (for example, the influence of

29. Angela Lee. *Volunteers in the Penal System in Penal Policy Review Committee 1981 Background Papers Vol.II*. Wellington : Department of Justice 1981 : 14–15.

30. John Robson. "Criminology in Evolution – the Impact of International Congresses" in *Otago Law Review*. No.1, 1973 : 5–33..

family, reputation and cultural authority). A commensurate need was perceived, "to strengthen the family as much as possible ... and involve more ordinary persons rather than rely exclusively on governmental agencies and legal processes".³¹

This belief again supported the liberal orientation that was developing within the Department of Justice, that it ought to incorporate society's natural regulatory processes into the state's control of crime. The fourth Congress (held in 1970) enlarged this concept, suggesting that social policies (such as the strengthening of "family") ought to be unashamedly pursued for reasons of social defence.³² In this way the previously held demarcation between penal and social policy disintegrated further. Thus the penal policies of the Department did not only focus on punishment. Rather, New Zealand's penalty also came to incorporate the development of mechanisms of security around the nation's more vulnerable social institutions. It was through the establishment of these mechanisms that social order was, in part, constructed. The belief that such mechanisms would assist social order is illustrated by the suggestion made in the context of the fourth United Nations Congress, that such policies ought to be pursued in the interests of social defence.

Several points emerge from this discussion on the development of community involvement between 1950 and the 1970s. First, during the 1950s the government decided that it was in the public interest that criminal justice ought to focus upon protecting people from crime. Second, this emphasis on the correction of deficiencies was expanded to include the identification and correction of social problems. Within this second emphasis the Department identified the failure of the family unit as a primary source of criminality.

Third, during the 1950s and the 1960s the Department of Justice sought public assistance in its correction of offenders and family units. It did so in the belief that state interventions were incapable of achieving the goals that were sought. What was instead required was the organization of public life in a manner which would facilitate the achievement of these goals. This impulse, toward the governmental organization of civil society, reflects Foucault's contentions about the pervading influence of liberalism within governmentality.³³

31. *Ibid* : 15.

32. *Ibid* : 19.

33. Foucault, 1978.

THE 1970s - THE RISE OF SOCIAL CAUSES

Within the decade which followed (1970-1980) the relationship between criminological aetiology and penal programmes changed considerably. The discussion which follows examines these shifts. From a theoretical perspective this shift represents a discursive transformation.³⁴ Within this transformation, it is suggested, the Department of Justice's *savoir* of New Zealand society produced a different understanding of the causes of crime to that which had prevailed prior to 1970. This new understanding arose from beliefs, held within the Department, about changes which were occurring to the structure of New Zealand's democracy. Those structural changes prompted an alteration in the way in which the Departmental officials spoke of, and subsequently responded, to crime.

Significantly, from the early 1970s onwards penal discourses came to substitute their previous emphasis on individual and familial inadequacies with systemic explanations of crime. For instance the Annual Reports' discussions on crime during this period only contain four references to individual predispositions to offending (two of which concern psychiatric offenders). This compares with thirteen discussions on systemic causes. The topics of these latter discussions are varied and include the following: a society-wide "disrespect for law and reform within the law" (1972:4); the existence of "unnecessary obstacles" to reform (1972:4); the debatable legitimacy of some offence-types and associated prosecution practices (1977:5); and levels of public tolerance to crime (1977:5-6); the justice system's processing of offences (1979:5-6).

Significantly, the majority of these systemic explanations disappeared without trace. As Jack Young notes within the British experience, it is as if the causes of crime became too complex for adequate comprehension and/or became politically impossible to tackle.³⁵

One systemic explanation did periodically recur during the 1970s and early 1980s, however. It was an explanation which linked in a rudimentary way, the issues of violence and public dissatisfaction with mainstream politics. This explanation first

34. Foucault, 1968.

35. Jack Young, "Radical Criminology in Britain : The Emergence of a Competing Paradigm," in The British Journal of Criminology, Vol.28, 1988 : 306.

arose in 1970 and appeared in the Department's Annual Report to Parliament.³⁶ That Report's emphasis on violence was unprecedented.³⁷ This discussion expressed a warning to New Zealand society. It stated:

"whatever its cause or manifestation it (violence) is a problem of serious concern to the community since it strikes at the heart of the very root of an orderly and secure existence which is the basic function of society. In its political manifestation it poses a threat to a democratic way of life which is based on government by discussion."³⁸

By making this statement in the context of New Zealand's violence, the Department of Justice appeared to suggest that the New Zealand public were losing their faith in democratic processes. As an alternative to pursuing legal means for resolving difficulties, the Report implies, the public was increasingly adopting undemocratic, coercive means of pursuing its goals. Such a situation, it would seem, suggests an escalating crisis of public confidence in government, a political crisis.

In 1972 and 1977 the Department again linked these issues of violence and democratic processes.³⁹ Specifically, it was suggested that violence escalates in societies where rational argument and persuasion are no longer effective means for resolving disputes and where public respect for legally based processes of social reform have diminished.

In 1981 the Department again highlighted this theme, in such a way however, which suggested that a political crisis may be a possibility. The introduction to the Annual Report to Parliament reads:

36. Department of Justice, Annual Report to Parliament, 1970 : 10-11.

37. On only six previous occasions, five of which occur in the 1950s do Annual Reports devote specific discussions to any form of offending behaviour : in 1969 "The State of Crime"; in 1959, 1958 and 1959 "Maori Crime"; and in 1957 and 1958 "Sexual Offences".

38. Department of Justice, Annual Report to Parliament, 1970 : 10.

39. Department of Justice, Annual Report to Parliament, 1972 : 4 and 1977 : 6.

"Over recent years there has been increasing concern expressed at the amount of mindless violence against the person and the apparent inadequacy of existing measures to prevent or control this problem. We are perhaps fortunate that we have not yet reached the stage of open challenge to our institutions of state which would be accompanied by breakdown in our social system. However, it is quite clear that unless measures can be designed which will redress the present situation that unhappy state of affairs is a possibility."⁴⁰

The Annual Report makes no suggestions about what might cause this situation. It does link in an obscure way, however, the issues of increasing violence and the stability of democracy. It is the obtuseness of its link, between the "mindless acts of violence against the person" and the "open challenge to our institutions of state" which suggests that an unexpressed thought encapsulates the two. Isolated acts of violence against individuals cannot, because of the unco-ordinated nature of those acts, threaten the institutions of state. The only forms of violence which would seriously threaten government would be collective and politically motivated campaigns. Thus, fears about open challenges to the institutions of state and imminent breakdowns of the social system, suggest concerns about political as well as individualistic forms of violence.

These Departmental discussions on violence are inconclusive, however, about what precipitated this fear of a political crisis. Instead, the theme appears to emerge from nowhere. In order to situate this new discursive transformation, enquiry must be made into the structural dynamics of New Zealand's democracy between 1950 and the mid 1980s. That discussion follows in the next chapter.

40. Department of Justice, 1981 : 3.

CHAPTER FIVE : DEMOCRACY UNDER STRESS

INTRODUCTION

This chapter examines the discourses which arose around New Zealand's democracy between 1950 and 1980. The first section of the chapter examines commentaries on the public discontent which developed during that period, toward New Zealand's parliamentary democracy. This unrest was first expressed by academics. In 1966 the public's dissatisfaction became visible in voting patterns at the General Election. During the latter part of the 1960s and early 1970s the New Zealand public increasingly used violent protest action as a means of expressing political concerns. The second section of the chapter examines the political responses to that unrest, during the 1970s. Within the parliamentary debates three governmental responses were suggested : the repression of the citizens who were involved; the direct incorporation of citizens into political decision-making; and the reformation of Parliament to enhance its ability to represent public interests. It is from this framework of options that the Department of Justice developed its responses to the increasing level of violence.

The theoretical significance of this chapter lies in its illustration of the terms in which the developing political crisis was discussed. These terms reflect elements of Foucault's suggestions about the roles of sovereignty and governmentality within society.¹ The importance of sovereignty within New Zealand politics was demonstrated in attempts to ensure the social pre-eminence of New Zealand's Parliament. The dynamics of governmentality are illustrated in the proposition that was mooted, that the public ought to participate directly in political affairs. This proposition reflects liberalism's criticism of the state's ability to adequately order society. On the contrary, parts of the discourse argue, the New Zealand Government had not adequately attended to the needs of the public. As an alternative, it was thus suggested, the public ought to be directly incorporated into government's policy-making processes. This suggestion also reflects the liberal belief, that the "naturally" occurring social processes of public life are indispensable for the health and functioning of society.

1. Foucault, 1978.

A HISTORY OF DISCONTENT

Between the 1950s and mid 1960s a number of academics had expressed concern about the ability of the New Zealand public to control the state.² One of the National Government's responses to these criticisms during the early 1960s was to create the Ombudsman's Office. This office, though successful according to commentators such as Robson,³ did not facilitate public participation in political affairs. Nor did it encourage popular political action on social matters. Thus the office was unable to prevent the political disillusionment which was subsequently expressed in the 1966 General Election. The public sentiment was such that William Oliver described that event as the "protest election".⁴ He writes "somewhere between a quarter and a half of the over twenty-ones in 1966 rejected either actively or passively the two party system". For Oliver, this occurred because of the inability of New Zealand's democracy to "engage the energies of a high proportion of those who should participate". To this Oliver added: "If one sees non-voting to be considerable and increasing, then this phenomenon should support the possibility of more serious apathy elsewhere".⁵ Thus, the public antipathy toward the two party system within the 1966 General Election was both a signal of spontaneous political protest and a sign of a developing legitimacy crisis for representational government.

Over the next six years (from 1966 to 1972) New Zealand society experienced an upsurge in public protest, an issue which became of concern to the parliamentary politicians. A milestone in this development was a debate which followed the opening of Parliament in 1972. That debate focused on the increasing level of public protest and was prompted by a violent protest which occurred at the opening of the 1972 session of Parliament.⁶ The terms of this debate illustrate the prevailing approaches taken by politicians during the 1970s and 1980s to the increasingly vigorous forms of public protest which were developing.

2. Refer for instance to Michael Moriarty, "Pressure Groups", in New Zealand Journal of Public Administration. Vol.13(2), March 1951 : 19; Erik Olssen, "The Case for Constitutional Reform", in Landfall, March 1961 : 28.
3. See Robson, 1987.
4. William Oliver, "The Future of Politics; trends to the right or wrong", in Comment Vol. 8(4) September 1967 : 14.
5. Ibid : 15-17.
6. NZPD Vol.378 (1972).

REPRESSION, INCORPORATION AND REFORM

The predominant approach of the parliamentarians to the protest action was support for its repression. All of the speakers in the debate began their speeches by supporting the public's general right to protest. All but two, however, then attacked the protests for their increasingly violent nature. John Marshall, for instance stated:

"The use of force is not only a denial of freedom it is a denial of reason, a rejection of the democratic process of discussion and persuasion between minorities and majorities".⁷

In a similar vein, the Leader of the Opposition, Norman Kirk said:

"I have no objection to people protesting policies or making clear their views on whether or not Government is doing its job but there is a code of behaviour that is acceptable and a code that is unacceptable".⁸

Tolhurst furthered these sentiments by crying:

"It is high time the limits on demonstrations were more clearly defined and any deviations met with the full force of the law".⁹

7. Ibid : 124.

8. Ibid : 11.

9. Ibid : 189.

Against this majority view Matiu Rata retorted:

"There is an upsurge in dissension ... and the only solutions offered ... have been verbal attacks, ridicule and even a threat of the extension of police powers to curb what are, in fact, if they are examined closely, genuine grievances held by numbers of the community We should invite them to assist in rebuilding this country ... there is a great deal of genuine concern by a large number of people, and we should concentrate on their potential and provide some encouragement for it.¹⁰

In this way Matiu Rata presents an alternative approach to the repression suggested by former speakers. Rather than suppress the public in their dissatisfaction, he urges, they should be directly incorporated into the political process. A further to alternative to repression and incorporation is offered by Dr Findlay. His solution grows out of his belief that the public dissatisfaction is a consequence of government's wilful manipulation of democratic processes. He cites three issues: the setting up of "rival and largely secret organizations, of which the National Development Council is an example"; keeping Parliament in recess and withholding information from it; and creating regulations which avoid parliamentary scrutiny. As a result of these tactics, he argues, Government:

"has no-one to blame but itself if outside bodies take the law or take action into their own hands. Protest ... is the suppressed voice of the community conscience, and instead of enquiring into the causes of the grievances as they manifest themselves the Government's first reaction normally is to say 'is there a law against it? Can we stop it?'"¹¹

10. Ibid : 189.

11. Ibid : 691-2.

In addition to highlighting the Government's initial repressive stance against public agitation, Findlay's discourse suggests that public dissatisfaction would be assuaged through appropriate parliamentary reforms.

This parliamentary debate thus demonstrates the three potential responses which emerged during the 1970s to the growing public distrust of parliamentary democracy: repression of the public, their direct incorporation into political processes and reform of the parliamentary system of representation.

Of the three options, parliamentary reform and the public's incorporation into decision-making became the primary responses discussed in the academic discourse of the 1970s.¹²

These academic contributions demonstrate the growing concern during the 1970s about the ability of representational democracy to represent the whole public. The contributions, written from different perspectives, focused on the place of minority interests and how they might find expression within parliamentary democracy.

12: Refer, for instance to R.J.Johnson, "On Expanding the House of Representatives", in New Zealand Monthly Review. Vol.14 (154) April 1974 : 14; Ian Ballantyne, "Roadblocks to Real Democracy", in New Zealand Monthly Review. Vol.14(154) April 1974 : 21-22; Austin Mitchell, Politics and People in New Zealand. Christchurch : Whitcombe and Tombs 1969; Ralph Brookes, "Representative government and the elector," in New Zealand Journal of Public Administration. Vol.33(2) March 1971 : 1-19; and Geoffrey Debnam, "Representation and Participation : A Matter of Priority", in Political Science. Vol.31, 1979 : 61-64.

For the minority interests of the 1960s and 1970s, however, which were too small to sway elections to initiate parliamentary reforms, or too economically insignificant for consideration in functional decision-making, few options existed for political expression. Leslie Lipsen suggests that such situations result from the premise that political decisions ought to reflect the majority-will.¹³ This assumption holds that the process of decision-making (whereby the majority view is discovered and then implemented) is more important than the quality of the decisions made, or the effects of those decisions. Lipsen further suggests that majority-rule presupposes that majorities have the right to legally and physically enforce decisions on minorities.¹⁴ As such, the ultimate means by which minorities can resist a majority rule which they consider to be illegitimate is through physical protest.

Minorities' use of protest to express themselves politically, grew in importance in the 1960s and 1970s. This was especially so as social concerns began to focus upon "richly symbolic issues"¹⁵ (such as the Save Manapouri Campaign, the Anti-Vietnam War Movement, and later, the Stop All Black Tours movement). Until the 1960's such matters had largely been outside the comprehension of party politics and according to Les Cleveland "well outside the ordinary range of sensitivity of government itself".¹⁶ For the members of the public who were concerned with the social issues, therefore, the parliamentary and functional structures had nothing to assist in the resolution of this type of political question. The participants were thus still left with, primarily, physical forms of political action and protest.

To summarize this discussion, several signs of social-transformation are evident within the democratic discourses between 1950 and 1980. These signs point to an increasing level of public discontent with New Zealand's parliamentary democracy. During the 1950s and early 1960s this unrest was expressed primarily within academic circles.

13. Leslie Lipson, "Power, principles and democracy", in Political Science. Vol.41(2) December 1989 : 1-17.

14. Lipson demonstrates how political theorists as diverse as Locke and Rousseau reached this same conclusion; pp.2-4.

15. Les Cleveland, "An Anatomy of Pressure Groups in New Zealand", in Political Science. Vol.23(1), May 1971 : 23.

16. Ibid : 23.

Public dissatisfaction with politics first revealed itself in 1966 with the "protest election". In the decade which followed the public increasingly addressed political issues through demonstrations and protests. The increasingly violent nature of these protests became of concern to Parliament in the early 1970s. This protest behaviour was predominantly interpreted as the consequence of problems within New Zealand's system of representational government. Three potential responses developed, within Parliament, to the rising level of public discontent. These were public repression, public incorporation and parliamentary reformation.

It is within the context of debate about these matters that the writers of the Department of Justice Annual Reports to Parliament (between 1970-81) began to discuss the rising threat of violence and its challenge to the institutions of state. The next chapter focuses on that Departmental response.

CHAPTER SIX : THE RESPONSE OF THE DEPARTMENT OF JUSTICE

INTRODUCTION

In response to the perception that the public were losing faith in its democratic institutions the Department of Justice instituted three organizational reforms between 1979 and 1981. Two of these follow the functionalist strategy which encouraged the public to participate in the Department's decision-making processes. They are the open-information policy of 1981 and the Penal Policy Review¹ of that year. The third reform was the restructuring of the Department's management.

These Departmental initiatives toward greater governmental openness are theoretically significant in terms of Foucault's work on governance. On the one hand the encouragement of public participation in policy-making processes reflects the liberalism of governmentality. Thus, government seeks to facilitate the "natural" sociality of the public by providing a forum for its expression within political affairs. On the other hand the legacy of governmentality's police-science is also evident. This legacy promotes belief that government ought to remain superordinate within society and retain the ability to define the "public interest". These competing impulses to superintend and to facilitate "sociality", resulted in the Department of Justice pursuing two ends. First, it created the framework within which public participation was to occur. Second, it increased its management over the justice bureaucracy. The means through which the Department did this are examined in the following discussions on the Penal Policy Review and the managerial reforms.

1. This chapter focuses on that Review and the Departmental restructuring. It omits consideration of the Open Information Policy. The Penal Policy Review was conducted as a Ministerial Committee of Inquiry. The Review examined penal policy and recommended a framework for new legislation. That new legislation was the Criminal Justice Act 1985. This chapter's discussion focuses on the process of the Penal Policy Review, not its outcomes.

THE PENAL POLICY REVIEW OF 1981

The introduction of the Department of Justice's 1981 Annual Report to Parliament describes the political context within which the Penal Policy Review was created. That context was the perception the increasing levels of violence were threatening the sovereignty of New Zealand's institutions of state.² The Department's desire to incorporate widespread public thought into the construction of penal policy reflects the unease which existed in governmental circles about the difficulties which Departments had in representing public opinion.

At one level the Review sought to address the public unease by enlisting that public's assistance in the traditional task of rehabilitating offenders. The Annual Report explains this:

"The social problems which end up before our law and order agencies and institutions are products of society. With all the will in the world my officers cannot change these people without the active support and encouragement of the very people who have labelled them deviant".³

This viewpoint is unremarkable given the Department's historical use of "community" to correct offenders.

At another level the penal policy review sought to address the problem of violence through involving "the people of New Zealand *without exception*"⁴ in the formulation of policy. This approach was unprecedented in the Department. Throughout the 1950s and 1960s the senior officials had seen it as their task to shape public opinion. They had always distrusted the public's perceptions because of what was perceived to be their reactionary, emotional desire for punitive retribution. The role of the

2. Department of Justice, 1981 : 3.

3. Ibid : 3.

4. Ibid : 3 (emphasis added).

Department of Justice, it was held, was to maintain a non-reactionary, reasoned approach to crime.⁵ It seems remarkable, therefore, that in the 1980s the Department of Justice actively came to seek widespread public involvement in the development of penal policy.

This situation can be explained, however, when it is placed in the context of the growing public distrust in government at large. The Annual Report to Parliament of the Department of Justice clearly demonstrates that senior officials understood their need to address public criticism. It states:

"Officials working at the top level of government departments are continually faced with the need to close the gaps between the fast changing social and political environment on the one hand, and the hard to move and usually static administrative ethos and structure on the other".⁶

It adds:

The Department of Justice has not been immune from the dilemma The ability and speed of the Department to close the gaps between correct performance and its fast changing social and political environment is in question.... in a department such as this which has the oversight or administrative responsibility for so many socially important laws and policies, it seems that any degree of obsolescence in these inhibits the orderly progress and development of our unique New Zealand way of life."⁷

The Department's failure to ensure that its activities had remained socially relevant was, according to this Report, revealed in the need for the Penal Policy Review. In future, the writer of the Report implies, all Departmental reviews must be cognizant of public expectations. This implication reflects the theme that is developed through

5. Refer, for example, to Department of Justice, 1964 : 13.

6. Department of Justice, Annual Report to Parliament. 1982 : 3.

7. Ibid : 3-4.

this thesis that the Department of Justice sought to *facilitate public participation as a means of enhancing its ability to govern*. This proposition mirrors Foucault's contention about governance, that government is perpetually faced with the problem of compensating for its ability to comprehend the opacity of public life.

At the same time that governments attempt to enhance civilian activity, Foucault contends that they seek to retain political control by establishing the framework within which that public activity is to occur.⁸ In the case of the Penal Policy Review this occurred through the manner in which the Review's Terms of Reference were set.

The participation of the public gives the impression that the Review's recommendations correctly reflect society's views. This, however, is not entirely correct. This is because the terms in which the Review presented "penal policy" was decided ultimately, by the Minister of Justice. The decision as to what ought to constitute the Review's terms of reference was not opened up to the public. Thus, public opinion was not sought about the questions as to what the Review ought to cover. For instance, the efficacy of parallel systems of service delivery for Maori or of the appropriate distribution of decision-making power without sentencing between the judiciary and the public, were not included. In this way government determined the framework within which public participation was to occur.

Despite this tendency toward governmental control of the Review, a considerable sector of the public was not deterred from participating. This may reflect support for the belief that the elected representatives ought to retain the ultimate control of the process. It may also suggest that the Review's terms of reference did indeed correspond with many public concerns of the day.

8. Foucault, 1978.

MANAGERIAL REFORMS – INCREASING THE RESPONSIVENESS OF THE DEPARTMENT

From his inception as Secretary of Justice in 1979 John Robertson made it clear that he intended to reorganize the management of the Department so as to enhance its responsiveness to the public. His aim, he said, was to achieve this by increasing the Department's "efficiency, effectiveness and economy."⁹

The defining characteristic of these managerial reforms is their emphasis on results oriented performance. The performance-oriented emphasis has profound effects on several aspects of the work environment. These include the manner in which work is measured; the forms of accountability required; the lines of accountability that are permissible; and the nature of employer/employee relations. This present section briefly outlines the history of these managerial reforms and introduces their essential features.

As suggested in the preceding chapter the Department of Justice's decision to reform its management structure reflects a tenet of Foucault's concept of governmentality. Within this view the management reforms highlight the Department's attempts to increase the bureaucracy's ability to respond to public need. This thesis contends that these attempts were made amidst a social milieu of public discontent with politics. It might therefore be argued that these reforms represent an attempt to resecure the Department's "sovereignty". The way in which the reforms attempted this is theoretically intriguing. First, the Department pursued the public interest. Its pursuit of the common good is illustrated by the discourse within which the managerial reforms were introduced.¹⁰ That discourse focused on a visiting criminologist's reflections on the manner in which the justice system was transforming crime, criminals and victims into objects that could be expediently processed.

As a result of that processing, the argument continued, neither the needs of victims nor offenders were adequately addressed. The conclusion of this was that the criminal justice system did not meet the public needs. In order to attend to public expectations, the Secretary for Justice believed, greater managerial control was

9. Department of Justice Annual Report to Parliament, 1979 : 3.

10. Ibid.

needed over the justice bureaucracy.¹¹ By doing so, two goals could be met. First, and immediately, the public interest would be served. Second, in meeting public needs the political legitimacy of the Department could be enhanced.

This incorporation of the public interest into the government's pursuits of legitimacy highlights the observation made of Foucault's governmentality¹² that modern government appears to actively incorporate the notion of public rights and freedoms, into strategies whereby it consolidates its own social pre-eminence. Public freedom is thus the correlate of the state's own "suasive power".

Similar managerial concerns to those expressed by the Secretary for Justice had underpinned the Treasury's desires for state sector reform in the late 1960s. These concerns had not been shared throughout the public sector at that time.¹³ Senior officials' responses varied considerably to the Treasury's managerial reforms. The ineffectiveness of those initial attempts raises the question as to why they were successfully implemented by Robertson in the 1980s. Researcher June Pallot suggests an answer in her observation that the Treasury initially sought financial and managerial reforms in order to address constitutional rather than managerial issues.¹⁴ These concerns focused on the balance of power and accountability between the public, the government executive and the state sector. The same concern with public accountability is a central theme in John Robertson's writings of the 1970s and 1980s on state sector management and management of the Department of Justice.¹⁵

It is suggested that the managerial reforms found support within the Department of Justice in the early 1980s because of that Department's perceptions that rising levels of crime and violence were somehow linked with diminishing public confidence in New Zealand's democratic institutions. John Robertson was aware of this constitutional problem and he sought to create a programme of managerial reform which would enhance the public's trust in the Department of Justice.

11. Ibid : 4.

12. Foucault, 1978.

13. June Pallot, "Financial Management Reform", in Boston, J., Martin J., Pallot J., and Walsh, P. (eds) Reshaping the State. Auckland : Oxford University Press 1991 : 168.

14. Ibid : 170.

15. Refer for example, to John Robertson's "Public Service Management in the 1970s", in New Zealand Journal of Public Administration. Vol.32, September 1969 : 23-37 and Department of Justice, 1979 : 2-5.

At the heart of Robertson's reform of the Department's management structure was the development of "a system of on-going analysis and review" which could be co-ordinated into a local management plan.¹⁶ For the Corrections Division of the Department this resulted in plans to enhance its ability to rehabilitate, deter, incapacitate and punish offenders, as well as managing this role in an efficient manner.

Central to these reforms was the belief that the Department ought to be directly accountable to the public for the implementation of the changes. The open information policy, John Robertson maintained, was created in order that "special interest groups" would contribute "objective and constructive criticism of existing policies and the assessment of new proposals".¹⁷

Since 1979, the Department of Justice has developed increasingly complex and sophisticated systems for the management of its employees and the surveillance of their organizational behaviour. A milestone in this occurred in 1982 with the introduction of the Justice Management System (JMS). This was a device which evaluated policy annually, linked this information with the annual resource acquisition round, established policy and objectives on a results-oriented basis and secured accountability for results at the district-office level of operations.¹⁸ The history of the Department's management from this time on is, basically, a history of the increasing capability of this system.

SUMMARY

The managerial reforms and the Penal Policy Review have a common genesis. Each grew out of governmental concerns about the public's negative perception of representational government. The Penal Policy Review for instance sought to incorporate the whole of society in the creation of "their" penal policy. The development of the performance-based managerial system sought a complementary outcome to these, that being the enhancement of the Department's ability to achieve the outcomes required of it by the public.

16. Department of Justice, 1979 : 4.

17. Department of Justice, 1982 : 4.

18. Ibid : 3-4.

These reforms, the Penal Policy Review and the improved public accountability of the Department of Justice, reflect Foucault's ideas on the existence of governmentality within politics. Governmentality is characterised by tensions between government's need to regulate society directly (the legacy of police-science), yet to facilitate liberty in the belief that natural regulatory processes operate at a depth in the social fabric which governmental intervention can neither reach nor fully comprehend.

CHAPTER SEVEN : THE REFORMATION AND COUNTER REFORMATION OF GOVERNMENT

INTRODUCTION

As the 1980s progressed, two competing political developments emerged which further affected the Corrections Division's management of itself and its relationships with voluntary agencies. The first of these mirrored historical and constitutional concerns about the unbridled power of the Government Executive. The second trend sought to strengthen the administrative power of that Executive so as to facilitate the introduction of monetarist/economic theory into governmental affairs. The theoretical significance of these trends lies in the forms of governmental practice which they entailed. The following discussion suggests that the Government Executive used Foucauldian disciplinary techniques to strengthen its administrative abilities and to impose contractualism within the state sector. In light of the resurgence of these techniques, this chapter also examines the relationship between disciplinary power and governmentality during the late 1980s.

REFORMATION

As early as 1976 the National backbencher Michael Minogue had expressed concern about the power of Government Departments. He stated:

"... there may be no effective executive, ministerial or Governmental control over the action of State Departments. There is in fact no element in Parliament capable of effectively checking the expansion and exercise of executive power".

1. The Dominion, 28 September 1976.

During the mid 1980s the Fourth Labour Government instituted a series of parliamentary reforms which sought to curtail this growth of executive power – what Geoffrey Palmer termed the "unbridled power" of New Zealand government.² According to Palmer, New Zealand's democracy lacked any of the safeguards which other western political systems enjoy. He cited the absence of a legislative chamber and a body of "disinterested and authoritative" public opinion. In the absence of these two stabilizing forces Palmer decided that reform ought to focus upon Parliament itself.³ As a result, in 1984 the Labour Party Caucus proposed a series of reforms to strengthen the public accountabilities of Parliament, of the Government Executive and of the state bureaucracy.⁴ These reforms became the platform of what was called "Open Government"⁵

At the same time that Palmer mused over these parliamentary reforms the Labour Caucus was debating its economic policies for the 1984 General Election. The result of that debate set in train a series of reforms which ran counter to the enhanced democracy which the parliamentary changes sought.

2. Geoffrey Palmer, Unbridled Power, Second Edition. Auckland : Oxford University Press, 1987. Palmer made these comments while an Opposition Member of Parliament.
3. Geoffrey Palmer "A Recipe to change New Zealand's system of Government" in New Zealand Law Journal. February 1984 : 32.
4. In addition to various reforms of parliamentary procedure Palmer also sought the introduction of the Bill of Rights.
5. Ibid : The reforms contained a variety of measures : rules to stop the manipulation of parliamentary session-times by the government of the day; the enlargement of Select Committee responsibilities and their public accessibility; Standing Orders of the House of Representatives were changed to slow down the passage of legislation through Parliament; a Bill of Rights was enacted to encourage the protection of citizens' fundamental freedoms, and closer scrutiny of Government Departments was implemented through the introduction of objective performance measures.

COUNTER REFORMATION

Oliver notes that the economic policy debates of the Labour Party Caucus between 1981 and 1984 were dominated by two central ideas: economic restructuring and corporatism.⁶ Caucus eventually lost faith in the political feasibility of corporatism, he suggests, and this facilitated the introduction of economic restructuring and market-liberalism by the Fourth Labour Government (from 1984 onwards).

Prior to 1984, Oliver suggests, the Labour Caucus favoured the development of policies through tripartite negotiations between capital, labour and government. Created through this process of negotiation, policy was seen to achieve both economic ends and "natural unity, ... common purpose and harmony."⁷ The social effects of the process were considered to be as important as the results of the economic policy. This desire for a broad-based consensus on economic and social policy was also evidenced in proposals for a summit conference of economic sector groups, which was held immediately after to the 1984 election.

Roger Douglas also presented to Caucus a vision of economic policy. This, however, was at odds with the corporatist model. His plan for economic restructuring focused on the devaluation of money values; a step which would produce high social costs in terms of inflation, and restrictive monetary policy to relieve that inflation.

6. Hugh Oliver, "The Labour Caucus and Economic Policy Formation, 1981 to 1984", in Easton, B. (ed) The Making of Rogernomics. Auckland : Auckland University Press. 1989 : 11.

7. Ibid : 37.

In 1983 Stan Rodger also presented a paper to the Labour Economic Committee which criticised corporatism as being politically unfeasible.⁸ Despite Rodger's powerful argument against corporatism, Douglas's vision for economic restructuring was still not widely embraced because of its high social cost.

Oliver suggests that the division between the supporters of corporatism and of liberal economic restructuring was reconciled by two means. The first was a paper written by Palmer which sought to find common ground between the two factions. The second was the reworking of Douglas's proposals by the Caucus Economic Committee so as to diminish the importance of the devaluation policy. Oliver notes, however, that the Party Policy document which was issued prior to the election did not mention explicit economic policy. Rather, it promised measures to encourage efficient economic management and a firm monetary policy. Thus, it did not exclude the possibility of the devaluation policy which Douglas subsequently enacted immediately after his assumption of office in 1984.

The discussion below identifies the demise of the consensual, corporatist approach to Labour's politics in the mid-1980s and the rise of a directive style in the implementation of policy. In addition the discussion illustrates how government policy came to be dominated by an economistic logic, one within which social policies were subordinated to economic concerns and wherein social policy was to be understood in economic terms.

The Extension of Economic Rationalism.

This transformation to an economistic approach to governmental management soon became manifest in aspects of government reform other than economic policy. In 1984 Treasury had argued that the management of Government Departments ought to take on the logic of private enterprise. Treasury's 1984 report entitled "Government Management" stated:

8. Rodger cited several reasons in his argument: the decentralised nature of the trade union movement and the relative weakness of its peak body, the Federation of Labour; the subversive effect of union-based relativity claims on any wage agreements which might be achieved, the trade union's suspicions of social wage formulae after their experience of the National Government's initiatives, and public antagonism about allegiances between the Labour Government and the Federation of Labour.

Cited in Oliver 1989 : 40.

"The aim of management should be the implementation of systems in the public sector that can perform broadly the same role for the public service as the price system does in the private sector."⁹

In 1987 Treasury supplemented this approach by suggesting that explicit changes were required in public sector management, particularly if that sector was to achieve the claimed efficiencies of private enterprise. It argued that:

"If the Government wishes to have a public sector capable of producing high quality advice, and managing its own affairs on a basis comparable with private sector efficiency, major changes in the nature of the administration are essential".¹⁰

Treasury postulated that prevailing concerns with the control of inputs into Government ought to be replaced by emphasis on the achievement of results.¹¹ The previous focus on inputs resulted from a mistaken belief, Treasury argued, that governmental outcomes could not be measured.¹² The emphasis on performance necessitated, in this view, a single, indivisible "chain of accountability" from the Minister to Departmental Heads and from Departmental Heads to employees. These reforms, it was acknowledged, would require changes to the nature of relationships between senior officials and Minister, and to the industrial relations between departments and their staff. The relationships which were subsequently instituted (through the provisions of the 1988 State Sector Act) were contractual in nature. These contracts had the purpose of linking each organizational tier of employee by establishing explicit performance agreements between tiers.

9. Treasury. Government Management. Government Printer 1984 : 287.

10. Treasury. Economic Management. Government Printer 1987 : 49.

11. The achievement of results was to occur through the clarification of objectives, improved accountability processes, effective assessment and monitoring measures and enhanced information-flow procedures.

12. Ibid : 58.

The New Zealand political scientist, Jonathon Boston, suggests that the impetus for contracting within the state sector arose out of the assumptions of Agency Theory.¹³ Agency theory holds that all social life can be understood as a series of "contracts" within which ostensibly equal individuals or groups enter into rational agreements with one another. This is one aspect of Foucault's observation that neo-liberalism has sought to redefine the whole of sociality in rationalized, economic terms. According to Agency Theory, all social relationships face a common problem, namely that each party to the relationship attempts to induce the other to behave in ways which maximize their own welfare.¹⁴ Through the use of explicit contracts, however, the conflicts between the parties are managed. Much of Agency Theory, according to Boston, focuses on finding the appropriate means by which the initiator of the relationship (the principal) can negotiate, write and monitor contracts so as to minimize the likelihood of violation on the part of the other party (the agent). Seen in this way, contracts are a means by which principals protect their welfare against the actions of agents. Contracts are thus a means by which to ensure control within a relationship.

Murray Short makes this point in relation to the Corrections Division's relationships with voluntary agencies. He states that the Division's numerous experiences of relationships "breaking down", or the alleged abuses of clients by agencies, "highlighted the need for formal contracts".¹⁵

He also comments that contracts assist the voluntary agencies, in that mutual expectations can be clarified. Surprisingly, he adds, agencies have not asked for such contracts. What is interesting about Short's "surprise" is that he is aware that the Division introduced contracting as a means by which to increase its control over its relationships with voluntary agencies. This point is discussed further in the next chapter.

13. Jonathon Boston, "The Theoretical Underpinnings of Public Sector Restructuring in New Zealand", in Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds). 1991 : 4.
14. M. Jensen and W. Meckling, "Theory of the Firm : Managerial Behaviour, Agency Costs and Ownership Structure", in Journal of Financial Economics. Vol.3, 1976:309.
15. Short/Tie, interview, June 1992.

The transition from consensual to control orientated styles of management can be understood in terms of Foucauldian governmentality. Governmentality suggests that social order is enhanced through the government's creation of social processes. The contractarian reforms for instance, sought to change public servants' ideas about what these processes ought to be. Thus, in the same way that liberalism created "civil society" as a means by which to structure social order neo-liberalism again sought to reformulate ideas about the forms which social interaction and freedom ought to take.

This neo-liberal blueprint for social interaction could only have been successfully introduced through the deconstruction of its competition. In New Zealand's case the competition comprised the corporatist, co-operative leanings of some Labour Party politicians. It is for this reason that the debate within the Labour Party Caucus between corporatism and economic restructuring is an important event. That debate was fundamentally about contrasting visions of New Zealand society. Either New Zealand was to become a society of groups struggling to find common ground for the purpose of co-operating with one another or it was to become a society of individuals struggling to compete so as to maximize personal gains.

In light of the high social costs that were acknowledged would come from economic restructuring, the Labour Caucus understood that restructuring could only be introduced by imposition. That is what subsequently happened. The imposition of the "new freedom" began with the unilateral decision to devalue the New Zealand dollar and was continued through the State Sector Act (1988) with its hierarchical, directive style of management. State sector reforms, therefore, became more than just a means of increasing the accountability of government departments. Their effect was also to implant the blueprint for this "new competitive freedom" firmly within the state sector.

Effects on the Department of Justice.

As noted previously, up until 1988 the Department of Justice's JMS managerial system had sought to regulate organization performance down to the organizational tier of district offices. In keeping with the new emphasis on contracts, that changed in 1988. Thus, the JMS system was reformulated in 1988 to allow the surveillance of every employee's organizational behaviour. This change sought to ensure that

each employee worked toward the Department's goals.¹⁶ During 1989 this system was developed to the stage that each *individual* possessed a written and signed performance plan (a contract) which related directly to the achievement of Divisional objectives.¹⁷

It is within this context, of the imposition of an individualised form of social interaction, that Foucault's disciplinary power reappeared. The disciplines, as noted in chapter two, seek to mould people's physical performances of tasks through training, normalization and surveillance. The disciplines do not seek to persuade. As such they are an appropriate technology for the achievement of change in the face of popular resistance. It is suggested that the Department of Justice's management system (especially in the form which followed the introduction of the State Sector Act) can be understood as a network of disciplinary techniques. First, the management system focuses upon the bodily performance of each individual. This is not so much in terms of their skeletal movements, but their rates of production of reports, of sentences administered, of tasks completed etc. Second, the management system nominates levels of performance which individuals must achieve. Third, the system incorporates a routinized form of surveillance over the organisational behaviour of each individual. Information on these performances is collated and analysed at a centralized point. The results are then fed back to lower tier management for the correction of deviances. Fourth, the system contains a comprehensive process for coping with these employees' deviances. Strategies include personal supervision, codes of practice and conduct, internal and external auditing, plus positive sanctions for the inducement of compliance (for example, performance related salaries, overseas trips). With the exception of "grave" acts of misconduct, deviations are approached with the goal of their correction, rather than the extraction of expiation.

As suggested above, the effect of this system goes beyond the enhancement of the Department's management and public accountability. In addition, its focus on individual performances helps cement the liberal vision of individually-based freedoms and rational, contractually-based interaction. This observation corresponds with David Garland's analysis of social institutions, that their effect cannot be understood purely in terms of organizational worth.¹⁸ Rather, the value of all social institutions must also be understood in terms of how they come to instruct us, or reinforce

16. Department of Justice, Annual Report to Parliament. 1989 : 4.

17. Department of Justice, Annual Report to Parliament. 1990 : 82.

18. Garland, 1990 : 287-288.

to us how we ought to interact. Thus it is postulated (and this is discussed in Part Three) that the reformation of the state sector along contractarian lines required the voluntary sector to adopt this same form of social interaction.

SUMMARY

To summarize this history of reform and contracting within New Zealand Government during the mid 1980s, several developments occurred which culminated in changes to the administration of the state sector. The first of these, the parliamentary reforms, was a legacy of ongoing concerns about the unbridled power of the Government Executive. These reforms sought, amongst other aims, to improve the management of the state sector and to open that management up to public scrutiny. The second reform arose out of the Fourth Labour Government's desire to control the state sector in order that its policies might be enacted. These reforms were predicated upon neo-liberal, economic assumptions. Economism suggested that state activity ought to be understood in business terms. The Government Executive's desire for greater control over the state sector facilitated the insertion of contractual relationships throughout the state sector. The effects of these reforms, however, must not be understood purely in terms of organizational efficiency. Rather, they must be understood as a function of neo-liberalism, which seeks to reconstruct our ideas about who we are and of what it means to be social.

It is postulated that these effects will be evident within the Corrections Division's relationship with voluntary agencies. It is suggested specifically, that the impetuses for greater organizational efficiencies and the redefinition of sociality are evident within the means by which that Division related to voluntary agencies during the late 1980s.

SUMMARY OF PART TWO

This discussion on the development of community involvement within criminal justice began by arguing that the nature of that involvement has been influenced by ideas on the causes of crime. Between 1950 and 1970 crime was believed to result from individual or familial inadequacies.

During the 1970s and 1980s the causes of crime came to be understood in systemic rather than individualistic terms. The one enduring systemic explanation during this period was that the rising rates of violence were somehow linked with public dissatisfaction with the prevailing democratic processes.

An examination of political developments between 1950 and 1980 reveals that public dissatisfaction was accompanied by an increasing recourse to political activity outside the mainstream democratic institutions. The activity took the form of increasingly physical and violent public protest.

Three forms of response were suggested by the parliamentary politicians to the growing vigour of public dissension. They were, first, repression of the dissidents; second, their incorporation into governmental decision-making processes; and third, the reformation of Parliament so as to enhance its ability to represent the public's interests.

In the early 1980s the Department of Justice responded to the public unrest by reforming itself in two of the three ways outlined above. The first response was to incorporate New Zealand's communities into its decision-making processes. The second was to enhance its own organizational effectiveness and efficiency so as to ensure that it fulfilled what was publically required of it. These reforms took the form of an open information policy, the Penal Policy Review and a restructuring of management structures. The emphasis which these reforms placed on public participation represent what Foucault perceives to be the paradoxical facilitation of public freedom for the purposes of enhanced governmental order.

During the mid 1980s a series of parliamentary and state sector reforms were initiated which sought two ends. The first reform sought greater governmental control over the state sector and the second sought the reformation of governmental affairs in neo-liberal, economic terms. This latter reform saw the demise of consensual politics and the rise of a competitive, contractual form of interaction within the state sector. As a correlate to this change Foucauldian disciplinary techniques emerged within the Department of Justice's management practices.

The directive style of this management came to have implications for the manner in which the Corrections Division related with voluntary agencies. The nature of these implications is explored in Part Three's enquiry into the administrative means by which that Division relates to voluntary agencies.

PART THREE

**THE ADMINISTRATIVE PRACTICES
OF THE
CORRECTIONS DIVISION**

INTRODUCTION TO PART THREE

The analysis which follows suggests that the Corrections Division has employed a variety of administrative practices within its relationships with the voluntary sector agencies. There is no evidence to suggest that these changes represent a progressive intensification of control. Rather, it is proposed that the Division always sought to maintain a level of control but to do so indirectly by facilitating the development of "natural" social processes. This accords with Foucault's belief about the workings of governmentality.

Compounding this issue is the matter of the Division's ability to control its relationships. This analysis suggests that during the period reviewed (from 1950 to 1992) the Division did not have the bureaucratic capability to affect the relationships to the degree which it might, on occasions, have intended. Thus the Division's inability and reticence to control voluntary agencies leads to the conclusion that administrative practices have varied in the intensity and scope of their effects.

In spite of the conclusion that the Division did not necessarily seek intensive control of voluntary agencies, this analysis suggests that the Corrections Division sought to dominate its relationships with the voluntary sector. This propensity is a consequence of the Division's constitutional position as an agent of the Crown. The need to dominate thus permeated all of the Division's interactions with the voluntary sector. It is postulated, however, that this need to dominate did not *determine* how the relationships developed.

It is also observed that the Division's position as "sovereign" did not result in its repression of "deviant" actions by voluntary agencies, as was characteristic of sovereign rule over people prior to the nineteenth century. Instead, the Corrections Division attempted to "correct" rather than punish deviances. This propensity to "correct" reflects something of Foucault's thoughts about the influence of disciplinary power.

During the late 1980s the Division also began to base its relationships with the voluntary sector upon a new form of liberalism. Within this it introduced neo-liberal forms of sociality and social organizations, namely contracts.

This analysis suggests that the degree to which the Corrections Division pursued relationships within the voluntary sector depended upon three matters. First, it depended upon the extent to which the Division believed it could produce the same quality and quantity of crime control as it perceived could result from the community's "natural" regulatory processes. Second, the Division's propensity depended upon the extent to which it had the physical resources and knowledge to take on the roles played by the voluntary sector. These two matters relate to the Division's propensity to maintain relationships with voluntary agencies. By way of contrast, the third element which affected the Division's behaviour was the propensity of those agencies to remain within those relationships. Their propensity to remain was, in part, affected by the degree to which any reforms, as proposed by the Division, accorded with their own values, beliefs and expectations. Their propensity may also have been affected by the degree to which alternative sources of income and social expression existed for them.¹ What this analysis proposes is that in situations where the Division had a high propensity to remain in relationships with voluntary agencies it pursued organizational reforms within those agencies even in the face of resistance. In circumstances where the Division's propensity to remain in relationships was low, it withdrew. The means by which the Division imposed or negotiated changes to voluntary agencies are the administrative practices upon which this study focuses.

This part of the thesis proceeds in the following manner. Chapter eight examines the growth of public participation that occurred within the Corrections Division during the 1980s. This growth is explained in terms of Foucault's "counter-politics" of public action. The chapter also identified key issues which arise from this growth.

Chapter nine begins a series of three detailed case studies of voluntary sector involvement within the Corrections Division of the Department of Justice. That chapter investigates the growth of the marriage guidance movement. It examines the various means through which the Department related with the movement between 1950 and 1992. This relationship is analysed in terms of Foucault's work on governance.

1. The matters which affect the propensity of voluntary agencies are beyond the purview of this research.

Chapter ten explores the relationship which the Department constructed with Christian social service agencies during the 1960s and 1970s. These relationships were joint hostel ventures for the provision of accommodation of offenders. As with chapter nine, this discussion investigates the means through which the Department related with the voluntary agencies.

Chapter eleven enquires into the forms of relationship which the Corrections Division created with voluntary sector agencies after 1988. That time period corresponds to the completion of the parliamentary and state sector reforms, as discussed in the previous chapter. The agencies chosen for this enquiry are those which received funding from the Division. Again, the Division's interactions with those agencies are analysed in terms of Foucault's framework of sovereignty, disciplinary power and governmentality.

CHAPTER EIGHT : THE GROWTH OF PUBLIC PARTICIPATION WITHIN THE CORRECTIONS DIVISION

INTRODUCTION

During the 1980s the Corrections Division attracted the assistance of a considerable number of voluntary agencies. As an indication of this researcher Lynne Whitney calculates that between July and December 1988 two hundred and fifty-seven voluntary agencies received payment from the Corrections Division for services rendered to offenders.¹ This is a substantial increase over the number of such agencies cited in the Department's Annual Reports to Parliament between 1950-1980.²

This growth in the number of voluntary agencies corresponds to the Department of Justice's efforts to involve the public. It is suggested below that the dramatic increase in the involvement of voluntary agencies with the Corrections Division can be attributed, to a large measure, to the effects of public submissions to the Penal Policy Review. Public submissions to that Review produced considerable changes to the direction of penal policy. These changes concerned the Department's approach to imprisonment and the encouragement of community involvement within the alternative-to-custody sentences.

THE EFFECTS OF PUBLIC SUBMISSIONS

During the 1960s imprisonment practices had been criticised by the Department of Justice on several occasions. The criticisms were levelled at the cost and wastefulness of imprisonment,³ its criminological effect, and its damaging effect on prison staff.⁴ The inhumanity of imprisonment, however, was not criticised. This

1. Lynne Whitney, An Inventory of Groups and Individuals Involved with Offenders in the Community. Wellington. Department of Justice, 1990 : Appendix III.
2. These are limited to references of NZPARS, MGNZ, Probation Hostels, Odessa House and the Kahanui Village Trust.
3. Refer to Robson, 1987 : 185.
4. Department of Justice, 1973 : 5-6

changed following the public's submissions to the Penal Policy Review. Many of these submissions focused on the effects of imprisonment on inmates and their families.⁵

The Report summarizes these, saying:

"The personal cost and social cost of imprisonment is very high; as well as the disastrous effects on the character or personality of some inmates, it places great strain on domestic and family relationships."⁵

For the first time in contemporary penal discourse the silent suffering created by imprisonment broke into the Department's sensibility. In the Annual Reports to Parliament of 1982 and 1983 the Department of Justice came to take on these critiques, adding them to its perennial concerns about resource restrictions. The writer of the 1984 Annual Report continued this theme of inhumanity quoting Winston Churchill's statement, that the public's treatment of criminals is its measure of civilization. This was followed by an acknowledgement of imprisonment's natural "degenerative processes", which lead to harmful physical, mental and social effects. To solve this problem, the Report suggests, potential inmates ought to be diverted from prison. The "cornerstone" of this diversion process is to be "an acceptance by sufficient numbers in our society that crime is a community problem and a willingness on the part of the people to become involved with offenders".⁷ The Department's desire to divert offenders from prison thus matched the public's submissions to the Penal Policy Review about the superior humanity of alternatives to custody. This contrasts with the Department's previous rationales for using "community" intervention, such as its superior rehabilitative potential, or "the community's" moral responsibility to intervene.

5. Department of Justice, 1982b : 38.

6. Ibid : 38.

7. Department of Justice, Annual Report to Parliament, 1984 4-5.

The report of the Penal Policy Review had strongly supported this diversion of offenders from prison. It had recommended that "Measures available to the courts should enable the strengthening of ties offenders have with a community which are likely to exert a positive or restraining influence upon them."⁸ This recommendation was subsequently reinforced in two ways within the 1985 Criminal Justice Act.

First, the Act recognised ethnic groups (iwi, hapu and whanau), churches, religious orders, medical, social, educational and rehabilitative amenities as legitimate sites for the administration of sentences. Second, the Act created the sentence of Community Care through which convicted offenders could be placed under the care and control of members of the public.

In 1985 a hui was held at Hoani Waititi Marae in Henderson to facilitate the diversion of offenders into the authority of marae committees, tribal and whanau groups. Several recommendations came out of the hui. These emphasized the Maori participants' desires for greater involvement within the criminal justice system.

During the 1980s the Corrections Division responded to the aspiration of the Maori with several initiatives. First, in 1984 it entered a tripartite relationship with the Departments of Social Welfare and Maori Affairs for the establishment of a programme which would strength the whanau links of at-risk youth and offenders (the Maatua Whangai programme). Second, in 1985 it obtained from Cabinet a fund from which it would disburse grants to those voluntary agencies which provided assistance to offenders. A fixed proportion of this was earmarked for Maori based programmes. Third, it encouraged Probation Officers to use the innovations of the 1985 Criminal Justice Act which allowed members of the public to address the Court on the cultural background of offenders. Until the present these initiatives remain the basic means through which voluntary agencies become involved in the remedial rehabilitation and reintegration of offenders. The range of activities provided by these agencies ranges from small, informal arrangements to large, residential centres.

8. Department of Justice, 1982b : 36.

THE DIVISION AND THE VOLUNTARY AGENCIES : A BALANCE OF POWER?

One of the primary issues which exists between the Corrections Division and the voluntary sector is the means by which decisions are made on matters which jointly affect them. This section of the chapter examines this issue. It does so by investigating the reasons for which the Division constructs relationships with voluntary agencies and the issues which affect the balance of power within those relationships.

Corrections Division manager Mel Smith and Murray Short argue that the involvement of voluntary agencies is sought because their participation leads to better crime control.⁹ Smith states, for instance, that the policy of community involvement is successful when:

"through processes and programmes and the quality of those programmes themselves, (they) demonstrate a reduction in criminal behaviour".

Several processes need to occur for this to happen, Smith and Short maintain. First, Short suggests there has to come about an:

"increasing availability of individuals and resources within the community to assist offenders, and a willingness, an increasing willingness, to actually deal with them."

In addition to this increasing public availability and willingness, Smith adds that voluntary agencies need to increase their intervention skills with offenders and their abilities to manage their programmes. He suggests that such groups ought to follow the recommendations of the Department's report entitled "Reducing Reoffending : What Works Now".¹⁰ This report outlines a number of practice principles which

9. Smith/Tie, Short/Tie, interviews, June 1992.

10. Kaye McLaren, Reducing Reoffending, What Works Now. Wellington : Department of Justice, 1992.

purportedly enhance the effectiveness of correctional programmes. Smith adds that there are large risks for the Division in allowing public groups to take responsibility for the oversight of offenders. His primary concern is with the risk of reoffending. To counter this, he suggests, the Division has a responsibility:

"to provide whatever ... ongoing support that is necessary to get them (voluntary agencies) over the initial experience hurdle and then allow them to develop and feel more and more confident as they're doing that work".

In addition to this issue of effectiveness Smith maintains that voluntary agencies must attend to the efficiency of their programme management. If they do not, he suggests, "inept" management results in the "crash" of programmes "with very public criticism". In such events, Smith adds, the programme is criticized as being "a waste or taxpayers' funds". Furthermore the Division is criticized for not providing "sufficient support or usually, sufficient control". Smith is adamant, however, that the Division is unwilling to intervene in the operation of voluntary agencies. He states:

"how those (voluntary) organizations behave and what their aspirations and ethos might be is their business. I mean, obviously, we might be less inclined to deal with organizations that were obviously in conflict with what we, ourselves, perceived was the way our whole environment should be operating".

Smith makes this point in relation to a discussion regarding the extent to which the Department of Justice's own code of practice might extend to the work of voluntary agencies. Where divergences occur between the Division and agencies, he maintains, the Division is more inclined to withdraw from the relationship than to seek change within that agency. It is suggested here, that the extent to which the Division does intervene depends upon the importance of that particular relationship to the Division.¹¹

11. This issue, of how the Division acts when divergences occur, is explored in the following chapters.

Associated with the issue of the Division's and agencies' propensities to remain in mutual relationships is the question of how the Division views the distribution of power between itself and those agencies. This is discussed here in terms of the "partnerships" which the Division seeks to develop with Maori authorities, and its relationships with non-Maori agencies:

For Short, partnership with Maori authorities refers to the:

"Department working in conjunction with iwi groups, hapu, whanau and individuals, in dealing with offenders."

To this he adds:

"In my view we should be improving also the concept of partnership at the higher level of policy and decision making. But that's extremely difficult".

The difficulty arises, Short argues, because:

"you're dealing with a Department with a certain set of accountabilities ... through the Parliament, and a group which has a totally different position and status in society. And so it's very difficult to establish any equal partnership, for that reason."

In response to this statement, the interviewer made the observation:

"So you are always going to have that unequal balance".

To this Short replied, "Yeah, (pause) that's, that's the (pause) the, uh, (pause) that's the danger."

A further question was asked about this issue of partnership: "Why do you think the word "partnership" is used so freely when it's obviously not an equal relationship?"

To this Short replied, "Partnerships aren't necessarily equal". He qualified this however, by adding, "I mean, ideally they should be".

In the view of the Division's Management, therefore, partnerships with iwi authorities are not equal. Neither do they need to be in order to be useful. Through his statements, however, Short highlights the presence of potential problems when the Division seeks to use Maori authority as a means by which to control crime. Ideally, he states, the Division ought to be able to relate to iwi authorities as equals. This is not possible however, because of the Division's constitutional need to remain the dominant partner in the relationship. Dangers thus exist for the mana of Maori authority, as that mana must ultimately become subordinate to that of the Corrections Division. The Division's realization that this danger exists requires it to create a form of relationship which is not justified on the basis of "the Crown's sovereignty over its subjects". Short's statements demonstrate, however, that the Division cannot escape the problem of its constitutional superiority over iwi authority. This problem could possibly be minimized by the formation of alternative forms of relationship, relationships which are based upon governmentality's construction of "bounded freedoms". This proposition is discussed in chapter eleven's exploration of the means by which the Division relates to Maori authority.

The Corrections Division's relationship with non-Maori agencies is, according to Smith and Short, not based upon desires for partnership. Instead, the relationships are understood as "contractual, business" arrangements. Despite this, the issues of dominance and submission remain within these relationships. Smith suggests that the balance of power between the Division and the agencies can shift over time. The ability of agencies to negotiate favourable terms within the relationships increases, he explains, as they gain experience and skill in working with offenders. As agencies' abilities increase, Smith adds, the Division becomes more confident that it can discharge its responsibilities through these agencies.

SUMMARY

The general proposition that can be drawn from the preceding discussion is that during the 1980s the public propensity to become involved with the Corrections Division increased. In turn, this was assisted by that Division's support of those public initiatives. Foucault's ideas on governmentality explain both this growth and the Division's support of that. As suggested earlier, the managers of the Division sought voluntary involvement in the belief that society's "natural" regulatory systems are needed for the maintenance of social order. This is consistent with Foucault's understanding of liberal government, namely that it seeks to "not impede the natural order of things".¹² The aim, rather, is to encourage those "natural" processes which are deemed to be useful. (In this example, for the control of crime). A central task within this operation is to insert "mechanisms of security" around those processes so as to ensure their survival. In this way the Corrections Division came to seek approval from Cabinet for a fund by which to financially support those agencies which work with offenders. Further to this, the Division perceived that it must provide "whatever ongoing support is necessary" for voluntary agencies to succeed. The aim of the Division, with respect to community involvement, is to ensure the success of voluntary agencies by, as much as possible, ensuring their welfare.

The increase of numbers of voluntary agencies involved with the Corrections Division reflects what Foucault calls the "counter-politics" of modern concerns with life and welfare.¹³ As suggested earlier the degree of community involvement escalated following the Penal Policy Review. That Review articulated public criticisms of the justice system and suggested alternatives based upon those criticisms. As a result penal policies changed so as to facilitate the diversion of offenders into the care of the public. As this happened more voluntary agencies became attracted to the Corrections Division.

12. Foucault, 1978.

13. Ibid.

These two issues, of the public's "counter-politics" and of the Division's creation of "mechanisms of security", do not, however, resolve the matter of how the Corrections Division balances power between itself and voluntary agencies. The issues exist both in situations where it seeks partnerships with Maori authority and contractual agreements with non-Maori agencies. The question of how the Division controls its propensity to dominate these relationships (how it manages its "Irresistible Force") is a crucial question for voluntary agencies. It is also an analytically interesting one given that the Division seeks to incorporate voluntary agencies because of their "natural" abilities to control crime. The possibility exists that the Division may change them into organizations which come to resemble the state more than "the community". The means (the administrative practices) by which it walks this tightrope are explored in the following case studies of agencies which have participated with the Corrections Divisions.

CHAPTER NINE : THE CASE OF MARRIAGE GUIDANCE

INTRODUCTION

Chapter four suggests that the Department of Justice established MGNZ as a means whereby it could ensure the quality of New Zealand's family life. During the 1950s and 1960s a belief had existed within the Department that "family life" had deteriorated and that this deterioration was largely responsible for the nation's delinquents. This belief propelled the Department to intervene in "family life". In Foucauldian terms MGNZ was created as a "mechanism of security".

The desire for such a mechanism also arose out of concerns about the moral and social security of New Zealand. The insurance of family life was thus sought in the belief that "family" was a fundamental social institution. Family life, it was maintained, is a primary means through which the young are socialized. It is within families, it was argued, that children learn their social roles and society's norms and expectations. According to this view, the successful socialization of the young minimizes the need for correctional justice systems. Thus, the facilitation of family life was seen as a means through which the natural regulatory process of sociality could be enhanced.

Paradoxically, this facilitation of "natural processes" required the *imposition* of its mechanisms of security. In its attempt to establish the initial Advisory Committee of Marriage Guidance in 1960 (the ACMG) the Department of Justice had to overcome the right to self-determination which the already-existing marriage guidance agencies deemed was theirs. In Foucauldian terms the Department viewed the liberty of these agencies as the correlate of its own suasive power. This perception resulted in the Department wrestling the leadership-rights away from these agencies. Simultaneously, however, it sought to restrain its power so as to ensure that the Marriage Guidance movement remained a "community" enterprise, rather than become a statutory institution.

This process, of the Department simultaneously acting and restraining its actions, is a central dynamic within its reconstruction of the Marriage Guidance movement. This chapter analyses this dynamic by exploring the means by and extent to which the

Department of Justice determined the shape of MGNZ. The analysis of these means will utilize Foucault's ideas on governmentality, sovereignty and disciplinary power. It is postulated that the Department of Justice developed Marriage Guidance in ways which tended to correspond with popular sentiments about the pastoral guidance of family life. Where public sentiments conflicted with its own interpretation of what constituted the public interest, however, the Department deconstructed its opposition and imposed its own preferred agenda.

This first section begins by describing the struggle which occurred between 1959 and 1961 over who ought to determine the nature of pastoral family guidance - the Church or the State. It then charts the means by which the Department of Justice cajoled or negotiated with the marriage guidance movement from 1960 to 1970.

THE TAKE-OVER BID

It was never the intention of the Department of Justice to own a marriage guidance service. This was despite public expectations during the 1950s that it ought to do so. The Department's Advisor on Marriage Guidance (AMG) recorded:

"Despite the clear statement to the contrary many people, and representatives of organizations as well, have taken it for granted that the Department is going to operate a full fledged Marriage Guidance Centre."¹

A Departmental report written the following year further clarified the government's expectations with regard to this:

It has never been the intention of Government to establish a State Marriage Guidance Service and the clear policy is simply to provide stimulus and leadership until the movement is strong enough to stand alone ..."²

1. AMG/Secretary for Justice (SJ), 1 May 1959. Memo. Department of Justice File J9/5/2 Part 1", Marriage Guidance : National Advisory Committee on Marriage Guidance". National Archives, Wellington.
2. Extract from "Marriage Guidance in New Zealand - A Developing Movement". Report, 1960. Author unknown. Department of Justice File J9/5/5, "Marriage Guidance : Education and Publicity" National Archives, Wellington.

Up until the late 1950s the Christian Churches had been the primary agents in supplying marriage guidance counselling. Their services were loosely affiliated through an organization called the New Zealand Marriage Guidance Council (NZMGC). The Department of Justice was aware that its own intention to enter the field of marriage counselling was opposed by NZMGC and the churches. It recorded:

"It is well to realize that the churches in New Zealand are not at the moment 100% enthusiastic about the Marriage Guidance movement. There is a fear ... that what has been looked on in some quarters as being the special concern of the clergy ... should be invaded by a 'secular' organization".³

In addition, other Government Departments questioned the efficacy of the Department of Justice's involvement with "family". The same Departmental report informed the Secretary for Justice(SJ):

"A question asked of the Mental Health Week meeting at Dunedin was 'is it wise or necessary that the Department of Justice should be concerned in Marriage Guidance. Why not some other Department such as Mental Hygiene?'"⁴

Thus, the Department of Justice experienced opposition from several quarters to its involvement in the affairs of marriage. This was in spite of its intention to merely "provide stimulus and leadership" to the marriage guidance movement, rather than take it over. Nevertheless, the Department had to overcome this opposition in order to successfully recreate the movement. An initial step in overcoming the opposition was to initiate discussions with the peak group of the existing marriage guidance movement, the NZMGC. The initial focus of these discussions was the terms of a possible relationship. The reply from the Vice-President of the NZMGC

3. AMG. "Points for Marriage Guidance Conference", 1959. p3. Report for the SJ.

File J9/5/2, Part 1.

4. Ibid : 1.

to the AMG's initial letter outlines the approach which the Department took.⁵ The Vice-President's reply demonstrates that the Department linked its involvement in marriage guidance with its concerns about crime. Furthermore the Department foresaw a role for Probation Officers in marriage counselling. This latter point, especially, was of concern to NZMGC as they believed that Probation Officers and marriage counsellors had different roles.

More important than these points, the Vice-President's letter highlights MZMGC's awareness of the difficulties it faced in creating a partnership with the Department of Justice. The manner in which he emphasized various words in his letter highlights his concern about the NZMGC's relative power within the relationship. He wrote:

"Now for the *Question - a Reciprocal Relationship of your Department and our Council*".⁶

He continued in an optimistic fashion, however:

"How can we help you? How can you help us? If your Department can help us in some of our basic needs ... sure we can help you from our experience thus far. We hope your objectives and ours approximate closely to each other and we can co-operate to mutual advantage".⁷

In spite of these amicable overtures the Departmental files contain no further evidence of efforts to substantively include the NZMGC in the Department's reconstruction of the marriage guidance movement. In the place of inclusion came the discursive deconstruction of NZMGC. The first recorded example of this occurs in the introductory speech to the national conference on marriage guidance, convened by the Department of Justice in May 1960. The notes of that speech record:

5. Blamires/AMG. Letter. No specific date given on letter. Circa 1960. File J9/5/2, Part 1.
6. Ibid. Emphasis added.
7. Ibid.

"(We) have watched hopefully for some years for a concerted and planned community endeavour - have given up hope that the present unco-ordinated and desultory endeavours will bring results in measurable future

Such an enterprise (marriage guidance) can be retarded - ruined - by getting into bad hands - by depending entirely upon volunteers."⁸

The Advisor on Marriage Guidance continued this deconstruction of the existing movement by accusing the churches of conducting their marriage counselling work in a "withdrawn" manner. He stated:

"... the Church should ... decide whether it is going to do this work in a "withdrawn" manner or whether it might throw its energies into a community centred organization like the National Marriage Guidance Council".⁹

It appears that the Department felt the need to continue this attack well into the 1960s. In 1964 it was still deconstructing the legitimacy of the earlier marriage guidance services, as the justification for stating its own right to intervene and take the leadership. A report by the Secretary of Justice illustrates this:

8. Handwritten notes to introductory address of Department of Justice inaugural conference on marriage guidance, 2-3 May 1960. No author cited. File J9/5/2, Part 1.
9. AMG. "Memorandum on Family Life Education for the Church". Report. 19 October 1961. File J9/5/5.

"For ten years we watched with concern the lack of progress and then in late 1959 we decided that we could neglect the field no longer. So here, Government did not come to the aid of a going concern, but stepped in to rescue a moribund cause that was sinking in despair."¹⁰

These examples of the Department's deconstruction of the pre-existing marriage guidance's movement support Laclau's observation about politics.¹¹ For Laclau, a primary strategy in all political struggle is the discursive deconstruction of the alternative points of view. One's own view point can only become morally pre-eminent once the alternatives are made to appear "unthinkable". For Foucault, also, such tactics are essential aspects of the means by which groups obtain and maintain a social ascendancy.¹²

In addition to its deconstruction of the pre-existing marriage guidance agencies the introductory speech to the Department's weekend conference contains evidence of several other dimensions of the Department's strategy for reformatting Marriage Guidance. These dimensions include the following: its self-authorization to define the public interest; to define who ought to be the "experts"; to set the standard for marriage guidance counselling; and the self-professed need to restrict its own power. These dimensions are discussed below.

In addition to the Department's deconstruction of existing agencies, the Department also had to construct a social basis upon which it could subsequently claim the right to select itself as leader of the marriage guidance movement. The Department did this by identifying and then criticising (by innuendo) a complacency within 'society' about the need for a comprehensive marriage guidance service.¹³ The speech notes state:

10. SJ. Report on Marriage Guidance. 31 March 1964. File J9/5/2, Part 1.

11. Laclau, 1981.

12. Foucault, 1968 : 60.

13 Introductory Address, 2-3 May 1960. File J9/5/2, Part 1.

"... If society doesn't see the need - (for a national marriage guidance service) then indeed our state is worse than we suppose".¹⁴

The critical word in the above statement is "we" ("we" being the Department of Justice). The statement portrays the Department as an observer; dispassionate, yet authoritative. In the absence of public concern, the address implies, society is in no moral position to question the Department's actions in intervening within the marriage guidance field.

The speaker quickly adds that the Department has resources available to recreate and revitalize the movement. It can provide organizational and executive services plus financial assistance. In addition it has other "useful aids":

"e.g. this school (where the conference was held) - a field staff - liaison with judiciary and other governmental agencies."¹⁵

The important aspect about the listed resources, with regard to the Department's status of self-elected leader, is that all of the resources are governmental. They do not include for instance, the advice, expertise and support of the NZMGC, the Church or other interested communities. In this way the status of the pre-existing marriage guidance agencies was further marginalized.

In apparent contradiction to the Department's discursive interventions the speaker also highlighted the limitations which the Department was to impose on itself:

14. Ibid.

15. Ibid.

" *We reject* the ideas that it (marriage guidance) is a (sic) official, government function. We think that official agencies should participate – but that it is a matter for community action – (with governmental support) – as an enterprise for which the talent of the community should be marshalled. Good as we are, we haven't all the talents necessary. In short, not a field for State paternalism.¹⁶

This theme, of setting limitations on the degree of Departmental intervention in the marriage guidance movement, is dominant throughout the Departmental discourse of the 1960s.

In 1969, for instance, the Secretary for Justice continues:

"The (Advisory) Committee (for Marriage Guidance) has been guided by a few broad principles. Chief among those is the declared policy that its only task is to set up a strong voluntary movement, on which the hand of Government will be light in the extreme

I do not imagine the hand of Government will ever be able to withdraw entirely from the scene, but the idea of giving organizations autonomy and trusting the good sense of people to put their own house in order with a minimum of direction is basic to our thinking."¹⁷

16. Ibid. Original emphasis.

17. SJ. "Report on Marriage Guidance". 31 March 1964. File J9/5/2, Part 1.

This theme of limiting the powers of government, in which "the hand of Government be light in the extreme", accords with Foucault's idea on the workings of governmentality. For Foucault, governmentality is characterised by two competing visions. The first is of a government which will savour its population with all power and diligence. It will exercise a commitment to pastoral surveillance such that it would be hard to imagine that "the hand of Government will ever be able to withdraw entirely from the scene". Simultaneously governmentality contains a competing vision. Within this vision the public's feelings of responsibility and autonomy are fostered to the degree that they can "put their own house in order with a minimum of direction". That vision is one of a well constructed, self-sustaining civil society. The art of governmentality, according to Foucault, is the successful adjudication of the two visions. It is the art of creating "the right disposition" between people, their social and physical environment, and their government. The Department of Justice's desire to be pre-eminent within marriage guidance, yet to ensure that the movement becomes self-sustaining, demonstrates the governmentality through which the Department created its relationship with the marriage guidance movement during the 1960s.

IN PURSUIT OF CONTROL

From the above material on the Department's initial steps in reformulating Marriage Guidance, it is suggested that the Department had to simultaneously deconstruct its community-based opposition and facilitate the involvement of that same voluntary sector within the new organization. Many of the pre-existing marriage guidance agencies did become involved in the Department of Justice's new enterprise. Their continued involvement raises the question of how the Department gained day-to-day control over those loosely confederated and possibly suspicious organizations. Three of Foucault's "disciplinary" strategies quickly emerged. These were the surveillance of existing agencies, the establishment of criteria (norms, rules) for judging performance, and control of the selection and training of counsellors (what Foucault would term "the examination").¹⁸

The Advisor to Marriage Guidance introduced these ideas to the NACMG shortly after its inauguration. Surveillance of the local organizations is required, he argued, in order to assist the disbursement of funding:

18. Foucault, 1977.

"A number of problems crop up when one considers ways in which direct grants can be given to local organizations, or to their national bodies, and members of the Committee with knowledge of the various bodies could help by giving opinions about the quality and scope of their work."¹⁹

The Department did not have the intimate knowledge of the marriage guidance agencies that was required for the regulation of funding. Thus the "community" members of the Committee were called upon to divulge their knowledge for this purpose. The AMG also added:

"Balance sheets and annual reports for the last three years have been obtained from the Society".²⁰

With regard to using this information in a systematic way the AMG suggested:

"What we *need* to do is establish basic criteria *for judging* which bodies merit approval for State aid".²¹

The establishment of criteria upon which the ACMG could judge local council performance was thus imperative to the success of the organization. This idea accords with Foucault's observation that the setting of standards is a fundamental process within the exercise of disciplinary power. Only when standards exist can information become meaningful and performances be examined and measured.

The third strategy suggested by the AMG was Departmental control of the examination processes. He asserted:

"The selection and training of counsellors is the quickest way to increase the efficiency of voluntary organizations; and is ... the easiest way for the State to enter into this field (marriage guidance)."²²

19. AMG/NACMG, April 1960. Notes of address. File J9/5/2, Part 1.

20. Ibid. "The Society" presumably refers to the pre-existing NZMG Council.

21. Ibid, original emphasis.

22. Ibid.

This control of selection and training remained a primary means, between 1960 and the late 1980s, through which the Department regulated the activities of the marriage guidance movement. The Department's recognition of its strategic importance is further illustrated within a report written in 1970. It states:

"Direct financial support (of marriage guidance) has been supplemented by the provision of administrative services in connection with the counsellor training programme This provided the added advantage of giving the Department... opportunity *to maintain a continuous check on the standard of selection and of the instruction provided by the counsellor training scheme.*"²³

The Department's counsellor training scheme was reputed to be the most rigorous training given to any voluntary agency. "Without doubt", the Department records, "no other voluntary social workers are subjected to such careful selection or given such a thorough training".²⁴ The rigour of the programme was a matter about which the Department was proud.²⁵ Selection of candidates began at the level of local agencies, with psychometric tests (administered by "approved psychologists") and assessment by an interviewing panel.²⁶ This procedure was then repeated for candidates at weekend-long national selection courses.²⁷ Upon acceptance into the

23. "Notes on Marriage Guidance Work in New Zealand". Report, 10 April 1970. No author cited. Emphasis added. File J9/5/2, Part 3.

24. "Marriage Guidance in New Zealand - A Developing Movement". Report. 1960. No author cited. File J9/5/5.

25. SJ/Minister of Justice (MJ). Letter, 11 July 1962. Department of Justice File J9/5/4, Part 2, "Marriage Guidance : Counsellor Training Scheme". National Archives, Wellington.

26. AMG. "A Word to Prospective Counsellors". 1981. File J9/5/4, Part 1.

27. The psychometric tests included the Minnesota Multiphasic Personality Inventory, the Thematic Apperception Test, a written self description, the Raven Progressive Matrices Test and a Sentence Completion Test.

training programme successful candidates were attached to local Marriage Guidance councils. The training was examined and satisfactory performance was recognised by accreditation of the counsellor. This process of accreditation was expanded in 1968 to the local councils themselves. With the passing of the Domestic Proceedings Act 1968, local councils had to become "gazetted" with the Department of Justice prior to receiving Family Court referrals.

The importance to the Department of the selection and training of personnel is also illustrated in the manner in which it contributed to the funding of the marriage guidance movement. From the start of the Department's involvement in marriage guidance in 1960 it was clear that the state ought not to fund the service:

"It has never been the intention of the Department to ask Treasury to underwrite the whole cost of (the) Marriage Guidance Councils Ultimately, if not at the beginning, a fair portion of the cost will be borne by the community".²⁸

Up until 1964 the Department provided the Advisory Committee with a mere \$6,000 per annum. This sum was made available for the specific purposes of selecting and training counsellors and for providing two national seminars per year for supervisors.²⁹ The remainder of the funding came from the Golden Kiwi Lottery. In 1964 the Department increased its funding to \$20,000 per annum. It did this because of a decline in lottery funds which occurred at that stage. This increased contribution ensured the survival of marriage guidance.

At that same time as it increased its contribution to funding, the Department reiterated that it wished to maintain control of the selection and training processes. It proposed to do so by explicitly funding the body which maintained the national standards in training and accreditation (the NACMG) and retaining responsibility:

"for organizing selection, training and first accreditation for counsellors with costs to be met from the Department's vote."³⁰

28. AMG/NACMG. Address. April 1960. File J9/5/2, Part 1.

29. SJ. "Review of MG Work in NZ". Report, 13 September 1968. File J9/5/2, Part 2.

30. Ibid.

Over the ensuing years the Department increased its contribution to the running costs of the service, as Marriage Guidance came to employ more full-time staff. Throughout the period under study the Department emphasized its role in the funding of selection, training and accreditation. In this way it ensured its control of these processes.

The above evidence suggests that the Department of Justice actively maintained control of the selection, training and accreditation of counsellors and local councils. It did so as a conscious strategy for regulating the operation of the marriage guidance service. The emphasis which the Department put on these processes corresponds with Foucault's observation that "the examination" is the pivotal mechanism through which disciplinary power functions.³¹ The examination is the site where performances are measured against organizational expectations and where deviances are identified and corrected. According to this view, control of the examination processes facilitates control over the development of organizational personnel.

The internal functioning of Marriage Guidance during the 1960s was regulated through the interpersonal interactions of agency personnel. The relationship between Marriage Guidance and the Department of Justice was also regulated in this same personalized manner. Thus, all staff appointments, such as the AMG and membership of the NACMG were made personally by the Department's senior management.

Within personalized forms of management, organizational commands are communicated through processes of persuasion, cajoling, negotiation, and appeals to loyalty and service. Dandekar calls this form of organizational relationship "patronage".³² In the light of the importance of patronage between the Department of Justice and Marriage Guidance, it is understandable that the Department sought to influence the personalities of incoming personnel through the control of selection and training. In an organization that operates through patronage it is imperative that the principal body (in this example, the Department of Justice) controls the process whereby staff are initially influenced and trained. The Department's need to influence the natures of Marriage Guidance's staff explains why its control of the "examination" processes – that is, selection, training and accreditation – were essential to its control of the organization's development. As the Department made clear at various times, its control of training was its most economical way of reforming Marriage Guidance into an efficient and effective voluntary sector agency.

31. Foucault, 1977.

32. Dandekar, 1990 : 46–49.

The *extent* to which the Department sought to control the detailed functions of Marriage Guidance, however, is a separate issue to that of its creation of the organizational framework (patronage) through which the movement operated. The extent of its involvement in the movement's affairs is discussed below.

Aside from the activities outlined above, that of the Department's oversight of the Advisory Committee's composition and the selection and training of new personnel, the Department's activity within the marriage guidance movement was minimal during the 1960s and 1970s.

This is shown in three ways: the demise of the link between marriage guidance and crime control; the small number of specific Departmental interventions in the functioning of the movement (four); and the Department's encouragement of the movement to establish its own agenda and priorities.

As was discussed earlier in this thesis, the Department of Justice became involved in marriage guidance through its belief that crime rates were linked with the quality of family life. This theme is prominent within its Annual Reports and in early correspondence.³³ It might, therefore, be expected that the Department would have sought to measure the success of Marriage Guidance in terms of its effect on crime rates. Not only was there no attempt to do so, but by the end of 1960 the Department ceased to mention the crime control concerns which initially propelled its involvement in marriage guidance work. It is suggested, therefore, that the Department's original crime control agenda was substituted with a more general concern for the health of "family life".

As was posited in chapter four, concern for "family" had become a popular theme within New Zealand politics during the 1950s and 1960s. Thus, the Department's support of family came to be underpinned by general concerns about social security rather than crime control. The weight of popular sentiment about the intrinsic value of "family" facilitated the Department of Justice's change of focus. In terms of the future of marriage guidance it was important that the Department lost its crime control agenda. The impossibility of creating scientific proof that Marriage Guidance services reduced the nation's crime could have jeopardized the political viability of the movement. Through the eradication of any stringent criteria for success, such as reductions in crime statistics, the future of marriage guidance was made more secure.

33. For instance, in correspondence with the NZMGC.

The second form of evidence which supports the contention that the Department's level of intervention in Marriage Guidance remained low, was its minimal activity within the organization. As noted above the Department's files identify four interventions between 1959 and 1970. The first was the Department's initial incursion into the movement. This was a major intervention. Initially the Department had to struggle with the pre-existing movement over the right to implement reforms.

Furthermore it constructed the normative framework within which the organization subsequently developed.

The remaining three interventions were of far less significance than the initial struggle for power. The first two concerned the operation of the selection and training processes. In the first of these the Secretary for Justice sought to strengthen Departmental control over the selection of counsellors. The minutes of the August 1960 Penal Group Meeting of the Department record:

"After Mr Clements (the Advisor in Marriage Guidance) had described the selection, personnel and procedures, Mr Robson (Secretary for Justice) said that he thought a psychologist from the Department should be on the next selection panel. He did not wish to press the matter but considered it would be desirable if one of our own psychologists took part".³⁴

That same file also discusses the second Departmental intervention. The issue concerned the threat, by psychologists working for local agencies, to withdraw their services in the pre-selection of counselling candidates. Their complaint was that they were expected to undertake assessments at short notice and at inconvenient times. A report by the Training Sub-Committee expressed concerns about the "reduced efficiency" that this situation caused for the selection process.³⁵ The file does not indicate that the psychologists ever withdrew their services. Neither does it state how the Department intervened to avert the threat of withdrawal. It is surmised, however, that a mutually-agreed solution was found.

34. Minutes of Penal Group Meeting. Department of Justice, 1 August 1960. File J9/5/4, Part 1. The file does not indicate the outcome of the SJ's request.

35. Report of the Training Sub-committee. No date given. File J9/5/4, Part 2.

In light of the importance that the Department attached to the selection and training processes, the above interventions are understandable. Any threats which the Department perceived to exist to the efficacious development of personnel was a threat to its ability to regulate the organization through the prevailing system of patronage.

The fourth Departmental intervention occurred in 1964 when the lottery grant to Marriage Guidance was reduced and the Department increased its financial contribution to the movement. Its willingness to supplement the movement's finances, and thus ensure the survival of marriage guidance, is a Foucauldian example of the Department strengthening one of its "mechanisms of security". With the demise of the Lottery Board funding it was imperative that the Department financially assisted marriage guidance in order for the security of family life to be maintained.

Apart from the Department's activities in its initial incursion into the marriage guidance movement these interventions do not represent significant attempts to regulate Marriage Guidance's functioning in a detailed or comprehensive way. Two of the incursions did seek to strengthen the Department's influence over the selection process, over which it already exercised considerable control. The third intervention merely sought to ensure the survival of the whole movement.

The apparent freedom that appeared to have existed for the movement (that is, to develop within the framework laid down by the Department), is also seen in the concluding statements of the Secretary of Justice's 1968 report on marriage guidance.³⁶ He states:

"The purpose of this report has been to make a comprehensive survey of what has been achieved and to indicate matters that seem to call for consideration and possible action. *In this it is important that the voluntary movement be fully consulted.*

In order to assist in their deliberations an attempt has been made above to isolate some matters *which amongst others* ought to be considered by them *_so that they may have the opportunity to select those that appear to be*

36. SJ. "Review of MG Work in NZ". Report. 13 September 1968. J9/5/2, Part 2.

important The voluntary movement can and should indicate its priorities and the Advisory Committee can then report to Government its views what should be done and in what order of priority". 37

It is suggested that this evidence demonstrates a very low level of Departmental involvement in marriage guidance during the 1960s and 1970s. This is aside from its entry into the field and its construction and control of the framework within which Marriage Guidance was to develop. As is argued, however, that framework did not constrain the movement within the narrow crime control focus with which the Department initially intervened.

Within the evidence presented above a fundamental contradiction appears to exist between the Department's goals. On one hand the Department imposed and controlled the framework within which marriage guidance was allowed to develop, and wrote reports about the agency outlining issues that it "*ought to*" consider. On the other hand it allowed the organization the freedom to function with a minimal degree of direct intervention and encouraged its self-determination. The contradiction is explicable, however, when the Department's relationship with marriage guidance is understood in terms of Foucault's idea of governmentality.³⁸ Governmentality suggests that the contradiction, between government's need to impose frameworks and to promote freedom, is a central aspect of governmental relations with civil society. As discussed earlier, that contradiction reflects the needs of governments to remain "sovereign" over their territories, yet to encourage the informal social networks through which society is perceived to function.

An important aspect of that contradiction, is that the organizational frameworks through which government exercises sovereignty (for example, the selection and training processes) come to shape popular understandings about what constitute permissible ways of thinking and acting. That is, people's ideas on what is politically permissible are affected by their interactions with the staff of government-related agencies. The counsellors who were training for marriage guidance through the

37. Ibid : emphasis added.

38. Foucault, 1978.

Department's training programme, for instance, would have been taught the permissible and impermissible ways to view clients, the social and political world they inhabit, and how to interact with the local and national marriage guidance organizations. This is not to suppose that either the trainee counsellors (or trainers for that matter) took on the roles expected of them. The point being made is that the ideas with which the trainees came into contact affected their beliefs about the permissible and impermissible. Those who agreed with what was presented, and performed accordingly, were accepted and accredited. Those who opposed it and acted accordingly were rejected.

As is demonstrated by the small number of times that the Department "corrected" Marriage Guidance's relationships with its counsellors,³⁹ the movement did not substantively challenge the Department's opinions on what constituted permissible and impermissible behaviour. Thus, during the 1960s and 1970s, the movement's sentiments on sociality and its public role closely corresponded with those of the Department.

This close correspondence continued into the 1980s, even amidst a monumental departmental reorganization of its relationship with MGNZ. This reorganization is discussed below.

THE REFORMATION OF THE RELATIONSHIP

The prospect that the Department's relationship with MGNZ might be reformulated arose in the early 1980s when the incoming Secretary for Justice, John Robertson, informed of impending organizational reforms. These changes sought greater efficiency and effectiveness within the Department of Justice. For Robertson, one of the impediments to organizational efficiency and effectiveness was dual systems of accountability.⁴⁰ From one perspective the existence of dual systems reflects the competing nature of legitimate organizational goals. Furthermore, they constitute a mechanism for ensuring that thorough consideration is given to each perspective

39. For instance, the SJ's attempt to have Department of Justice psychologists involved in the selection and training process.

40. John Robertson, "Public Service Management in the 1970," in New Zealand Journal of Public Administration. Vol.32, September 1969 : 28.

within the decision-making processes. For Robertson, however, they impeded the efficiency of decision-making. What he sought instead were single, interconnecting lines of contractual accountability between supervisor and subordinate. Within such systems decisions could be made and implemented without complication or delay.

During the early 1980s MGNZ was subject to a dual system of accountability within the Department of Justice. Within this arrangement it received its funding and organizational structure through the Probation Division and its clientele from the Court's Division. In 1981 the senior management of the Department discussed the proposition that MGNZ ought to instead be attached solely to the Court's Division. Minutes of this meeting found their way to the Executive of MGNZ. The National Director responded to the Department, stating:

"To attach the Marriage Guidance function to the Court's Division would, we believe, place the wrong emphasis upon our work and skew your evaluation of it."⁴¹

The Secretary for Justice replied:

"I consider it unfortunate that discussion items from the minutes of a departmental management meeting should have given rise to so much speculation In any case what we were doing was putting our house in order - not yours."⁴²

The context within which the Secretary responded was his desire to create an efficient Department. That context however, did not facilitate an appreciation of the effect that Departmental restructuring would have on MGNZ. It is apparent from the National Director's letter however, that his Executive was aware that the move away from the dual system would change the Secretary's understanding of marriage guidance. A

41. MGNZ/SJ. Letter, 22 October 1981. Department of Justice File, PROB 13-5-2
 "Probation; Probation liaison with other organizations, Marriage Guidance; Counselling."
 Department of Justice, Head Office, Wellington.
42. SJ/MGNZ. Letter, 10 November, 1981. File PROB 13-5-2.

different understanding, the Director implied, would result in different Departmental expectations of them. These new expectations might furthermore result in a different social role being imposed upon marriage guidance. The matter, however, was not taken any further by the Department. The interchange between MGNZ and the Department demonstrates the potential that existed for resistance to the Department's initiatives.

Between 1981 and the introduction of the State Sector Act in 1988, the Department and MGNZ created two "letters of understanding" (in 1981 and 1987). These two letters demonstrate the changing nature of the Departmental/MGNZ relationship which was occurring during the 1980s. Significantly, the 1987 agreement lessened the Department's level of direct influence over the selection and training procedure. The 1981 letter had stipulated that:

"The nature of the necessary instruction to be given will be settled in consultation with officers of the Department.⁴³

In addition it also described the interpersonal lines of accountability which were to exist:

"The National Executive of the Council, through its National Director, will be responsible to the Secretary for Justice for satisfying the requirements described in this letter.⁴⁴

Such clauses were deleted from the 1987 agreement. The deletion, however, is accompanied by the introduction of a contractual language and format. The document thus begins:

"The Government has determined that the Department of Justice will be *its agent* in matters affecting the determination and administration of the annual grant."⁴⁵

43. SJ/National Marriage Guidance Council of New Zealand (MGNZ), "Letter of Understanding", 14 September 1981, p.2. File PROB 13-5-2.

44. Ibid : 3.

45. SJ/MGNZ "Letter of Understanding", 7 October 1987 p.1. Emphasis added. File PROB 13-5-2.

The letter continues with the itemization of the Department's objectives in making the grant to marriage guidance. At the end of this list the letter articulates, in a contractual style, the Council's responsibilities to the Department. It states:

"Recognizing these objectives the National Marriage Guidance Council of New Zealand agrees to provide an efficient, effective, and economical marriage counselling ... service in New Zealand ... "46

The 1981 letter had suggested that interpersonal, consultative mechanisms would exist, through which the Department and the Council would negotiate their various interests. Within the 1987 letter these interpersonal mechanisms for resolving issues are replaced by an explicitly contractual, rational-legal formulation. Negotiations are to no longer be understood as being between people but between organizations. To be sure, the vehicle through which communications would occur would still be organizational representatives. The change, however, would be that the content of their discussions would be shaped by the explicit performance-based contract which binds them. This replaced the pre-eminence of the mutual "understanding" of their respective roles which previously bound them. The dynamics of the previous relationship revolved around the abilities of the respective parties to win the patronage and support of the other. In contrast, the establishment of explicit contracts meant that organizational performance-levels could now be enforced by recourse to legal means if required. In this way, parties to the agreement no longer had to continually invest energy in cultivating patronage between themselves. The relationship instead became rational, predictable, and enforceable.

As is argued in the preceding chapter's discussion on contracts and Agency Theory, the introduction of rational-legal, contractual systems of organization changes the manner by which government relates with civil society (in this case, the voluntary sector). In response to these changes the voluntary sector (in this case the MGNZ) was forced to modify itself in order to relate to the Department and receive the funding it required.

46. Ibid : 2.

By 1988 this process of internal change was well established within MGNZ. The organizational reforms of the early 1980s and the 1987 Letter of Understanding had signalled that the Department wished to change the mechanisms by which it related to MGNZ. In 1988 the Department pursued its introduction of a contractual relationship further by suggesting that the MGNZ align its management structures and skill-base with those of the Department of Justice. This was to ensure that MGNZ's management structure would complement the contractually-based enterprise-form which the 1988 State Sector Act had imposed upon Government Departments. Interestingly, the Department also intended that the New Zealand Prisoners' Aid and Rehabilitation Society would align their management system with that of the Justice Department. Thus the Chief Executive Officer, Probation (CEOP) of the Corrections Division records:

".. Both MGNZ and NZPARS work closely with the Department and receive substantial annual grants for their services

In order to develop their skills and align them with the skills required of Departmental managers I consider it important that they undergo the SSC (State Services Commission) Management Skills course." ⁴⁷

Over the following year Marriage Guidance moved further toward an organizational restructuring along contractarian-enterprise lines. This was applauded by the Department. In a memo to the GMC the ASP records:

"The tagged papers below are of interest particularly progress made in establishing a charter and performance review process.

This charter and performance review will become the basis of the funding contract between MGNZ and local MG councils. It would also provide a more explicit basis for the 'contract' between the Department and MGNZ for monitoring and accountability purposes."

47. CEOP. Memo entitled "Re Management Skills Training : Directors of MG and PARS". 25 July 1988. Emphasis added. File PROB 13-5-2.

"The language used varies slightly from JPMS but the model is identical and there is therefore no mismatch of approach with what the Department is doing.

I am keen that NZPARS begins developing a similar approach as I suggested during our meeting with them on 18/12."⁴⁸

To this the GMC replied:

" - To see - the net spreads. Indeed it does. We should promote the idea further with PARS and involve John Whitty (National director of NZPARS) in our *big programme*."⁴⁹

As noted in the above statement, the GMC believed that the contractarian reforms ought to be implemented within another of the voluntary sector bodies which it funded, namely (NZPARS). The "big programme" which he referred to was a Departmental plan to reform the management systems of the organizations to whom it dispersed funding.⁵⁰ The Department's aim was to align those organizations' management structures with its own contract-based system. Its approach to the voluntary sector agencies which were involved (NZPARS and MGNZ) only just stopped short of being directive. The CEOP for instance, addressed the National Director of NZPARS, John Whitty:

"We would *strongly recommend* that NZPARS develops a management and performance planning system fully compatible with that now operating within the Department of Justice movement toward compatibility is seen as being *essential* "⁵¹

48. ASP/GMC. Memo, 20 December 1989. File PROB 13-5-2.

49. GMC/ASP. Memo, 21 December 1989. Emphasis added. File PROB 13-5-2.

50. These organizations included: The Securities Commission, The Law Commission, The Human Rights Commission, The Race Relations Conciliator, The Police Complaints Authority, MGNZ and NZPARS - Source, "Proposal to Provide Performance Management Systems for the Organizations Aligned to the Department of Justice". Skill Developments Associates Ltd., Report. 24 January 1991. NZPARS Head Office, Wellington.

51. CEOP/NZPARS, Letter, 18 June 1991. Emphasis added. NZPARS Head Office. Wellington.

The "essential" aspect of the reforms reflected the Department's desire to efficiently construct performance-based contractual relationships with MGNZ and NZPARS.⁵² The ASP expressed this in a letter to the National Director of MGNZ. He wrote:

"I can say that the Department is most impressed with the work you are undertaking. The model that you have adopted matches what the Department is doing and indeed what is now required of all departments under the new financial management system once you have developed a charter and performance review process for local councils *we can then extend that to the relationship between the department and Marriage Guidance New Zealand. This will then form the basis of the contract between our 2 organizations*".⁵³

One month later the ASP penned a similar letter to the Director of NZPARS.⁵⁴ Again the letter emphasized the issue "of more explicit contracting and accountability in the relationship."⁵⁵

Within MGNZ, at least, these reforms were received enthusiastically. Their National Director, for instance, addressed the Minister of Justice with:

"I also want to mention to you the other exciting development within MGNZ, that is the development of our first National Development plan, as the first component of a total performance management planning system".⁵⁶

52. The performance-based nature of the contractual relationships is illustrated in the Meeting Notes between the Probation Division and MGNZ on 7 November 1990. The notes record "Nigel (Heard) to follow up adding of *volumes and output measures* to the charter document so that it can serve as the basis of an initial contract." Emphasis added. File PROB 13-5-2.

53. ASP/MGNZ. Letter, 11 January 1990. Emphasis added. File PROB 13-5-2.

54. ASP/NZPARS Letter, 9 February 1990. NZPARS Head Office, Wellington.

55. Ibid.

56. MGNZ/MJ. Letter, 24 April 1991. File PROB 13-5-2.

The precise reasons for the excitement are unclear. It is apparent from MGNZ's response to the performance-based contractual relationship however, that it accorded with their own beliefs about effective organizational structures.⁵⁷

This excitement existed in spite of the far-reaching changes which the reforms brought, with the demise of the interpersonal, patronage-based relationship and the ascendancy of rational-legal contractualism. As is suggested in the earlier discussion on Agency Theory, contractual relationships aim to enhance the principal's control of their agents' behaviours. It is thus proposed that the further away relationships move from interpersonal patronage and toward a contractual logic, the less influence the agent has on spontaneously negotiating matters pertaining to the role they perform within the relationship.

For Foucault this transition, from interpersonal to contractual relationships between Government Departments and voluntary sector agencies, represents an aspect of the liberalist-inspired reformulation of civil society.⁵⁸ That transition requires civil agencies, such as MGNZ, to change the manner in which they maintain their inter-organizational relationships. Conflicts of interest can no longer be resolved through

57. It is not perhaps surprising that they held similar beliefs to the senior Departmental managers. Their roles within their respective organizations are similar. Both command the peak positions of their structures and would analyse organizational developments in terms of efficient and effective control of the organization. By way of contrast these priorities might conflict with those held by field workers. The issues which confront field workers, and the responses they feel obliged to make, may be in opposition to the types of performance expected of them by management. Thus, conflicts of perspective may exist between local field staff and national organizations in a way which does not occur between national organizations (in this case, between MGNZ and the Department of Justice). This is a matter which quite apparently requires further enquiry before any substantive claims can be made. In the absence of that knowledge, however, it remains apparent that the peak body of marriage guidance, MGNZ, was excited about the managerial reforms.

58. Foucault, 1978.

the exercise of personal influence. All aspects of the relationship are increasingly regulated by codified, rational-legal contracts. This is an advantageous system for resolving disputes where the parties agree on the relative importances of their respective interests. It does not assist, however, where the parties have competing interests. It is suggested that in situations where voluntary sector agencies have no alternatives except to remain in relationship with their sponsoring Government Department, that Department can impose its will more easily in circumstances where their relationship is based on contract than where it is based on interpersonal patronage.

In the MGNZ of the 1980s and early 1990s, however, issues such as conflicts of interest, relative bargaining power, and the relative merits of patronage and control, seldom arose.⁵⁹ As in the 1960s and 1970s, MGNZ did not have difficulty with the manner in which the Department of Justice constructed their relationship. The beliefs which MGNZ held about its social role and the manner in which it ought to relate with other organizations accorded with those held by the Department's senior management. This congruency of interest allows Mel Smith to emphasize the humanity and productiveness of the contractualism upon which the Department bases its relationship with MGNZ and NZPARS. He states:

"They (MGNZ and NZPARS) are probably better structured, in business terms, to carry out their activities. I'd be surprised if they didn't see it in that way. *I don't think it's any more controlling than the previous environment was. As I say, it's providing them with an understanding of how they have to operate as a business in terms of financial allocations.*"⁶⁰

In this quarter of society, at least, the liberally-inspired transition to a sociality of rational-legal contractualism has occurred unhindered. Indeed it has been welcomed by all parties.

59. The one recorded incident is where the Department considered administering MGNZ through the Courts' Division, rather than through Probation.

60. Smith/Tie. Interview, June 1992. Emphasis added.

SUMMARY

Within its relationship with the Marriage Guidance movement, the Department of Justice has consistently constructed the framework within which that organization is to function. This occurred initially, in the late 1950s when the Department took leadership of the movement away from the voluntary sector. It then appointed an Advisory Committee which oversaw the redevelopment of the movement. The Department's direct involvement in that development was minimal, but selective. It primarily intervened by moulding the perspectives of the people who came into the organization. Through this interpersonal process of training, the Department sought to control the milieu of the organization. In all other respects the Department left the organization to develop itself. These contradictory impulses, to control and to liberalize, reflect the twin dimensions of Foucault's idea of governmentality.

This pattern repeated in the 1980s when the Department of Justice sought to reformulate its relationship with MGNZ. This reformulation was in response to governmental reforms which began in the late 1960s and culminated in the introduction of the State Sector Act in 1988. As with its reformulation of Marriage Guidance in the 1960s the Department's reforms of the 1980s did not seek to intervene directly in the workings of MGNZ. Rather, it sought to modify the social framework within which MGNZ functions. Specifically, the reforms sought to diminish the importance of interpersonal, patronage-based relations and substitute them with a rational-legal contractualism. This reform now requires MGNZ to view itself as a purposive organization which is in competition with other agencies including its principal, the Department of Justice. Agency Theory, upon which the contractual reforms are based, posits that contractualism increases the principal's power over the agent's behaviour. For the MGNZ of the late 1980s and 1990s, however, their diminished power within the relationship is unproblematic.

This proposition derives from Foucault's observations on power. For Foucault physical power is exercised only on unwilling parties. Where agreement exists between the parties, such power is not exercised. In such circumstances social order is produced without recourse to coercion. This absence of coercion is the dominant theme in the latter history of the Department of Justice's relationship with the

marriage guidance movement. That conclusion does not diminish, however, the significance of the Department's actions in constructing the normative frameworks within which MGNZ has operated. The Department's actions, of controlling the training of new staff and of defining the type of relationship through which interactions were to occur, are actions of control. These attempts to construct the sociality of the relationship correspond with Foucault's beliefs about governmentality. It is apparent from the evidence that is presented, however, that the degree varied to which the Marriage Guidance movement felt imposed upon by the Department's initiatives. Furthermore, it is only in instances where the Department's initiatives were actively resisted, such as during the 1950s, that the Department displayed a "will to power". On other occasions the social order which the Department built within its relationship with MGNZ was constructed in collaboration with the popular sentiments of that agency.

CHAPTER TEN : "NON-PRISON ATMOSPHERES OF CUSTODY"

INTRODUCTION

Between the late 1960s and early 1980s the Department of Justice entered a number of joint ventures with christian-based voluntary agencies in the provision of hostel accommodation for offenders. The ventures were of two types. Within the first the Department subsidised existing privately run hostels. Within the second type of arrangement the Department, together with the voluntary agencies, created special-purpose hostels for the exclusive accommodation of offenders. The Department provided the buildings and fittings plus ensured that deficits in running costs were met by Golden Kiwi funds. The voluntary agencies, for their part, accepted responsibility for the administration of the hostels.

This chapter examines the types of relationships which the Department of Justice established with the voluntary sector agencies involved in joint hostel ventures. The discussion examines the Department's aspirations in constructing the ventures and how these affected the types of relationships it formed with the voluntary agencies. Again, the discussion approaches this enquiry using Foucault's framework of sovereignty, disciplinary power and governmentality. It asks questions such as: to what extent did it retain dominance in the relationships? How was that dominance manifest? By what extent and means did the Department impose its expectations upon the relationship? The thesis examines these questions through enquiring into five of the Department's joint hostel ventures between the late 1960s and early 1980s. The five include the four special-purpose hostels created by the Department,¹ and one, privately run, subsidised hostel.²

1. "Norman House", NZPARS in Christchurch; "West Street", Methodist Social Services in Palmerston North; "Hercus House", Baptist Social Services in Hamilton; and the Whangarei Probation Hostel, Presbyterian Social Services in Whangarei.
2. "Walton House", the Wellington City Mission, in Wellington.

THE CONTINUING PURSUIT OF CRIME CONTROL

As with its intervention in the field of marriage guidance, the Department of Justice saw the creation of hostels as a strategy for controlling crime. This reflected the beliefs which inhered within modern penal policy, according to the Minister of Justice in 1967.³ That policy held that the "reclamation of offenders" was "a community task" which should be "undertaken within the community with assistance by the Department of Justice."⁴ The Minister also explained that within this approach, hostels were an important social work resource for Probation Officers. These officers, he added, "have reported that their best work is being done with "clients" in these hostels".⁵ This belief in the efficiency of hostels as social work tools, spurred the Hamilton District Probation Officer to write:

"the stage has been set where the effectiveness of our work is seriously undermined through not having sufficient suitable residential facilities available".⁶

Other accommodation was available for offenders, he informed. What was required, however, was:

"a hostel where Probationers can be required to reside as part of their Probation Order under a more stringent set of house rules than those in force at the other hostels".⁷

This desire for the closer supervision, surveillance and control of offenders within special-purpose hostels, was encapsulated in their paradoxical description as "non-prison atmospheres of custody".⁸

3. MJ to Cabinet. Report, 6 January 1967. Department of Justice File PROB 11-2-7. "Post-Release Hostel; Wellington City Mission (Walton House)." National Archives, Wellington.
4. Ibid.
5. Ibid.
6. DPO Hamilton/SJ. Letter, 20 June 1972. Department of Justice File PROB 11-23, "Post-Release Hostel, 'Hercus House', Hamilton." National Archives, Wellington.
7. DPO Hamilton/SJ. Letter, 17 December 1971. File PROB 11-23.
8. MJ/Allen. Letter, 28 August 1974. Department of Justice File PROB 10-8. "Tauranga Youth Hostel". National Archives, Wellington.

Voluntary agencies were to play a strategic role within this non-prison/custody "double-speak". Hostels, the Secretary of Justice informed, "are an expression of the concern of the community ... they are run by non-Governmental agencies who can be perceived by the offenders as 'disinterested'".⁹

Thus voluntary agencies were to be the ingredient which would provide these custodial facilities with a "non-prison atmosphere". The apparent "disinterestedness" of agency personnel would facilitate the development of trust between probationer and hostel-warden. This trust would, in turn, facilitate the use of more informal, yet penetrating, forms of crime control intervention than were available to employees of the Department.

As argued in previous sections of this thesis, this desire for community intervention reflected aspects of the liberalism ideal. For Foucault, liberalism holds that the efficacious regulation of society occurs when "natural" systems of tutelary authority are allowed to operate. The administration of hostels by the christian sector represents a Departmental attempt to harness one of society's "natural" regulatory systems. The Department's encouragement of joint hostel ventures with the voluntary sector was thus a carefully crafted crime-control strategy.

TO CONTROL IN A MANNER SO AS NOT TO IMPEDE

This instrumental use of the voluntary sector in crime control, however, was balanced within the Department by belief in the need not to impede the natural life of that sector. Thus it was said of the Norman House hostel in Christchurch:

"... this sort of scheme could not be imposed from above. It needs to start with an exceptional person who is prepared to push officialdom and enthuse the local community with the idea".¹⁰

9. SJ/Methodist Social Services Association (MSSA). Letter, 30 June 1978. Department of Justice File PROB 10-4, Part 2. "Post Release Hostel ; West Street, Palmerston North". National Archives, Wellington.
10. Penal Group Minutes, 5 August 1968. Department of Justice File 8-21. "Probation; Post-Release Hostels - Administration; Christchurch Post-Release Hostel, 'Norman House'." National Archives, Wellington.

The Department's role was, however, finely balanced between "allowing" such initiatives as the Norman House hostel to arise, and directing them. On the one hand it did not wish to impose its agenda. On the other hand it needed to achieve its goal of effective crime control. The Secretary for Justice used the metaphor of "harnessing" the community to convey this balance between controlling and liberalising. "To harness" something implies that the body to be harnessed has a desire and ability to act. The step of harnessing that body is to take control of those actions in a manner which does not impede them but which makes those actions occur in a way which produces a desired effect. Thus, the act of involving the churches meant harnessing of energies and hierarchical ethos toward the administration of Probation hostels, but in a way that did not impede the "natural" life which they brought to those hostels. The low level of Departmental intervention in the operation of the hostels, discussed below, is evidence of this approach.

Most of the Departmental intervention within the hostel project occurred during the establishment phases of hostels. As suggested earlier, the establishment phases were the points in time when the Department perceived that it had to "harness" the energies of communities. This act of harnessing implies a directive approach to the voluntary sector. A good example of this is contained within the Department's records of the establishment of Hercus House, in Hamilton.

During the early 1970s the Baptist Social Services Association (BSSA) had repeatedly approached the Department in pursuit of a joint hostel venture. In 1974 the Department purchased a property for this purpose. It was the Department's policy, during establishment phases for hostels, to ensure that the initial publicity emanated from the Social Service concerned.¹¹ Thus, with the purchase of Hercus House the Secretary for Probation informed the Secretary for Justice:

*"I would like your approval to advise BSSA that they are now free to issue press statements so that all publicity about the hostel emanates from BSSA and not from the Department."*¹²

11. SJ/MJ. Memo, 11 June 1974. File PROB 11-23.

12. Secretary for Probation/SJ. Memo, 23 April 1974. Emphasis added. File PROB 11-23.

Upon receipt of this request the Secretary for Justice instructed the Hamilton District Probation Officer:

"Would you please consult with the BSSA to agree on a suitable press release concerning the ... hostel. The statement *should* cover the purchase of the hostel, its purpose and the arrangement as to management and administration.

Prior to the release *please arrange* for representatives of the BSSA and yourself to call in on the local MP, the Mayor ... to advise them in advance of the press release which will be emanating from BSSA".¹³

Thus, within the initial publicity about a hostel, the Department would downplay the extent of its involvement in the project. It did so by ensuring that those releases *were seen* to come from the voluntary agency. As is illustrated by the above statements, the Department obviously determined the content of the releases and the manner in which they were to be publicised. As suggested, it was only important that the voluntary agency *appeared* to be the initiators. This policy, of portraying the voluntary agency as the instigators of publicity even extended to the Department's advice to its Minister. Thus two months after the opening of Hercus House, the Secretary informed his Minister:

"It has been our practice in the past where we are administering a probation hostel through a Church social service to *allow* the Church authority to make the initial press announcement."¹⁴

This apparent double-speak, where the Department sought to ensure that the voluntary agency was seen to act freely when it most apparently was not, accords with the liberal logic through which the Department administered the hostel network.

That logic stipulates that the voluntary agencies ought to act freely so as to ensure that their natural processes and attributes, for which they were sought, were not impeded. This rule, it appears, had to be bent in order to allow the Department

13. SJ/DPO Hamilton. Letter, 30 April 1974. Emphasis added. File PROB 11-23.

14. SJ/MJ. Memo, 11 June 1974. Emphasis added. File PROB 11-23.

to maintain its initial directive role. For the Department however, it was important that all sense of its directiveness was kept from public view. By doing so the Department could ensure that a belief remained in the public's minds that probation hostels were public initiatives, spontaneously arising out of the community's concern for its offending members. For Foucault that notion, of "the community" spontaneously supporting itself, is intrinsic to liberal philosophy.¹⁵

The Department, it is suggested, did not intend to deceive the public or its Minister by clouding the issue of its own extensive involvement in the establishment of the hostels. Rather, it sought *to balance* its own need to direct the establishment of those hostels (and thus fulfill its aetiological convictions about crime and its control) and to allow the hostels to develop independently. The minimal degree of subsequent involvement by senior Departmental officials in the operation of the established hostels reinforces the point that the Department did not intend to centralise control of their functioning. This is demonstrated in two ways. First, the majority of the file material held by the Department on the hostels consists of financial documents. These relate to the Department's financial support of these institutions. Second, on the two occasions that hostels deviated substantially from the Department's expectations of their roles the Department's senior officials did not attempt to correct, normalise or discipline them. The two cases are discussed below.

The first of the cases is the Wellington City Mission's Walton House. Walton House was a privately-run boarding house which accepted probationers and ex-inmates. The Department subsidized one third of the House's operating expenses. For the Department the value of the House was its ability to provide offenders with "the discipline and restraints of ordinary home life".¹⁶ Seven years after the establishment of its relationship with the Department of Justice the Wellington City Mission withdrew from involvement. The Wellington District Probation Officer recorded that the Mission staff were no longer able to cope with the probationers who "have too many problems".¹⁷ The Department accepted the Mission's desire to withdraw from the relationship and took the matter no further.

15. Foucault, 1978.

16. MJ/Cabinet. Report, 6 January 1967. File PROB 11-2-7.

17. DPO Wellington/SJ. Letter, 10 July 1974. File PROB 11-2-7.

The second case, of the Palmerston North "West Street" Probation Hostel, was more complicated. Within this the voluntary sector partner, the Methodist Social Service, developed an antipathy to the Department's expectations of the hostel. It informed the Department:

"We (the Social Services Management Committee) feel that your Department's expectations of the Centre and of the Church have been to some extent unrealistic We feel that the partnership has been hampered by several factors (Among them are) the differing philosophies of the Department and the Church which were not overtly stated but were reflected ... in the differing ideas of what constitutes rigidity and permissiveness and of what growth and potential are and how they are obtained."¹⁸

As a result of this situation the Management Committee decided unanimously to withdraw from their partnership with the Department. They decided to do so even though they were bound within the venture by a legal contract.

The Assistant Secretary for Probation of that time did not agree with the Management Committee's analysis of the situation. He informed the Secretary for Justice:

"The District Probation Officer, who has had some experience of similar hostels in the U.K., had firm views about the function of the hostel. His approach was in line with the directives he received from me. On the other hand the new Director (of the Methodist Social Services) adopted a permissive approach There has been considerable disagreement and dissatisfaction as a result."¹⁹

18. MSSA/SJ. Letter, 2 September 1978. File PROB 10-4 Part 2.

19. ASP/SJ. Memo, 3 October 1978. File PROB 10-4 Part 2.

The Department was in the position to force changes to the Social Service's management of the hostel in light of the terms of their mutual contract. It chose not to do so, however, and allowed the Social Service to withdraw from the relationship prematurely. This, again, is evidence of the Department's reticence to intervene in the functioning of the voluntary sector. The Department's decision not to intervene mirrors the non-interventionist approach it took with the internal functioning of Marriage Guidance during the 1960s and 1970s. This approach accords with the principles of liberalism, that the state ought not to control civil society overtly and thus impede its "natural" order.

THE DEMISE OF THE HOSTEL MOVEMENT : THE LIMITS OF DISCIPLINARY POWER

In the above examples the Department of Justice was unwilling to disrupt the operation of the voluntary sector agencies with which it was involved. The Wellington City Mission and the Methodist Social Services were the first of the five voluntary agencies to withdraw from their relationship with the Department. The first withdrew in 1974, the second in 1978. Within four years of the latter agency's withdrawal, however, all five had discontinued their relationship with the Department. Correspondingly, it is suggested, the Department allowed them to withdraw as it, too, had lost its propensity to continue in the joint hostel ventures. As early as 1971 it was evident that the Department was equivocal about its involvement in joint ventures. This reticence existed despite the Department's conviction about the crime-controlling potential of hostels. Thus, the ASP informed the Hamilton DPO "to say that these (hostels) are proving difficult and a strain on our financial resources would be an understatement".²⁰ In 1978 the Secretary for Justice passed a similar comment about the Department's joint venture with the Palmerston North Methodist Social Services. He informed "It would be much simpler for the Department to administer the hostel."²¹ To this remark the Secretary added, "The contribution of the Church as an 'adoptive group' has been disappointing but it may be that our expectations were unreal."²² This latter point, of the Department's disappointment at the Church's response, highlights a second reason for the gradual decline in its propensity to remain involved in joint hostel ventures.

20. ASP/DPO Hamilton. Letter. No date given. Circa 1971. File PROB 11-23.

21. SJ/MSSA. Letter, 13 July 1978. File PROB 10-4, Part 2.

22. Ibid.

Within its use of the voluntary sector the Department had adopted a particular assumption about the nature of that sector (what it termed "the community"). In terms of Nelken's typology of "community", the Department believed that community and locality were synonymous. This debarred it from realizing that "the community" was made up by a variety of interests and relationships; and furthermore, that these interests occasionally conflicted with its own.

In light of the Department's failure to recognise the conflicts of interest and identity which could arise, it was ill-prepared for the difficulties which eventuated between itself and the Wellington City Mission and the Methodist Social Services. This ill-preparedness gave rise to the Secretary for Justice's comment noted above, that "The contribution of the Church as an "adoptive group" (for the hostel network) has been disappointing but it may be that our expectations were unreal". The Methodist Social Services, to whom the above statement was addressed, had stated clearly that its views were in conflict with those of the Department.²³ The Department's consensually orientated definition of "community" had not allowed for the probability of such dissension. In the absence of such preparation these conflicts could only have added to the equivocal feelings that existed within the Department's management toward joint hostel ventures. These elements therefore, lowered the Department's propensity to remain involved with joint hostel ventures.

In addition to these problems another issue arose which may have weakened the Department's desire to persist with the hostel project. This proposition is only made conjecturally as the Department's discourse does not directly address this particular issue. As with the Department's involvement in marriage guidance its development of joint hostel ventures was intended to decrease the incidence of criminal behaviour. Again, as with its involvement in marriage guidance, the Department was unable to evaluate the worth of the hostel network in terms of its impact upon offending. During the 1970s the Departmental employees who were responsible for overseeing the hostels tended not to view the hostels' roles in terms of crime control. Only one of their reports made any mention of the hostel's effect on offending behaviour. That one reference was made in a rather brief and specious manner. The writer recorded:

23. MSSA/SJ. Letter, 2 September 1978. File PROB 10-4, Part 2.

*"I am satisfied in my own mind that residence in the Probation hostel by numerous boarders has offset further offending."*²⁴

Aside from this one plausible contribution, the vision of a crime-controlling network of hostels slipped from the Department's discourse. Hostels were instead left to perform less clearly-defined and less clearly understood social work interventions.

This point, of the Department's inability to maintain its crime-controlling focus within the hostel project, is presented as an argument against the "dispersal of discipline" thesis that emerged from Foucault's work on disciplinary power. The Department of Justice had sought to construct a network of hostels in the belief that their "controlled environments" and "sympathetic yet disciplined regimes"²⁵ would reduce recidivism amongst offenders. The evidence presented above suggests that the Department was unable to sustain its commitment to this vision. Thus, it was unable to ensure that normalizing, disciplinary power was systematically exercised throughout the hostel network. The discourse on hostels shows, however, that the Department had believed that this type of "corrective" power *could* be systematically exercised.

No evidence exists, however, which shows that attempts were made to ensure that these disciplinary, normalizing techniques operated within the hostel network. The one exception to this is the case of the Palmerston North West Street Hostel. As discussed however, the Department readily withdrew from that particular venture when its attempt to impose its disciplinary perspective was resisted. For these two reasons therefore, namely of the Department's unsystematic application of disciplinary power and its acquiescence to voluntary agency resistance to that power, it is argued that penal power does not disperse itself in an unchallenged manner throughout society. The discontinuity and eventual collapse of the hostel project is thus a good example of the finite nature of disciplinary power.

24. DPO Whangarei/ASP. Report. No precise date. Circa 1971. Emphasis added. Department of Justice File PROB 10-5. "Post-Release Hostel ; Whangarei Probation Hostel". National Archives, Wellington.

25. MJ/Cabinet. Report, 6 January 1967. File PROB 11-2-7.

SUMMARY

As with the Department's excursion into the field of marriage and family, the hostel network was envisaged as a means of controlling crime. This strategy was predicated upon liberalism's principle that society's natural regulatory sites, in this instance the Church's social services, ought to be supported and incorporated into the formal process of controlling crime. For these reasons the Department entered a number of joint ventures with social service agencies in establishing hostels for the accommodation of offenders. These hostels were to become key social work tools for Probation Officers, wherein residents were subjected to close surveillance and control. As a result of the high degree of supervision which they imposed upon offenders hostels were described as "non-prison atmospheres of custody". The correctional intent of these institutions corresponds with Foucault's notion of the normalizing aspirations of disciplinary power.

Despite the Department's instrumental use of the voluntary sector in these joint hostel ventures, it did not attempt to systematically direct the hostels' day-to-day interventions with offenders. This absence of ongoing control supports Foucault's contention that relationships between western governments and their societies are more liable to function according to the logic of governmentality than disciplinary power. Within governmentality, Government Departments set the frameworks within which social processes are to develop, and they then allow those processes to evolve. Governmentality thus involves governments in a dilemma wherein they simultaneously seek to control and liberalize "community" endeavours such as the hostel network. The history of the hostel project accords with these ideas.

CHAPTER ELEVEN : AFTER THE ACT

INTRODUCTION

This chapter is the last of the three case studies of the Corrections Division's relationship with voluntary sector agencies. It examines, in the format of an overview, the way in which the Division related with all of the agencies to whom it granted funds, after the introduction of the 1988 State Sector Act. It is from that Act that the chapter derives its title.

The case study builds upon the analysis that was presented in chapters six, seven and nine, on the managerial and state sector reforms. Those chapters argue that prior to the 1980s the Department of Justice did not primarily relate to voluntary agencies in terms of rational-legal contracts. Such contracts did exist, for instance between the Department and Church social services, in the operation of joint hostel ventures. These relationships, however, primarily functioned through interpersonal forms of patronage. The discussion on New Zealand Marriage Guidance illustrates, however, how its relationship with the Department changed in the late 1980s toward a contractual bias. This change in emphasis increased slowly after the government's introduction of the State Sector Act in 1988. As suggested in chapter nine the move to contractualism which occurred at this time reflects Foucault's observations about neo-liberalism.¹

The present chapter examines the extent to which the Corrections Division carried the neo-liberal revolution into its relationships with other voluntary agencies with which it related. In order to examine this question several issues are explored. The first concerns the influence of governmentality. It examines the degree to which the ideas of liberalism and the "science of police" shaped developments. The second issue follows the argument presented in chapter seven, that the neo-liberal contractualism was *imposed* upon the state sector by the Fourth Labour Government. The second section of the chapter looks at the Division's introduction of contractualism into relationships with voluntary agencies and the degree to which its introduction was imposed.

1. Gordon, 1991.

THE ROLE OF GOVERNMENTALITY

The influence of governmentality remained evident within the Corrections Division's relationships with voluntary sector agencies after 1988. Specifically, the Division did not seek to impede the "naturalness" of voluntary agencies. At the same time, however, it tried to remain the dominant partner. These twin goals of the Division, to retain dominance and to facilitate "natural" sociality, remained a source of internal tension for the Division.

Three forms of evidence are presented below in support of the contention that the Division sought to facilitate, rather than impede, the natural sociality of the voluntary sector. The first is the low number of physical interventions which the Division made with the affairs of voluntary agencies between 1988 and 1992. Second, the Division's discursive regulation of the voluntary agencies was minimal. This "discursive regulation" refers to the means by which the Division constructed and communicated its expectations of voluntary agencies. The third form of evidence refers to the low level of coherence and usable content within the Division's files on the voluntary agencies. Discussions on these three points follow.

Physical Interventions

The voluntary agencies which are considered in this discussion are those which successfully applied for funding from the Corrections Division between January 1989 and December 1991. According to the Division's files on funding applications, 167 agencies received funding during that period of time. Of these 167 successful applications, the Division's centralized filing system contains records on only 44 of them, (that is, 26.5%). This figure leaves 122 (73.5%) for which there is no centralized record.²

2. An explanation for the absence of file material is suggested later in this chapter.

Of the 167 agencies which received funding the Division saw that it needed to intervene in the operation of only 4 of them. On two occasions the need arose following allegations of client-abuse by the agencies.³ The third case involved the misuse of a funding grant.⁴ In the fourth case the Division intervened to change the management structure of the agency so as to facilitate its organizational effectiveness.⁵ Thus the number of Divisional excursions into the affairs of the voluntary agencies was low. From the low number of incursions it is inferred that the Division held a fairly tolerant definition of "permissible" and "impermissible" behaviour for voluntary agencies. One point is raised here with regard to the Division's notions of "permissible" and "impermissible".

Initially the Division had defined the correct conduct of voluntary agencies in terms of situations of which it did not approve. Thus it intervened in cases of client-abuse and of misappropriation of funding. In this way the Division loosely defined how agencies ought to operate through identifying what "ought not" to occur. When the Division modified the management structure of the Napier Cadet Academy in 1992, however, it began to unilaterally impose its expectations *of what ought to happen*. The District Probation Officer of Napier explained the situation in this way:

"Kim Workman, District Secretary Penal ... has recommended ... approval for twelve months secondment of Neil Whitika, currently a unit manager of Mangarao Prison. Mr Whitika would become manager of the Academy. *Several areas have been highlighted for his immediate attention.*

3. The Hoptown Reliance Society, in 1989 and the Otago Legionnaires Academy in 1991.
4. Odyssey House, Christchurch, in 1990.
5. The Napier Cadet Academy, in 1992.

They include:

1. staff recruitment
2. development and implementation of staff performance standards.

As well Mangaroa Prison will provide other staff on an as and when required basis. I am satisfied that the Academy is not going to become another prison and *that programme development will be undertaken in conjunction with Probation Division to ensure that activities reflect the needs of offenders 17-21 years of age on Community Care programmes.*⁶

Several points emerge from the DPO's statement. These points illustrate the shift which occurred toward the proactive articulation of how agencies ought to act. The first point is that the language used suggests that the areas "highlighted" for the new manager's "immediate attention" were prioritized by the DPO and not the Academy. The second point is that the DPO was confident that she could *ensure* that programme-development *will be* undertaken in conjunction with the Probation Division, for the purpose of facilitating the sentence of Community Care. Thus, the operation of the Cadet Academy was not defined according to what it was not allowed to do. Rather its roles and management system were now clearly defined for the Academy. This change in approach requires analysis.

It is suggested that the shift in the manner by which the Division came to articulate its expectations, relates to the contractual forms of relationship which became instituted in the state sector after 1988. These contractual relations focus on the production of results. Within contractual arrangements the natures of such results and the level to which they ought to be obtained are enumerated. The agents' performances in achieving those results are then assessed. Within this form of management the organization's proposed outcomes have to be defined. There is no place for defining these outcomes solely through the identification of what they ought not to be. This change in emphasis, towards productivity defining the permissible, thus came to be used in the Division's relationship with the Napier Cadet Academy.

6. DPO Napier/SJ. (Chief Executive). Letter, 30 February 1992. Emphasis added.
File PROB 14-2-1.

The Napier DPO's letter to the Department's Chief Executive is a signpost of a discursive transformation in the Division's relationship with voluntary agencies. It is a discursive transformation in that it is the first occasion in which it is suggested that the Division modify the management structure of an independent voluntary agency, so as to facilitate that agency's fulfillment of Divisional expectations. This suggestion did not occur until February 1992, however, and was the end product of a process of change in the way in which the Division viewed its relationships with voluntary agencies.

Before that point is developed, however, two more forms of evidence are offered to support the proposition that the Division did not initially intervene in the functions of agencies after the introduction of the State Sector Act. This evidence concerns the Division's limited discursive interventions with agencies and its lack of a co-ordinated filing system.

Discursive Interventions.

The second form of evidence that I present details the changes which occurred in the Divisional management between 1989 and mid 1990, which facilitated the imposition of the performance-oriented contractualism within the Napier Cadet Academy. These changes began with the Division modifying what *it said* to the voluntary agencies. Corrections began, in a loose way, to increasingly define the social roles of the voluntary agencies.

I suggest that the looseness of these definitions reflects the historical influence of liberalism within the Division's thinking. The fact that the Division increasingly sought to articulate the agencies' social roles, however, suggests that its thinking had become influenced by the directive approaches found within the "science of police". As I posited in chapter seven, the superintendary themes of "police science" were revitalized in the Fourth Labour Government's state sector reforms. The effect of these developments in the Corrections Division's relationship with the voluntary sector is presented below.

Up until the middle of 1989 the Division's discursive influence over the functions of voluntary agencies was minimal. Thus, in its correspondence with agencies the Division did not explicitly define its expectations of their relationships. A good

example of this occurs in the Division's correspondence with the Nga Whare Waatau agency in Otahuhu.⁷ The Advisory Officer Probation (AOP) records that ongoing funding was to be made available on the proviso "that updated reports on the programme progress *were favourable*".⁸ No clarification was given as to what was meant by "favourable".

This lack of clarification is also evident in the standardized letter which the GMC began to send to successful applicants in early 1990:

"It is important for me to receive from *time-to-time* progress reports on your programme activities and the number of referrals you receive from the department."⁹

This format does not define how often the reports should be made nor what they should include. The GMC does ask for information on the number of referrals which were received but gives no indication of how many he expects that the agency ought to process.

The same diffuse style of writing continued past the middle of 1991 with respect to the Mahi Tahi Enterprise.¹⁰ The SJ informed his Minister that:

"Reports to date indicate that the Mani Tahi programme has been of real value to many of the department's clients...Their work with local elders ... in building relationships with offenders ... has been invaluable The same could be said of their visits with the gangs and mediating in situations of confrontation and shootouts to restore calm and reconciliation."¹¹

7. The Nga Waatau agency is a rehabilitation programme for "at risk" Maori youth.

8. AOP/SJ. Memo, 12 October 1989, emphasis added. Department of Justice File 42-4-5. "Administration - Maatua Whangai". Department of Justice, Wellington.

9. GMC/Higher Ground Trust. Letter, 17 January 1990. Emphasis added. File PROB 41-2-1.

10. The Mahi Tahi Enterprise is a support and rehabilitation programme for "at risk" Maori youth, at Opotiki.

11. SJ/MJ. Letter, 4 June 1991. Department of Justice File.

The "reports" to which the Secretary refers are not cited, nor are they contained within the Division's files. Equally, the "shootouts" to which the Secretary refers are not referenced and the number of client processes are not quantified

Earlier that year the ASP had taken exception to the undefined nature of the Division's relationship with Mahi Tahi. He unsuccessfully argued:

"In my view the Department has received little concrete return in the way of offender referrals for the \$180,000 funding provided. This means we rely on the broadly preventative aim of the programme to justify the expenditure I consider we should require the inclusion of a clause in the job description ... and organizational objections that clearly commit the programme to taking referrals from the Corrections system."¹²

For agencies other than Mahi Tahi, however, such expectations came to be more closely defined. Thus, with regard to the Outward Bound Trust of New Zealand, the Wellington DPO was instructed:

"You will need to negotiate a contract fee for service agreement simply setting out the terms forming the basis of the grant".¹³

12. ASP/SJ. Memo, 4 June 1991. Department of Justice File PROB 14/8. "Community, Law and Order Fund." Department of Justice, Wellington.
13. CEOP/DPO Wellington. Letter, 14 May 1991. Department of Justice File PROB 14/3 "Community Programme Funding; Non-Residential Programmes; Overview". Department of Justice.

The ability of Mahi Tahī to receive substantial grants¹⁴ with no explicit expectations upon it may be explained by the special relationship which existed between the founder of Mahi Tahī, Sir Norman Perry, and senior departmental management. The Division's file material on Mahi Tahī suggests that a significant degree of interpersonal interaction occurred between these personnel. Thus, agreements between Perry and the Division's senior management about the performance of Mahi Tahī were based upon their mutual friendships and patronage rather than a quantified performance formula.

As suggested by the above evidence, agreements between the Division and voluntary agencies had tended to be based on loosely defined expectations. Furthermore, their wording resembled personal letters rather than rational-legal contracts. As noted, however, from the middle of 1991 the Division's approach to agencies began to approximate a contractual style. Before that change is examined in more detail in the second half of the chapter, comment is made on a third form of evidence which supports the notion that the Division sought to facilitate and not impede the sociality of the voluntary sector.

An Absence of Files

The third form of evidence refers to the low level of coherence and usable content within the Division's files on the voluntary agencies which received funding. As stated earlier, the Division's filing system contains records on a mere 26.5% of the successful applicants. For the 44 cases which are represented there is no coherence within the material held on them. Thus, as a collection of information on voluntary sector involvement in the Corrections Division, the Division's filing system is of little value. It is suggested, however, that the low level of coherence and usable content is significant in itself. Dandekar suggests that matters such as file coherence and content are important indicators in evaluating the ability of bureaucratic systems to control organizational behaviour.¹⁵ He argues that the ability of such systems to control organizational behaviour depends upon four aspects of its ability to process information. These aspects refer to the capacity of the organization's filing system, the degree to which those files are centralized, the speed with which information flows between the data gatherers and the analysts, and the number of points of contact that exist between the system and its subject population.

14. Between 1988 and 1990 Mahi Tahī received grants of \$170,000. File PROB 14/8.

15. Dandekar, 1990 : 40-41.

The overview of the Division's filing system which is presented above strongly suggests that it scores poorly on each of the dimensions which Dandekar outlines. It is thus concluded that the Division's filing system is incapable of being used as a tool for interventions in, or the systematic regulation of, voluntary sector involvement. In the absence of any other comparable organizational system within the Division it is therefore suggested that the Division had not sought to regulate voluntary sector involvement in any systematic way.

The reason for the absence of a regulatory system would appear to be neither neither bureaucratic negligence nor deliberate policy. Rather, the explanation arises out of the role that patronage had played within the Division's relationship with voluntary agencies up until the middle of 1991. The evidence that is presented in the preceding sections suggests that interpersonal forms of patronage were the primary means through which interactions had occurred between the Division and voluntary agencies.

These interpersonal interactions took place primarily at the district office level, between Probation and agency staff. Only in situations where agencies required resources held by the head office of the Division, such as money, or when matters went amiss, did the senior management of the Division become involved. In light, therefore, of the centrality of the district-office level patronage to the functioning of the community involvement policy, the senior management of the Division had no need of a comprehensive recording system on community involvement. Thus, the system which did evolve, developed on an ad hoc basis. This ad hoc development accounts for the low level of coherence and usable content within the Division's filing system.

Summary

Three forms of evidence exist which suggest that the Corrections Division sought to maintain the independence of the voluntary sector following the introduction of the state-sector management reforms in 1988. This pursuit of voluntary sector autonomy accords with Foucault's proposition that western governments tend to facilitate and safeguard the social processes which inhere within public life. Governments do so, he contends, in the belief that these "natural" processes are an essential means through which society regulates itself.

The three forms of evidence which exist are as follows. First, the Division only intervened physically within voluntary sector agencies on four occasions. This number represents 2.5% of the total number of agencies involved. Second, the Division did not rigidly define its expectations of voluntary agencies. Third, the Division's system of keeping records on voluntary agency involvement has no coherence and little content upon which any systematic regulation could occur.

Toward the latter half of 1991 the basis upon which the Division formed its relationships with voluntary agencies began to change. Within this change the Division began to explicitly state its expectation of the agencies. Historically it had defined "acceptable" agency performance in terms of the eradication of negative events. It now began to construct these definitions in positive terms. This resulted, in early 1992, in the proposition that the Division ought to recreate the management system of the Napier Cadet Academy, so as to facilitate that agency's achievement of Divisional goals.

This development, towards an increasingly directive Division, needs to be analysed in light of that Division's previous commitment to the principles of governmentality. Three issues arise with respect to the study of this change. First, there is the matter of the way in which those directive, administrative practices evolve. Second, there is the role of social and political structures in facilitating, encouraging and shaping these changes. Third, there arises the question of how the Division reconciled its propensity to direct the voluntary sector with its need to promote the survival of that sector's natural sociality. These three issues are discussed in the following section of this chapter.

CONTRACTUALISM AND THE INCREASING PROPENSITY TO CONTROL

The Theoretical Significance of Change

The preceding section of this chapter suggests that the Corrections Division continued to adopt a liberal approach to voluntary agencies after 1989. Liberal orientations, for Foucault¹⁶ are a function of the "art of government" through which states seek to construct and facilitate the sociality of their constituencies. The construction and

16. Foucault, 1978.

facilitation of sociality, according to this view, reflects the opacity of public life and government's consequent inability to superintend the whole of society. For the purposes of regulating public life, the argument continues, governments construct the nature of what it means to "be social". Through this construction of public life governments retain sovereignty over their constituencies.

The discussion which follows examines the Corrections Division's relationship with the voluntary sector between 1990 and 1992 in light of Foucault's work on the governmental construction of sociality. A significant theoretical issue arises out of this enquiry. That issue draws upon Foucault's postulations about governmentality. Foucault observes that the development of the "art of government", which came to displace the prominence of sovereign rule with Europe during the seventeenth and eighteenth centuries, produced the constitutional problem of finding a basis upon which governmentality could be legitimated. Sovereigns had legitimated their right to rule through a variety of rituals. These rituals had either reinforced their inherited titles, divine sanctioning or superior destructive power. The conduct of public life through the "art of governmentality" however, required states to *negotiate* the terms of their existence with the inhabitants of their territories. The governmental option that had previously prevailed, that of ruling by force, threatened the existence of the natural processes through which society was increasingly perceived to exist. According to the liberal critiques of government, those social processes were indispensable. The value of these processes came to be further recognized in conjunction with the Kantian revelation that the state was unable to fully comprehend and superintend society. Thus the states which employed this "art of government" had to inaugurate tacit processes of negotiation with their populations. The content of those negotiations centred on the state's conflicting needs to superintend society and to allow that society the freedom to regulate itself. This section of the chapter brings that issue, of state/civil negotiations, into the present by examining the means by which the Corrections Division publicly negotiated the increasingly directive nature of its relationship with the voluntary sector between 1990 and 1992.

The Winds of Change

In the period immediately following the introduction of the State Sector Act in 1988 the Corrections Division continued not to interfere in the functions of most agencies.¹⁷ This section of the chapter examines the Division's departure from that

practice, with its introduction of contracting in the middle of 1990. The impetus for contracting arose out of the Division's explicit desire to prevent abuses of clients and grants by agencies.

The development of this contractualism is charted within the following discussion. That discussion examines the manner in which the Division began to develop increasingly detailed expectations of what agencies ought to achieve. This increasing propensity to regulate agencies does not reflect a Foucauldian type of disciplinary power. Examples of such power are rare within the Division's involvement with voluntary agencies. Rather, the Division's regulation of agencies occurs through the construction of a new formative framework, that being contractualism. The approach which the Division takes to the development of contractualism results in that framework increasing the regulatory potential of the Division. This increase in the Division's ability to regulate began with the development of clearer expectations about the nature of successful voluntary sector involvement.

The Development of Measures of Success

As suggested in the preceding chapters, the Department of Justice had often sought to understand its mission in terms of the reduction of recidivism. The Department had been unable, however, to make either the Marriage Guidance movement or the joint hostel ventures adhere to this vision. Despite the Division's previous lack of success in that endeavour, the idea of reducing the rates of reoffending remained central to the Division's objectives.¹⁸

Between 1989 and 1992 the Division increasingly sought to formalize its ideas about success, as they related to community involvement within the Division. This trend reflected the requirements of the state sector reforms. These reforms had necessitated that Government Departments achieve measureable results. The first steps in achieving such results were the identification of what the results ought to be and the setting of quantitative performance levels.

17. This practice contrasts however, with the manner in which the Division actively intervened within MGNZ, in the restructuring of its managerial system.
18. Refer to the Department of Justice, Community Corrections Division 1992/3 Management Plan. Wellington. Department of Justice 1992 : 6. Refer also to comments made by Mel Smith, as cited in chapter eight.

The trend toward establishing a quantitative evaluation of voluntary sector performance marked a significant departure from the system of assessment which had existed prior to 1990. This chapter has described how such performance assessments had previously been sought in undefined and generalized terms. From late 1989 however, the GMC began to seek a clearer articulation of the Division's expectation of volunteer agencies. This gradual transition toward the construction of explicit expectations is illustrated in the GMC's comments with regard to a \$50,000 grant to the Westland Alcohol and Drug Rehabilitation Trust in 1989. The GMC recorded on the Trust's application form:

"I have approved this. Again though we lack advice which

1. tells us of estimates of numbers for our referrals
2. the management liaison and accountability process."¹⁹

This same theme, of measurement and evaluation continued to develop in the following year. Thus, in the case of a \$60,000 grant to the Support Society Trust, the GMC directed the ASP to ensure that "accountability and evaluation procedures" were "put in place and monitored."²⁰ To this the ASP replied, "Could Lyn W. review current accountability procedures and institute new ones if required."²¹ These interchanges between the GMC and ASP demonstrate an important point about the development of the Division's definitions of voluntary sector success. The point is that members of the voluntary sector were not consulted by the Division during this development. They were not conferred with about what ought to constitute accountability, about what "success" ought to mean, and about what ought to be measured. The Division's unilateral definition of "accountability, monitoring and success" is a theme which continued throughout the Division's determination of what constituted successful voluntary sector involvement.

19. GMC/ASP. Memo, 31 November 1989. File 14/2/1.

20. GMC/ASP. Memo, 10 January 1990. File 14/2/1.

21. ASP/GMC. Memo, 10 January 1990. File 14/2/1.

The Division did not begin to *clearly* articulate its expectations of successful voluntary sector involvement, or of how grants were to be spent, until the middle of 1990. In May of that year the SJ outlined a detailed list of expectations with respect to a \$25,000 grant to Pae Arahi O Te Manaki:²²

"This grant is provided upon the following conditions:

1. To enable the employment of a co-ordinator ...
2. Provide the Department of Justice ... with a job description of the programme co-ordinator's duties.
3. That there be in place a system within the programme to account for how the grant is spent ...
4. That the Department of Justice is represented on the programme management committee.
5. As accountability will be required by Government in this matter, it will be necessary for me to receive a financial report ... progress reports ... and the number of client referrals ..."²³

From that time on the instructions given to successful funding applicants became progressively more defined. These instructions consistently required agencies to feed back information on the numbers of Divisional clients with whom they had intervened. This trend also saw the Division define the broad terms of intervention which it sought. For instance, in June of 1990 the ASP attempted to determine how Maori agencies should spend Maatua Whangai funding. Originally Maatua Whangai funding was given for the development of Maori family structures (whanau). The Divisional working group which had been established in 1990 to examine voluntary sector funding, believed, however, that these whanau development grants had "lost their way".²⁴ The ASP sought to correct this lack of direction with respect to a \$5,000 grant to the Te Tira Aha Waka Taua O Te Whanganui-a-Tara.²⁵ The GMC had

22. Pae Arahi O Te Manaki was a Wellington based programme for "at-risk" youth and offenders.

23. SJ/Director of Pae Arahi O Te Manaki, 2 May 1990. File 14/8.

24. Report of the working group "Community Funding". Unpublished paper, June 1990 : File 14/2/1.

25. A Waka (canoe) project which arose from the Te Tira Aha Waka Taua O Te Whanganui-a-Tara : a Lower Hutt cultural development programme for Te Ati Awa youth.

granted the funding to this group. The ASP commented on the GMC's recommendation, stating:

"I endorse the recommendations provided it is made clear in the covering letter that the assistance is for programmed activities for offenders and inmates i.e. spell out the kaupapa of the funding. We are not funding a waka project per se".²⁶

The ASP's comments reflected the recommendations of the funding working party, that grants ought to be targeted toward programmes which cater for Divisional clients. Thus grants ought to be given only to groups which addressed specific offending-related needs of clients. Such needs include matters such as addictions or violent behaviours. The important aspect of this stance, with respect to the idea that the Division progressively imposed its expectations of success upon the voluntary sector, is that the Division did not attempt to negotiate with the relevant tribal authorities about what constitutes culturally appropriate interventions with offenders. Instead, the Division's development of its ideas appears to have occurred independently of the tribal authorities who interacted with the offenders and the Division.

The Division's ongoing exploration as to what voluntary sector agencies ought to achieve, continued on through 1990 and 1991. Its ideas about successful voluntary sector activity remained generally diffuse, however, including loosely defined notions such as the "effect on the criminal justice system (i.e. numbers etc)" and reports on unspecified "outputs". In the middle of 1991 this trend was significantly altered when the Division decided to resume relations with the Otago Legionnaires Academy. This relationship had become strained following allegations of client-abuse by the Academy. By June of 1991, however, the DPO at Otahuhu was able to write:

"I am quite favourably disposed to resuming our association (with the Academy). I would want a Probation representative to be on the management committee and the right of entry to the Academy at all times".²⁷

26. ASP/AOP. Memo, 5 June 1990. File Admin. 42-4-5.

27. DPO Otahuhu/CEOP. Letter, 14 June 1991. File, Admin. 42-4-5.

The DPO'S suggestion, of unrestricted right of entry, was unprecedented in the Division's history. The stringent nature of the suggestion, however, highlights the concern which the DPO felt about the need for greater Divisional control in its relationship with the Academy. In his response to the DPO's letter the GMC supported the DPO's belief in that need for greater control. Thus, the GMC responded with:

"I am happy to resume; but we should 'formalize' by way of contract. *This has not been our approach but experience supports this now.*"²⁸

The GMC's comments imply that prior to this time the Division had consciously adopted an informal approach to its relationships with voluntary agencies. Following the Division's experience with "problematic" cases, however, the view was now taken that the Division ought to increase its control over those relationships. In the memo which is quoted above the GMC suggests that this increased control should be pursued through the "formalization" of the relationships, through contracts.

This formalization of relationships began to develop immediately. The process commenced with an increasing Divisional emphasis on the imposition of conditions to which successful applicants had to comply. This trend toward the unilateral imposition of conditions ultimately enabled the AOP to instruct the DPO at New Plymouth, with respect to a \$60,000 grant to the Taranaki Maori Trust Board:

"Please hand over (the grant) ASAP with usual conditions (you may want to add a few of your own, within reason, and put it in writing)"²⁹

The AOP's comment reveals two elements which had developed within the Division's relationship with the voluntary sector. The first component is the centrality which the idea of "conditions" had achieved within the Division's internal discourse on its relationship with the voluntary sector. The second aspect is the complacency that had developed within the Division's organizational culture toward the practice of imposing its expectations upon voluntary agencies. These matters suggest that the Division's governmentality had begun a shift toward a directive, superintendary bias.

28. GMC. Memo. 20 June 1991. Emphasis added. File Admin. 42-4-5.

29. AOP/DPO New Plymouth. Letter, 3 July 1991. File Admin. 42-4-5.

That propensity to control does not imply, however, that there was an increase in direct forms of intervention. The directive style refers instead to the Division's *unilateral* introduction of a contractarian framework for its relationships with voluntary agencies. The Division's initiative to restructure the management of the Academy and to unilaterally impose conditions upon the dispersal of grants suggests an underdeveloped self-reflexiveness, on the part of Corrections, regarding the subtlety and strength of its own suasive power.

At the conclusion of the period under review the Division had only just begun to use formalized contracts with voluntary agencies. The funding-application form, which Corrections introduced for voluntary agencies, included a statement about the conditions upon which grants would be made. That statement reads:

"Please note that a successful application will involve your organization entering into a funding contract with the Department of Justice. This funding contract will state the conditions governing the funding. These may include statements as to the emphasis and structure of your programme, the number of placements on the programme for Probation Service clients, the provision of progress and termination assessments on clients, and quarterly progress reports on how the conditions of funding contract (sic) are being met."³⁰

The form does not state that these conditions, nor the meaning of their terms, will be defined or imposed unilaterally. Neither, however, does it state that the Division will negotiate over them. In light of the Division's recent history, it is not predicted that it would systematically negotiate such matters. Rather, such conditions, and their definitions, are likely to be imposed.

The unilateral directiveness of the Division's contracts resemble Foucault's disciplinary power in some respects but not in others. On one hand, the contracts encourage conformity to expectations through non-persuasive means, as do the disciplines. They do not, however, focus on the detailed physical behaviours of their subjects as disciplinary power suggests. Thus contracts do not seek to control the "souls" of the Division's agents through systems of detailed training. On the contrary, it might

30. Department of Justice, Department of Justice Community Funding, Application for Grant, Application form, No. 1104j.

be argued, contracts enhance the day to day autonomy of agents. Within contracts agents are free to decide how they achieve the goals which are expected of them.

Paradoxically, this system was imposed by the Division as a means of enhancing its control of its relationships with the voluntary sector. In light of this focus on control, a question thus arises of how contracting is to be understood in relation to Foucault's ideas of disciplinary power and governmentality.

Commentators such as David Nelken have described contracts as being "on the margin" of Foucault's disciplinary power.³¹ For Nelken they are "on the margin" as they are not disciplinary, in the sense that they do not seek the physical regulation of their subjects. Neither, however, are contracts analogous to judicial power, as they do not facilitate the autonomy or self-identity of the subjects. Nelken's research into the use of contracts within social work³² strongly suggest that they are employed as means by which control is gained over clients. According to this view, social workers justify the use of contracts by arguing that they assist clients to take responsibility within relationships. For Nelken, however, the important aspect of contracting is *the circumstances* in which the principals within the relationships formalize agreements. Those circumstances are invariably situations where the principal wishes to exercise greater control over the behaviour of their client.

I suggest that Nelken's findings into the use of contracts within social work are applicable to the Corrections Division's introduction of contracting with the voluntary sector. Contracts within the Division/voluntary agency relationships are thus not readily understood as a function of a Foucauldian dispersal of discipline. At the same time, however, the history of their introduction does not support the proposition that contracts will facilitate agencies' autonomy or negotiating abilities. The history of their introduction demonstrates that the Division introduced contracts as a means of strengthening its position over voluntary agencies. Thus contracts, in this context, can be understood as a means through which the Corrections Division enhanced its status of political "sovereign" over the voluntary sector.

31. David Nelken, "Discipline and Punish : Some Notes on the Margin", in The Howard Journal of Criminal Justice. Vol.28(4)d 1989 : 245-254.

32. David Nelken, "The use of 'Contracts' as a Social Work Technique", in Current Legal Problems. Vol.40. 1987 207-232.

It is suggested that in this context contractualism represents a new normative framework for Divisional/agency relations. They are a mechanism which enables principals to define what they wish agents to achieve and to measure those agents' performance. Aside from these expectations about goals however, the agents are free to behave as they wish. Their freedoms however, are ultimately bounded by the terms of the contracts. The creation of bounded freedoms by contractualism mirrors the processes which liberal philosophy advocated for the regulation of society. According to liberalism government ought to regulate society through creating ways of "being social". This thesis suggests that contractualism is but a further evolution in this governmental development of public life. Contractualism represents a peculiar form of evolution because it enhances the ability of government to superintend society. This ability increases because of the enhanced hierarchial control which contractualism gives to the principal within a relationship.³³

The Corrections Division's decision to reformat its relationship with the voluntary sector using contractualism represents a shift in its governmentality bias. This bias moved away from the liberal notion of "not impeding" public life toward the superintendary legacy of the "police science".³⁴ This change in bias, however, potentially contradicts the liberal approach the Division had previously adopted toward the voluntary sector. The shift raises the question of how the Division rationalized and publically negotiated the change. Two sources of information are used to examine this question. They are the Division's advertisements for voluntary sector involvement and the interviews which the GMC and ASP provided for this thesis. These sources are treated as public sites wherein the Division negotiated its position on this change.

The Division's publicity booklets such as "Probation Division"³⁵ and "Who We Are and What We Do"³⁶ consistently describe the relationships which exist between the Corrections Division and the voluntary sector in collaborative terms. Thus, the "Probation Division" booklet speaks of community groups which work "*with us*".³⁷

33. Refer to Boston's reflections on Agency Theory, Boston, 1990.

34. Foucault, 1978.

35. Department of Justice Probation Division, Wellington : Department of Justice 1991a.

36. Department of Justice Who We Are And What We Do. Wellington : Department of Justice 1991b.

37. Department of Justice 1991b : 1. Emphasis added.

Likewise the Division's other publication states that" ... the Division supports groups who work *with* it. It also adds "The Division is developing and, perhaps most importantly, *supporting* networks of groups and people who work with offenders."³⁸

Thus, the language which the Division used in its advertisements for voluntary sector assistance suggests that the relationship was one in which the parties were equal; voluntary agencies were to work *with* the Division, not *for* the Division. In light of the evidence which this thesis presents the assertion that these relationships were between equals is questionable. I do not suggest, however, that the Division sought to deceive the voluntary sector. Rather, I submit that a belief prevailed within the Division that decisions which are made about those relationships do occur in a collaborative manner with the voluntary sector. This belief, I suggest, is a legacy of the patronage with which the Division had once conducted its relationships with voluntary agencies. To a degree the Division's senior managers had continued to relate in this way, especially in the cases of MGNZ and NZPARS. It is within the content of this belief that Murray Short expressed surprise that the voluntary sector had not contributed positively to the Division's decision to reform their mutual relationships upon a contractual basis.³⁹ His sense of wonderment does not make sense if it is analysed in terms of the circumstances in which the Division introduced contracting. As demonstrated earlier, the Division consciously introduced contracts as an explicit means of increasing its control over voluntary agencies. Short's sense of "surprise" does make sense, however, if it is seen in the context of a *moral belief* that the Division *ought* to act collaboratively with the voluntary sector. The managerial reforms of the 1980s had not precluded collaborative negotiations between the Division and voluntary agencies. What those reforms had done, however, is to tilt the operational requirements of the Division's organizational culture away from a co-operative ethos and toward a control orientation. The subtlety of this cultural change is shown, I suggest, in the difficulty which Murray Short's organizational position caused him in perceiving two matters relating to the introduction of contracting. The first is that contracting would increase the Division's control over voluntary agencies. Second, that for this reason the move toward formalized contracts would not necessarily be sought by those agencies.

38. Department of Justice, 1991a : 2. Emphasis added.

39. Short/Tie interview, June 1992. Refer to chapter eight for discussion on Short's comments.

Mel Smith, in his discussion of this issue introduced another perspective. Smith suggests that the Division's ability to view voluntary agencies as equals increases as those agencies gain more skills and knowledge in working with offenders. As a consequence of this increased skill and knowledge, Smith adds, agencies are in a better position to negotiate within the relationship. The important aspect of Smith's perspective, is that the voluntary agencies' ability to negotiate is conditional upon *their acceptance of the Division's analysis of crime and of methods for reducing it.*

According to this view it is the Division which has the most appropriate perspective on crime and the most adequate knowledge on its correction. The Division, therefore, should influence the manner in which voluntary agencies approach crime. This belief reflects the view that government ought to define how society ought to function. That view, again, is the legacy of police science. The GMC's assertion of this point reflects the directive stance which the Division began to take towards the voluntary sector from the 1990s onward.

To summarize this section of the discussion, the Division had historically constructed its relationships with the voluntary sector through facilitating those agencies 'natural' functions. Comments made by Mel Smith and Murray Short⁴⁰ suggest that this view remained prevalent with the Division throughout the period under review. This belief clouded the Division's ability to perceive the subtle shift which had occurred in the manner by which it began to construct relationships with voluntary agencies. In addition, it is suggested, the Division held a moral belief that it ought to negotiate with agencies over the terms of their participation. This section of the chapter has demonstrated how the Division gradually and unilaterally began to define the nature of "successful" voluntary sector involvement and impose those expectations upon voluntary agencies. It did so in an increasingly contractual form. This development is analysed in Foucauldian terms, as a shift in governmentality bias toward a more directive, superintendary approach with voluntary agencies.

40. Refer to chapter eight.

SUMMARY

This chapter argues that in the period immediately following the introduction of the State Sector Act in 1988, the Corrections Division did not seek to interfere with the functions of voluntary agencies. Three forms of evidence exist to support that proposition. First, the Division only intervened physically with voluntary agencies on four occasions. Second, the Division did not explicitly define its expectations of agencies. Third, the Division's incoherent system of record keeping on community involvement precluded its use as a regulatory tool. This evidence supports the contention that the Division was more concerned to facilitate the functions of agencies, through the provision of finance and advice, than to control them.

Toward the latter half of 1990 the Division began to alter its relationship with the voluntary sector. Its decision to do so was expressed as arising from its desire to prevent abuses by agencies of clients and grants. The means by which it modified matters was to formalize the relationships using written contracts. The process through which the contracts developed entailed an increasing proclivity on the part of the Division to *impose* upon the granting of funds.

The formalization of relationships within contracts does not represent a Foucauldian type of disciplinary control. Rather, contractualism represents a new genre of normative framework. This framework simultaneously allows the principal to define permissible and impermissible behaviour and enhance that principal's hierarchical control over the agent. Contracting produces this form of control however, in a manner which allows the agent to function in an otherwise unhindered manner. Contracts are thus a means for creating bounded freedoms.

The Corrections Division publicly negotiated its decision to adopt this new normative framework by two means. First, within its printed advertisements for public assistance it avoided the issue of the hierarchical nature of its contractualism. Second, interviews given by senior managers for this thesis suggest the presence of a moral belief within the Division, that the Division *ought* to act collaboratively with the voluntary sector. Within this, the Division's propensity to view agencies as equals increases when the intervention practices of those agencies begin to mirror those of the Division.

SUMMARY OF PART THREE

From the three themes which emerge from this section of the thesis, the following proposition is drawn. The Corrections Division of the Department of Justice has historically sought to interact with the voluntary sector by formulating the type of relationships through which interactions are to occur. As a correlate, the Division has tended not to intervene directly in the subsequent functioning of the agencies. This pattern of interaction corresponds with Foucault's observation about the conformity of modern governance to the principles of governmentality. Governmentality is characterised by government's competing impulses to superintend an opaque public life which it cannot fully comprehend, and facilitate the existing systems of social regulation found within that public sphere. Governmentality suggests that the Department of Justice overcame this difficulty by constructing the normative frameworks to which the voluntary sector agencies of civil society had to conform if they wished to participate in the Department's mission.

PART FOUR

**CONCLUSIONS AND
IMPLICATIONS**

INTRODUCTION TO PART FOUR.

The fourth section of this thesis is comprised of one chapter. It summarizes this research, discusses its implications, and comments on the efficacy of Foucault's framework for the study of state/civil relations. Chapter twelve begins by summarizing my enquiries into the development of community involvement and the Corrections Division's administration of that involvement. These matters are discussed in terms of three themes which emerge from those analyses. Those themes are as follows: the reasons for Divisional involvement of the public; the Division's construction of normative frameworks; and the paucity of direct interventions in the activities of voluntary agencies. Following the examination of these governmental themes I discuss the use of Foucault's framework of sovereignty, disciplinary power and governmentality for the study of governance. I conclude that the concepts of governmentality and sovereignty are the more suitable ideas of the three to explain the Corrections Division's relationships with the voluntary sector. The notion of disciplinary power only describes a small number of the Division's actions. The employment of disciplinary techniques need therefore to be explained by the concepts of governmentality and sovereignty.

The major implication that arises out of my analysis of the Corrections Division is that voluntary agencies can expect to face difficulties in influencing the normative frameworks through which the Division desires them to relate to itself and its clients. Chapter twelve concludes with a discussion of that implication and suggestions of how agencies might overcome the problem.

CHAPTER TWELVE : A SUMMARY

INTRODUCTION

This thesis has analysed the means by which the Corrections Division of the Department of Justice has related to voluntary sector agencies. The conceptual framework through which those means have been analysed is Foucault's work on sovereignty, disciplinary power and governmentality.¹ The analysis has been divided into two parts. The first is the Division's development of community policy involvement policy between 1950 and 1992. Those policies are the contexts within which the Divisions have subsequently related to voluntary agencies.

The second section of the analysis investigates the administration practices (that is, the means) through which the Division related to voluntary agencies. Three case studies are examined in that investigation. They are the Marriage Guidance movement, the joint-hostel ventures of the 1960s to 1980s, and voluntary sector involvement after 1988. This chapter summarizes the findings of those two enquiries and discusses the implications that they suggest for voluntary sector involvement with the Corrections Division.

THEMES

The Corrections Division's involvement of the voluntary sector has been dominated by a number of themes. These comprise the following and are discussed below: the reasons for voluntary sector involvement, the construction of normative frameworks and minimal, purposive interventions.

Reasons for Voluntary Sector Involvement

The Corrections Division's involvement of voluntary agencies was primarily based upon prevailing ideas about the causes of crime. Between 1950 and 1970, for instance, crime was believed to result from individual or familial deficiencies. As a consequence of this belief two forms of community involvement were sought.

1. Foucault, 1977; 1978.

The first was in remedial work with offenders. Thus, attempts were made to involve volunteers in the work of Probation Officers. This project met with mixed results and was eventually abandoned. A more successful form of voluntary sector participation occurred within the running of accommodation hostels. The Department of Justice saw these hostels as "non-prison" forms of custody wherein residents could be subject to a Foucauldian form of surveillance and discipline. Their aim was to provide a site for the resocialization of "at-risk" adolescents. In Foucauldian terms the hostels represented a "mechanism of security" for New Zealand's problematic teenagers. This theme of "mechanisms of security" also aptly describes the second arena of public participation which the Department of Justice created. That arena was the national system of marriage guidance services which the Department established in the early 1960s. During the preceding years a belief had developed within the Government, and was shared in other sectors of New Zealand society, that the family unit was under stress. Within the Department that idea expanded to the belief that family stress and disintegration were primary sources of youthful offending. The Department's aim in establishing a national marriage guidance service was to enhance the welfare and security of family life in New Zealand. In this way the marriage guidance service can also be regarded as a Foucauldian "mechanism of security".

During the 1970s the Department's beliefs about the causes of crime underwent considerable change. In place of ideas about the roles of individual and familial inadequacies came a variety of systemic explanations for crime. The majority of these explanations disappeared with only one noticeable effect. That effect was that the causes of crime now appeared too great or politically impossible to tackle and that Probation Officers began to intervene with offenders within narrower psychological approaches. One systemic explanation did prevail during the 1970s however. That explanation linked, in a rudimentary way, the rising level of New Zealand's violent crime with public discontent towards mainstream politics. Various political commentators had chartered the development of this public unrest throughout the late 1950s, 1960s and 1970s. This issue, of popular dissension, came to receive special political attention within a parliamentary debate in early 1972. That debate followed a violent public protest at the opening of Parliament that year. The speakers in that debate suggested three possible responses to the rise in public dissatisfaction with New Zealand's political institutions. The first response was to repress those members of the public who were publically expressing their frustration. The second suggestion was to incorporate those citizens into government's decision-making processes. The third idea was to reformulate Parliament in ways which would allow it to better reflect public interests.

Over the following years the Department of Justice developed in a number of ways which reflected the above developments. For a start, the belief prevailed within the Department that New Zealand's rising levels of violent crime were somehow linked with public dissatisfactions with prevailing political processes. In addition, the Department perceived that it, therefore, ought to respond to public expectations by firstly, inviting popular participation in decision-making on penal policy issues, and secondly, by reformulating its bureaucracy in ways which would render it more responsive to public aspirations. The first series of initiatives took the form of the Open Information policy and Penal Policy Review (both in 1981). These two initiatives sought, in an unprecedented way, to involve the public in the affairs of justice. The second set of reforms also began in 1980 and took the form of an organizational restructuring within the Department of Justice. The new structure which was developed sought to substitute multiple lines of accountability with single lines, and link each organizational tier through a series of mutual agreements (contracts) regarding performance expectations. Simultaneously work began on clarifying the Department's goals and objectives. The performance expectations of each organizational tier was then linked to the Department's mission statements. Through this reconstruction of the Department's structure it was perceived that the bureaucracy could be managed in a more rational way. As a result of improved rationalization the organization could be made more responsive to the public's expectations, as revealed through the parliamentary process.

In Foucauldian terms, the Department's implementation of the Open Information policy, the Penal Policy Review, and its organizational restructuring are all mechanisms of security. In the case of these three initiatives, they sought the survival of New Zealand's democracy. The belief had prevailed that the public were increasingly becoming discontented with the governmental management which they were experiencing. In order to help assuage that dissatisfaction the Department developed mechanisms which both incorporated the public in its decision-making processes and increased its own ability to respond to public aspirations. As a correlate to this public participation an increased number of voluntary agencies became involved in remedial interventions with offenders. To facilitate this work the Department gained funding, from Treasury, from which those agencies could gain assistance. That fund, again, can be understood as a mechanism of security as it sought to ensure the viability of on-going public participation with offenders.

From these events within the development of community involvement it is suggested that the idea of the "mechanism of security" is an important component in the explanation of the Department's development of public participation. The development of these mechanisms sought either the direct reduction of crime or the eradication of the social elements that gave rise to crime.

The Construction of Normative Frameworks.

The second theme which emerges from this enquiry into the means by which the correctional Divisions have related to the voluntary sector, is that the Divisions did not tend to regulate directly the functioning of voluntary agencies. The Division's propensity not to do so reflects the Foucauldian concept of governmentality.² Governmentality contains two competing impulses. These impulses are the legacy of the developmental phases through which the "art of government" passed, after the disintegration of feudal and sovereign-based societies. The first impulse reflects the belief, which in itself is a legacy of sovereignty, that government can manage society. Thus, according to this view, government can comprehend what is happening within public life and superintend those occurrences. It is from this belief that, at a basic level, the Corrections Division maintained an interest in the activities of the voluntary agencies with whom it worked.

The second, and contradicting, impulse within governmentality is the trend toward not impeding the "natural" order of public life. This impulse is a further legacy of the developmental phases of governance. That legacy arises out of the belief, sponsored by liberal philosophy, that government is unable to adequately superintend society because of the opacity and diversity of public life. Thus, in the case of the Corrections Division's interactions with voluntary agencies, it retained a predisposition not to intervene in the funding of those agencies.

This propensity not to intervene, however, does not mean that the Divisions were inactive with the voluntary agencies. Their commensurate need to engage actively with the agencies reflects the requirement that government, in some way, superintends public life. The means through which the Corrections Division subsequently acted reflects Foucault's observations about the manner in which the "art of government" developed under the influence of liberalism. For Foucault the "art of government" came to reconcile government's dilemma, by constructing what it means to "be social".

2. Foucault, 1978.

Thus, government agencies, through their relationships with public groups and individuals, came to define what were the permissible and impermissible forms of behaviour and interaction within their mutual relationships. Thus governmental agencies constructed definitions of what it meant to be social and of what constituted the boundaries of personal freedom.

The pattern of Divisional interactions with voluntary agencies conforms to this framework. Thus, at the beginning of the Division's involvement with agencies it actively constructed the normative framework through which those agencies were to relate to the Division and its clients. In the case of Marriage Guidance the Division took and retained control of the selection and training of incoming personnel. At that point in time the Department of Justice's own internal organization functioned through relationships of inter-personal patronage. Sophisticated forms of bureaucratic organization did not yet exist. In light of the importance placed upon personality at that time the Department of Justice actively sought to screen and influence the perspectives of new incumbents within Marriage Guidance.

A contemporary example of these normative frameworks is the contractualism through which the Corrections Division now relates to the voluntary sector. Contractualism has several significant aspects to it. First, in contrast to patronage-based frameworks which seek to influence the *personalities* of agents, contractualism attempts to control *behaviour*. The behaviour of agents is controlled through the principal gaining a commitment from those agents that they will perform specified tasks to a predetermined level. Thus, the focus of contractualism falls upon the performance of measurable behaviour.

A second facet of contractualism is the manner in which the tasks are chosen. In contrast to patronage-based relationships where the principal personally has to convince their agent of the efficacy of the tasks, contractualism does not necessarily require such interchange. The problem with such situations is that organizations can become fixated with the *form* of contracting and lose sight of the *quality* of the decisions being made in the process.³

3. Boston, 1990 : 14, 20.

In the light of this situation, where the quality of decisions may suffer and where agents are not consulted with regard to the efficacy of the tasks asked of them, a serious consequence may follow. The consequence is that the sociality of public agencies may become directed by the principal in the contract. That is, the agents (for example, voluntary sector agencies) receive less say in deciding the tasks which they are to perform and the manner in which they are to act. Thus, the normative framework within which agencies are to function is decided for them. The ironical consequence of contractually-based relationships in the field of criminal justice is that the voluntary agencies may begin to lose the essential element for which their assistance was initially sought by the Corrections Division; that is, their ability to respond spontaneously and affectually to offenders. This point is discussed further in the following discussion on the implications of the research's findings.

Minimal but Purposive Interventions.

The third theme which emerges from this thesis's enquiry into the development of community involvement is the low degree of direct intervention by the Division in the affairs of voluntary agencies. This finding correlates with the above observation, that the correctional Divisions focused on the development of normative frameworks. The finding that the Division did not intensively survey, train or 'normalise' agencies, refutes the Foucauldian-derived dispersal of discipline thesis. That refutation does not imply that the Division did not intervene intensively with voluntary agencies. Those interventions were linked, however, with the construction of the normative frameworks rather than with the exercise of disciplinary techniques.

Summary.

Three trends emerge from this study into the development of community involvement within the Corrections Division of the Department of Justice. First, the Division sought public participation for the purpose of enhancing its ability to control crime.

Second, the Division tended to interact with voluntary agencies by constructing the normative frameworks through which the agencies were to interact with the Department and its clients. This propensity to construct frameworks of sociality reflects the Foucauldian concept of governmentality. Third, the Division only

tended to intervene directly in the functioning of voluntary agencies during the developmental phases of those frameworks. It is primarily within those situations that the Division has employed Foucauldian-type disciplinary techniques.

Before I discuss the implications of these research findings I examine the efficacy of Foucault's framework for studying governmental practices.

ON FOUCAULT

Introduction

One of this thesis' objectives is to ascertain what constitutes the most efficacious use of Foucault's sovereignty-disciplinary power-governmentality framework, in the study of state/civil relations. Each element of Foucault's triad suggests a different view of sociality. As a consequence, the framework can generate a number of possible explanations for the Corrections Division's actions with the voluntary sector. This chapter examines the broad nature of those explanations and posits some observations about the use of Foucault's work in the study of state/civil relations.

Sovereignty-Disciplinary Power-Governmentality

This study has been conducted within the field of criminal justice. The predominant hypothesis that has arisen from Foucault's work, with respect to criminal justice, has been that of the "dispersal of discipline" thesis. That hypothesis posits that the state incessantly increases its mechanisms of social control through incorporating aspects of public life. The state then transforms those aspects so that they regulate and enhance the social utility of people's bodies and behaviour. Many studies of criminal justice issues since the mid-1970s have either sought to prove the dispersal of discipline thesis⁴ or refute it.⁵ The evidence which is presented in this thesis suggests that the dispersal of discipline thesis does not adequately explain the relationships which the Corrections Division of the Department of Justice forged with the voluntary sector. This finding does not deny, however, that the Corrections Division has employed disciplinary techniques on occasions.

4. Refer, for example, to Cohen, 1979 and 1985, and James Austin and Barry Krisberg's, "Wider, Stronger and Different Nets : the Dialectics of Criminal Justice Reform," in Journal of Research in Crime and Delinquency, Vol.18, 1981 : 165-196.
5. Refer, for example to Bottoms, 1983 and Maeve McMahon's, "Net-Widening. Vagaries in the Use of the Concept", in The British Journal of Criminology. Vo.30(2) Spring 1990 : 121-149.

The notion of "sovereignty" has not featured within studies of criminal justice in the way in which the dispersal of discipline thesis has. Sovereignty has, however, featured in studies on state and civil relations. John Keane, for instance, in his study on the problem of the "politicization of civil society and the civilization of the state"⁶ suggests that the solution to the over-politicization of civil society lies in the judicial theory of sovereignty. For Keane, autonomous civil associations can only have their autonomy protected from monopolistic state control through the codification of civil rights in "relatively autonomous legal codes".

The difficulty with "relative autonomy" is that it always has to be relative to something. In the case of legal codes, that "something" has to have the sanctioning power akin to a superordinate legal code. A further difficulty which arises from this approach is that such legal codes only maintain their social pre-eminence through their exercise. Laws which are not upheld fall into disrepute. The ultimate goal of law must therefore be the exercise of that law. This conclusion mirrors Foucault's finding about the nature of sovereignty. For Foucault the end of sovereignty is the exercise of sovereignty.⁷ Thus, theoreticians such as Keane, who look to the law as the ultimate safeguard for public life, ultimately end up confronting the circularity of the judicial theory of sovereignty.

Foucault contends, however, that it is impossible to escape that circularity. This problem is compounded, according to Foucault, because the social status of law became uncertain when "art of governance" emphasized the welfare of the population rather than that of the sovereign.⁸ Within that change law became as much a tool of social policy as the constitutional base of social order. As a consequence of this transformation the analysis of governance now requires a set of propositions which perceive of government both as an end in itself and as a mechanism for ordering society which reflects public interests.

This thesis suggests that Foucault's concept of governmentality allows this form of analysis to occur. Governmentality acknowledges that government derives from sovereignty. Thus, in the case of this enquiry into community involvement with the Department of Justice, governmentality can explain the political need which arose,

6. Keane, 1984 : 245-249.

7. Foucault, 1978.

8. Ibid.

during the 1970s and 1980s, for the Department to help resecure the legitimacy of New Zealand's democratic institutions. That need to reinforce the social pre-eminence of government produced the 1972 parliamentary debates on public protest, the Department of Justice's incorporation of the public into its decision-making processes, and the parliamentary reforms of the mid 1980s.

Neither sovereignty nor disciplinary power can explain, however, the latitude which the Department of Justice gave to the voluntary sector agencies with which it interacted. Both the theories of sovereignty and disciplinary power would suggest that the Department would have consistently dominated the functioning of those groups. Furthermore, if that latitude simply reflected the Department's failed attempts to dominate, then those *attempts* would have been visible. What the evidence suggests, however, is that the Department consistently sought to develop normative frameworks within which the voluntary agencies were to relate to it. Those frameworks influenced how the agencies were to interact, both with the Department and the Department's clients. Within those broad parameters the agencies were left to develop relatively unhindered. That dynamic, of allowing freedom within the bounds of normative frameworks, corresponds with Foucault's thoughts on the nature of governmentality. Governmentality suggests that governance *is* the construction of bounded freedoms; of the definition and restriction on what it means to be social, to be human.

This thesis thus suggests that of the three elements in Foucault's tripartite framework, governmentality most adequately explains the dynamics of the Divisional/agency relationship. Governmentality both accounts for the influence of disparate public interests within the functions of the Department of Justice and for the ability of the Department, as an agent of the state, to act in the interests of that state.

This chapter now concludes with an examination of the implications which arise for voluntary agencies from the research findings. Within that discussion I suggest two strategies by which those agencies might address the implications.

IMPLICATIONS

The Challenge of Contracts.

This thesis suggests that the primary means through which the Corrections Division has related to the voluntary sector is through the creation of normative frameworks. It is through these frameworks that mutual interactions were to occur. The most recent of these frameworks is contractualism. The following points are made with regard to the Corrections Division's present use of contractualism within its relationship with the voluntary sector.

First, the Agency Theory, from which is drawn the contractualism of New Zealand's state sector reforms, suggests that contracts increase the principal's power over his/her agent.⁹ Thus, theoretical work in the field of Agency Theory has focused upon the manner in which contracts can be created and monitored so as to minimize the possibility of deviations on the part of the agent.

Second, the circumstances in which the Corrections Division introduced contracting into its relationships with the voluntary sector reflects this desire for greater control. Specifically, the decision to introduce contracting was made in the middle of 1990 after the Division experienced a small number of situations in which agencies abused clients or funds.

Third, this thesis suggests that the Corrections Division is unaware of its propensity to seek an enhanced level of control through its use of contracting. This lack of self-awareness is evident in the senior manager's abilities to define and impose conditions simultaneously, in their belief that voluntary agencies ought to be involved in the development of the frameworks through which they participate.¹⁰

These three aspects of the Division's use of contracting have a series of implications for voluntary sector involvement.

9. Refer to Boston, 1990 : 4-7 and 15-19.

10. Refer to comments made in relation to Short/Tie interview, chapter eight.

First, the Corrections Division's propensity to exclude the voluntary sector from the development of conditions relating to that sector's participation, potentiates competition rather than co-operation. The competition may be assuaged by the Division's present plans to create community-based committees at a localised, district-office level.¹¹ These committees are to co-ordinate local "community" ventures. This thesis suggests that in addition to localised initiatives the Division needs to facilitate national structures through which the voluntary sector can participate in the development of the frameworks through which they must interact. Any decision to exclude the voluntary sector from the development of its conditions of participation may, in the long term, diminish the availability of sustained public involvement.

Second, the Division's emphasis on contracts may diminish the overall effectiveness of voluntary sector involvement with offenders. This loss of effectiveness would result from the emphasis that contracting gives to the role of rationality within sociality, compared with emotion, spontaneous affection, *aroha*¹² or intuition. This thesis suggests that it is these latter human qualities that gives community involvement its distinctiveness with the field of criminal justice interventions.

The effect of this emphasis on rationality can be seen in the following way. The model of contracting used by the Corrections Division is essentially a performance-based one. The important aspect with regard to this emphasis on performance is that the future behaviours of the agent become predetermined by the content of the contract. Their behaviours are thus rational and calculable.

Contracts, depending upon the rigour of their terms, diminish the opportunities for agents to analyse and respond to situations spontaneously in ways which were not foreseen. Contracts thus decrease the ability of agents to follow their intuition in a situation, to listen to their emotions or to express *aroha* as a primary means of

11. This initiative arose out of the Division's Productive Improvement Project, of 1991 and 1992.

12. *Aroha* is the Maori expression for love. This love is one which emotionally embraces people and facilitates their senses of belonging and identity.

intervening. In short, contracts favour a rational form of society. If a society was to develop contractualism as a predominant way of interacting, that society may develop a highly rationalized form of order. Spontaneity, humour, art, love, aroha and compassion may become subordinated to the rational calculation of instrumental objectives and goals.

It is an untenable leap to suggest that the Corrections Division's contracts with voluntary agencies will produce that form of social order. It is not an untenable leap to suggest, however, that the Division's reliance on contractual forms of relationships will facilitate the construction of a highly rationalized social order, more than it will moderate one.

As suggested above, the Division's present forms of contract with voluntary agencies are fairly benign in terms of their expectations on agency performance. Two elements exist, however, which have the potential to change this. First, the Division retains a strong commitment to pursuing the reduction of offending behaviour. This goal suggests that the Division would seek out resources which it believes would assist the achievement of that goal. The analysis which is presented in part two of this thesis demonstrates that "community" has long been one of those resources. Furthermore, in keeping with the Division's goal of reducing levels of offending behaviour, it follows that the Division would seek a coherent knowledge base to assist in that pursuit. It could thus be anticipated that the Division would align all of its resources (including community) to the principles contained within that body of knowledge. The second element which currently exists, and which suggests that the Division has the potential to move its contracts to a less benign form, reflects these propositions.

The GMC, in his interview for this thesis, mentioned a recent Departmental publication entitled "Reducing reoffending. What works now".¹³ That publication purports to identify the principles of successful rehabilitation interventions with offenders. Whether or not those principles are those which lead to success is, for the purposes of this discussion, beside the point. The important element is that the GMC suggests that voluntary sector agencies ought to refer to that publication.¹⁴ For

13. McLaren, 1992.

14. Smith/Tie, interview, June 1992.

the GMC, therefore, the principles contained in that book are efficacious for voluntary sector involvement. It is suggested that it is a thoroughly rational step from recommending the principles of "Reducing reoffending" to incorporating performance measures on those principles into contracts. The GMC's statement that voluntary agencies ought to become acquainted with those principles is, it is furthermore suggested, a possible signpost of future change, a discursive transformation.

If such a change was to occur¹⁵ the agencies would retain less discretion in the means by which they worked with offenders. Their modes of intervention would thus be designated for them.

The above discussion on the implications of the Division's emphasis on contractual relationships raises two points. First, the Division's decision to exclude the voluntary sector from involvement in developing the terms upon which the public participation risks a situation of competition rather than co-operation. Second, the rationality of contractualism threatens, within voluntary agency social work, the spontaneity of affectual and intuitive responses. This spontaneity is constitutive of present public life. Thus, the Division's reliance on contractual forms of relationship has the potential of altering the sociality of those voluntary agencies which seek to participate in the Division's mission.

Strategies

From the two implications outlined above, it is suggested that a particular problem faces those voluntary agencies which wish to relate to the Corrections Division. That problem concerns the development of strategies which will circumvent the Division's propensity to exclude voluntary sector input in the construction of the normative framework through which relations occur. By finding such strategies voluntary agencies could influence the terms upon which they participate in reducing levels of offending behaviour. As a consequence of the analysis which is developed in this thesis, two possible strategies are suggested for those voluntary agencies.

15. That change could involve the use of contracts as the vehicle for measuring performance. Equally it might involve a system of accreditation.

The first suggestion draws upon the observation that inter-personal patronage has previously shaped the implicitly hierarchical relationships between the Corrections Division and voluntary agencies. This modification is evident in the cases of MGNZ and the Mahi Tahī Enterprise. The suggestion that is made is that voluntary agencies should actively cultivate relationships with both local Divisional staff and the Division's regional and national managers. Through the creation of relationships of mutual understanding, respect and co-operation, agencies will be in an improved position to influence the terms upon which they participate with the Division.

The second suggestion differs from the first in that it is adversarial in nature. This strategy concerns the construction of federations, or associations, of voluntary sector agencies which are involved with the Corrections Division. The purpose of constructing federations is to develop a collective bargaining strength, in the same way that industrial unions operate. The nominated delegates from those federations could then negotiate with the Division over the terms of agencies' involvement. Such federations could be developed according to various dimensions. These might include locality, area of speciality (for example, addictions or violence) or forms of intervention (for instance, counselling services, therapeutic communities or political advocacy).

The advantage for agencies of having a peak body, such as a federation, is that their representatives could obtain reasonably easy access to the Division's senior management. In addition, the federation's ability to represent the interests of whole sectors from which the Division seeks assistance, enhances the bargaining position of each agency.

The obstacles to the development of federations are not inconsiderable. These include the following: the cost to member agencies of operating a federation; the presence of competition between agencies as they compete for funding from the same source, and the democratic construction of a normative framework within which members' agencies will interact

Of the two strategies suggested above, individual agencies may find it easier to cultivate patronages than federations. In terms of overall effects on the manner in which the Division relates to public agencies, however, the strategy of creating special purpose voluntary sector federations has more potential.

SUMMARY

The Corrections Division's interactions with the voluntary sector have been dominated by a number of themes and processes. These have included the pursuit of greater crime-controlling ability, the development of normative frameworks which define how parties ought to interact, and the minimal, though purposive, interventions by the Divisions within voluntary agencies.

A contemporary issue which arises from these themes is the manner in which voluntary sector agencies can presently influence the nature of the normative frameworks which the Corrections Division has constructed. The pursuit of this goal is important if those agencies are to retain a say in how they interact with the Division and its clients. Two possible strategies are suggested for those agencies. The first is that they actively cultivate inter-personal relationships with Divisional managers. Through the intimacy of those relationships the agencies may be able to influence the terms upon which they interact with the Corrections Division. The second strategy is that the voluntary agencies form federations through which they enhance their individual bargaining power with the Division.

4 Bristol Crescent
PALMERSTON NORTH

13 April 1992

The Secretary for Justice
Department of Justice
Private Bag 180
WELLINGTON

Dear Mr Oughton

I am writing to you with regard to research which I am presently undertaking as a Master of Social Work candidate (Massey University). My research topic is the Probation Division's use of the "community" within its work.

In your capacity as Secretary for Justice I seek your personal assistance in order to obtain information upon which I can construct informed research. To date I have received excellent assistance from the Probation Division in locating historical file data relating to my topic.

The central question within my research relates to the potentially contradictory situation whereby the Department of Justice becomes both a definer of the "appropriate balance between the powers of the State and the rights of individuals" and the body responsible for the administration of a penal policy which requires of those individuals their active participation (ie the social reintegration policy).

To assist me to understand this from the administration's perspective I would appreciate an audience with you for a half-hour interview. I am more than happy to forward you my questions prior to the time. In conjunction with such preparation you might prefer us to work toward an agreement on the conditions upon which an interview would be given. My tentative thoughts about what I would seek within such an agreement are as follows. Firstly, that the interview be given for the purpose of furthering our knowledge and discussion about the role of State agencies within society. Secondly, that I be given the right to use the interview material both within my immediate research project plus subsequent projects which might eventuate. Thirdly, that you receive a copy of the interview in whichever form it is recorded (my preference is audio-tape). Fourthly, that you have access to my completed research paper and freedom to reply to it in whatever form or forum you consider appropriate.

With your permission I would also seek audiences with the Group Manager of Corrections and the Assistant Secretary of Probation in order to apprehend their views on the issue as it relates to their respective positions within the administration. If you agree to this I will approach them personally.

Trusting this merits your favourable consideration,

Thanking you

Yours faithfully



Warwick J Tie

APPENDIX TWO

Interview Questions For Group Manager Corrections/Assistant Secretary Probation.

1. Penal Policies which incorporate "the community" have become popular since the late 1950s. What does the Department of Justice mean by "community" and what does "community" have to offer penal policy?
2. The publication "The Probation Division : who we are and what we do", describes Iwi as being a partnership with Probation. What does the Division mean, in this context, by partnership?

To what extent does the idea of partnership extend to Probation's relationship with other groups?
3. Within the community's involvement with Probation what would constitute a disaster were it to happen tomorrow?
4. What would constitute a miracle?
5. Over the last year the Probation Division has, within its relationships with those community groups which provide social services to offenders, reinstated a system of formal contracts. As remembered, formal contracts were used by Probation during the 1960s - 70s in its joint hostel ventures with church social services. For a period during the 1980s Probation did not seek such formality within its Community Programme funding. What gave rise both to that policy of informality plus the reformalization of contracts in the 1990s?
6. In 1987 the Department of Justice introduced the Statement of Principle and Purpose into its management planning process. What prompted the creation of this statement and what ideas shaped its content?
7. Within this Statement the Department declares an intention to maintain and promote, within its sphere of activity, an appropriate balance between the rights and freedoms of individuals and the powers of the State. Within its pursuit of community involvement, how does it determine where the balance ought to lie?
8. The Department of Justice has shown a desire for consultative and participatory decision-making processes. This is evidenced both societally (for instance, within its Review of Penal Policy in 1981) and organizationally (within its own internal decision-making procedures). What advantages accrue from participatory decision-making?

Warwick Tie

June 1992

BIBLIOGRAPHY

- Austin, J. and Krisberg, B. (1984) "Wider, Stronger and Different Nets: the Dialectics of Criminal Justice Reform" in Journal of Research in Crime and Delinquency. Vol.18,1981 : 165-196.
- Ballantyne, I. (1974) "Road blocks to Real Democracy" in New Zealand Monthly Review. April, 1974 : 21-22.
- Boston, J. (1991) "The Theoretical Underpinnings of Public Sector Restructuring in New Zealand" in Boston,J., Martin,J., Pallot,J. and Walsh P. (eds) Reshaping the State. Auckland : Oxford University Press. 1991 : 1-26.
- Bottoms, A. (1983) "Neglected Features of Contemporary Penal Systems" in Garland,D. and Young,P., (eds) The Power to Punish. London : Heinemann. 1983 : 166-202.
- Brookes, R. (1971) "Representative government and the elector" in New Zealand Journal of Public Administration. Vol.33 (2). March 1971 : 1-19.
- Burchell, G. (1991) "Civil Society and 'the system of natural liberty'" in Burchell,G., Gordon,C. and Millar,P., (eds) The Foucault Effect. Hempstead. Harvester Wheatsheaf. 1991 : 119-150.
- Cleveland, L. (1971) "An Anatomy of Pressure Groups in New Zealand" in Political Science. Vol.23. (1), May 1971 : 2-28.
- Cohen, S. (1979) "The Punitive City : notes on the dispersal of social control" in Contemporary Crises, Vol.2. 1979 : 339-363.
- Cohen, S. (1985) Visions of Social Control. Cambridge : Polity Press.
- Committee on Official Information (1980). Towards Open Government : General Report. Wellington : Government Printer.
- Dandekar, C. (1990) Surveillance, Power and Modernity. Cambridge : Polity Press.
- Debnam, G. (1979) "Representation and participation : a matter of priority" in Political Science, Vol.31, July 1979 : 61-64.
- Denzin, N. (1970) The Research Act in Sociology. London : Butterworth.
- Department of Justice (1950-1991) Annual Report to Parliament. Wellington : Government Printer.

- Department of Justice (1964) Crime and the Community. Wellington :
Government Printer.
- Department of Justice (1982b) Report of the Penal Policy Review Committee,
Wellington : Government Printer.
- Department of Justice (File, J9/5/2) "Marriage Guidance : National Advisory
Committee on Marriage Guidance". Wellington :
National Archives.
- Department of Justice (File, J9/5/4). "Marriage Guidance : Counsellor Training
Scheme", Parts One and Two. Wellington :
National Archives.
- Department of Justice (File, J9/5/5) "Marriage Guidance : Education and Publicity".
Wellington : National Archives.
- Department of Justice (File, PROB 8-21) "Probation ; Post-Release Hostels -
Administration ; Christchurch Post-Release Hostel.
'Norman House'". Wellington : National Archives.
- Department of Justice (File, PROB 10-4, Part 2) "Post-Release Hostel; West Street,
Palmerston North". Wellington : National Archives.
- Department of Justice (File PROB 10/8) "Tauranga Probation Hostel". Wellington :
Department of Justice.
- Department of Justice (File, PROB 10-5) "Post-Release Hostel; Whangarei Probation
Hostel". Wellington : National Archives.
- Department of Justice (File, PROB 11-2-7) "Post-Release Hostel; Wellington City
Mission (Walton House)". Wellington : National
Archives.
- Department of Justice (File, PROB 11-23) "Post-Release Hostel; 'Hercus House',
Hamilton." Wellington : National Archives.
- Department of Justice (File, PROB 13-5-2) "Probation; Probation liaison with other
organizations; Marriage Guidance; Counselling,"
Wellington : Department of Justice.
- Department of Justice (File, PROB 14/2/1) "Community Programme Funding ;
Residential Programmes - General Applications".
Wellington : Department of Justice.
- Department of Justice (File, PROB 14/3) "Community Programme Funding ; Non
Residential Programmes ; Overview". Wellington
Department of Justice.
- Department of Justice (File, PROB 14/7) "Community Programme Funding.
Whakatohe Maori Trust Board (Mahi Tahī
Enterprises - Pilot Scheme)". Wellington :
Department of Justice.

- Department of Justice (File PROB 14/8) "Community, Law and Order Fund".
Wellington : Department of Justice.
- Department of Justice (File, 51/7/1) "Liaison, Marriage Guidance Council"
Wellington : Department of Justice.
- Department of Justice (File, 42-4-5) "Administration - Maatua Whangai".
Wellington " Department of Justice.
- Department of Justice (Application Form No. 1104j) Department of Justice
Community Funding, Application for Grant.
Wellington :Department of Justice.No.1104j.
- Department of Justice (1991a) Probation Division. Wellington : Department of
Justice.
- Department of Justice (1991b) Who We Are And What We Do. Wellington :
Department of Justice.
- Department of Justice (1992) Community Corrections Division 1992/3
Management Plan. Wellington : Department of
Justice.
- Dingwall, R. (1981) "The ethnomethodological movement" in Payne,G.,
Dingwall, R., Payne J. and Carter,K., (eds)
Sociology and Social Research. London Croom
Helm. 1981 : 124-138.
- Foucault, M. (1968) "Politics and the study of discourse" in Burchell,G.,
Gordon,C., and Miller P. (eds) The Foucault Effect.
Hempstead : Harvester Wheatsheaf, 1991 : 53-72.
- Foucault, M. (1977) Discipline and Punish. London : Allen Lane.
- Foucault, M. (1978) "Governmentality" in Burchell,G., Gordon.C.,
and Millar,P.,(eds) The Foucault Effect. Hempstead:
Harvester Wheatsheaf. 1991 : 87-104.
- Foucault, M. (1982) "The Subject and Power" in Dreyfus,H., and
Rainbow,P., (eds) Michel Foucault, Beyond
Structuralism and Hermeneutics. Brighton :
Harvester Press 1982 : 208-226.
- du Fresne, K. (1981) "Lobbying : a national sport" in The Listener,
Vol.98 (2164), July 11, 1981 : 14-16.
- Garland, D. (1990) Punishment and Modern Society. Oxford : Clarendon
Press.
- Glaser, B., and Strauss.A. (1967) The Discovery of Grounded Theory. Chicago :
Aldine.

- Gordon, C. (1991) "Governmental Rationality : an introduction" in Burchell,G., Gordon,C. and Millar,P., (eds) The Foucault Effect. Hempstead : Harvester Wheatsheaf. 1991 : 1-51.
- Hill, L. (1974) "Parliamentary Petitions, the Ombudsman and Political Change in New Zealand" in Political Studies. Vol.22, September 1974 : 337-346.
- Jackson, M. (1988) The Maori and the Criminal Justice System. Wellington : Crown Copyright.
- Jensen,M and Meckling,W.(1976) "Theory of the Firm : Managerial Behaviour, Agency Costs and Ownership Structure" in Journal of Financial Economics. Vol.3 1976 : 305-360.
- Jesson, B. (1987) Behind the Mirror Glass. Auckland : Penguin Books.
- Johnson, R. (1974) "On Expanding the House of Representatives", in New Zealand Monthly Review. Vol.14 (154) April 1974 : 14-16.
- Keane, J. (1984) Public Life and Late Capitalism. London : Cambridge University Press.
- Keane, J. (1988) Civil Society and the State. London : Verso.
- Keith, K. (1987) "Open Government in New Zealand" in Law Review. Vol.17 (4) September 1987 : 333-343.
- Laclau, E. (1981) "Politics as the construction of the unthinkable". Unpublished paper; translated by David Silverman, Mimeo : Department of Sociology. Goldsmiths College; cited in Silverman 1985 : 62-68.
- Lee,A. (1981) "Volunteers in the Penal System" in Penal Policy Review Committee 1981 Background Papers Vol.11. Wellington : Department of Justice 1981 14-26.
- Lipson, L. (1989) "Power, principles and democracy" in Political Science. Vol.41 (2) December 1989 : 1-17.
- Mathesian, T. (1983) "The Future of Control Systems - the Case of Norway" in Garland, D. and Young P.,(eds). The Power to Punish. London : Heinemann 1983 : 130-145.
- McLaren, K. (1992) Reducing reoffending. What works now. Wellington : Department of Justice.

- McLennan, G. (1989) Marxism, Pluralism and Beyond. New York : Polity Press.
- McMahon, M. (1990) "Net-widening. Vagaries in the Use of the Concept" in The British Journal of Criminology. Vol.30 (2). Spring 1990 : 121-149.
- Minogue, M. (1974) "Beware the corporate state - double think, double speak and double domination" in Management. Vol.31 (2) May 1974 : 74-77.
- Mitchell, A. (1969) Politics and People in New Zealand. Christchurch : Whitcombe and Tombs.
- Moriarty, M. (1951) "Pressure Groups" in New Zealand Journal of Public Administration. Vol.13 (2) March 1951 : 16-24.
- Mulgan, R. (1978) "The concept of mandate in New Zealand politics" in Political Science, Vol.30. December 1978 : 88-96.
- Nelken, D. (1985) "Community Involvement in Crime Control" in Current Legal Problems. London : Stevens & Sons. 1985 : 239-267.
- Nelken, D. (1987) "The Use of Contracts as a Social Work Technique" in Current Legal Problems. Vol.40. 1987 : 207-232.
- Nelken, D. (1989) "Discipline and Punish : Some Notes on the Margin" in The Howard Journal of Criminal Justice. Vol.28 (4) November 1989 : 245-254.
- New Zealand Parliamentary Debates. Vol. 304 (1954)
Vol. 336 (1963)
Vol. 378 (1972)
- Oliver, W. (1967) "The future of politics; trends to the right or wrong?" in Comment. Vol.8 (4) September 1967 : 14-18.
- Oliver, H. (1989) "The Labour Caucus and Economic Policy Formation, 1981 to 1984" in Easton, B. (ed) The Making of Rogernomics. Auckland : Auckland University Press.
- Olssen, E. (1952) "A Second Chamber : The Report of the Constitutional Reform Committee: in Landfall, Vol.6, December 1952 : 321-325.
- Olssen, E. (1961) "The case for constitutional reform" in Landfall, March 1961 : 67-73.
- Pallot, J. (1991) "Financial Management Reform" in Boston, J., Martin, J., Pallot, J. and Walsh, P. (eds) Reshaping the State. Auckland : Oxford University Press.

- Palmer, G. (1984) "A Recipe to change New Zealand's system of Government" in New Zealand Law Journal. February 1984 : 31-33.
- Palmer, G. (1985) "Implementing open government : A progress report" in New Zealand Law Journal. February 1985 : 46-49.
- Palmer, G. (1987) Unbridled Power. Second Edition, Auckland Oxford University Press.
- Pateman, C. (1970) Participation and Democratic Theory. London : Cambridge University Press.
- Robertson, J. (1969) "Public Service Management in the 1970s" in New Zealand Journal of Public Administration. Vol.23, September 1969 : 23-37.
- Robertson, J. (1978) "Changes in the machinery of government and their effects on senior officials" in New Zealand Journal of Public Administration. Vol.40 (1) March 1978 : 31-49.
- Robinson, A. (1974) "The role of pressure groups in New Zealand" in Political Science. Vol.26 (2) December 1974 : 48-56.
- Robson, J. (1973) "Criminology in Evolution - The Impact of International Congresses" in Otago Law Review. No.1, 1973 : 5-38.
- Robson, J. (1987) Sacred Cows and Rogue Elephants. Wellington : Government Printer.
- de Saussure, F. (1974) Course in General Linguistics. London : Fontana.
- Shirley, I. (1990) "New Zealand : The Advance of the New Right" in Taylor, I., (ed) The Social Effect of Free Market Policies. London : Wheatsheaf and Harvester Press. 1990 : 351-406.
- Silverman, D. (1985) Qualitative Methodology and Sociology. Aldershot : Gower.
- Silverman, D. (1989) "Six Rules of Qualitative Research : A Post Romantic Argument" in Symbolic Interaction. Vol.12. 1989 : 215-230.
- Smart, B. (1983) "On Discipline and Social Regulation" in Garland, D and Young, P., (eds) The Power to Punish, London : Heinemann. 1983 : 62-83.
- State Services Commission (1962) Report of the Royal Commission of Inquiry. Wellington : Government Printer.

- State Services Commission (1991) "Extract from Briefing Papers for the Minister of Justice, 1990 - Volume One, Key Policy Issues" in Performance Review of the Department of Justice. Wellington : Crown Copyright. 1991 : 96-100.
- The Treasury (1984) Economic Management. Wellington : Government Printer.
- The Treasury (1987) Government Printer. Wellington : Government Printer.
- Tocqueville, A. (1935-1840) De la democratie en Amerique. Volume 2, preface by Francois Furet (Paris 1981). Translation by John Keane.
- Whitney, L. (1990) An Inventory of Groups and Individuals Involved With Offenders in the Community. Wellington : Department of Justice.
- Young, J. (1988) "Radical Criminology in Britain : The Emergence of a Competing Paradigm" in The British Journal of Criminology. Vol.28. 1988 : 289-313.