

The victims of imprisonment are not only the inmates but also those innocent persons who, because of the therapeutic ineffectiveness of prison, will inevitably become the victims of these inmates after their release. Electronic rehabilitation systems may reduce the need for imprisonment and at the same time protect the public from future offenses more surely than present procedures. The humane quality of urban life in the future may, indeed, depend heavily upon the extent to which citizens can be free from harm by others. Technology may make it possible to regain some measure of freedom to walk the streets and enjoy the parks in safety, and to greet the stranger as a friend rather than as one to be feared. On the other hand, the misuse of behavioral telemetry equipment in crime prevention presents a most serious threat to the essential civil liberties of the general public. Nothing will have been gained, and much will have been lost, if in our enthusiasm to reduce crime and eliminate prisons we turn the world itself into a prison.

This paper has attempted to chart, in very rough outline, a course that could maximize the freedom of both the chronic recidivist and the general public. The issues inherent in the use of technology to prevent crime must be considered now, if we ourselves are not to become the victims of our own efforts in crime prevention.

COMMENTARY

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PROFESSOR SCHWITZGEBEL'S PAPER attempts several different projects. He has been involved in the extension of a technical invention into the area of penology. Here he is clearly serving notice of its availability and advocating its adoption. He is careful not to overstate the case and not to ignore possible objections. Nevertheless the consideration of objections (the "Issues" of the title) is in aid of countering or vitiating those objections. In this purpose he has shown as much ingenuity and subtlety as he did in the program of electronic monitoring itself. Conceivably, Schwitzgebel has not anticipated all doubts of a civil libertarian or humane perspective. But he has posed enough of them and discussed them sufficiently well to give us the confidence that he would do a thor-

ough job on others that might arise. Unfortunately, many of them cannot easily be given the force and moral authority of law.

He must be congratulated on steering a tortuous course which avoids giving blatant offense to any of his various significant publics. He does not alarm the liberal with unseemly gloating over the gadgetry, nor with a callous indifference to the sensibilities of his subjects or assorted "third parties." Nor does he let down the side of defenders of public safety through sentimentality toward criminals. There is something for all interested parties here: prisoners, parole officers, psychotherapists, and the police. It testifies to the seriousness of his concern.

His proposed system has one overriding recommendation. His own research bears out the intuitive suggestion that recidivists themselves would much rather accept the annoyances of the apparatus and the rules for using it than languish in duration vile. We know enough of prisons, even at their best, to be convinced that there are very few situations that would not be preferable. This being the case, it only remains to reassure various publics that ordinary society will be adequately protected, both from the parolees themselves and from possible unanticipated and demonic abuses of the system itself. This, of course, is what the paper is really about. Schwitzgebel also does rather a neat job of reassuring other types of penal experts that adoption of his approach does not preclude or replace their own pet projects.

Aside from quibbling over the hypothetical effectiveness of the proposed technical resolutions of moral and philosophical problems (which is unprofitable in the absence of research findings and field experience on these matters), I do not see much grounds for objecting to these arguments *as they stand in the paper*. Two major issues, which are not adequately faced in the paper and which concern the institutional context of the paper itself, still bother me, however. The first issue is the possibility of controlling the technology, now that the idea is abroad, so that the caveats entered by Schwitzgebel must be taken into account. The second issue is the institutional control of the system in use on a mass scale and over time so that its custodians are held accountable to the rules. The two are obviously related, but can usefully be separated for discussion. The summary question is this: We are told that several things *could* be done or *should* be done in applying the system humanely. But what confidence can we have that any of them *will* be done?

Let us consider these issues in order. Schwitzgebel is in some position of proprietorship over the technique at present, and this should help to insure that his system will be instituted in accordance with his

strictures. However, in spite of patent and copyright laws, technology of this kind is difficult to control once the idea is available. The skills and talents for devising a workable version of electronic monitoring are not hard to come by. What is to prevent anyone with the will, the resources, and the power from using it without the recommended protections, and in the least palatable form imagined by Schwitzgebel? Much of the force of this article is lost when we remember that his proposals and our opinions of them may be largely irrelevant to determining whether and in what form his idea is realized. The question passes from whether the arguments are good to who is listening.

The history of our age is not very reassuring about the power of enlightened humane thinking to limit or guide the implementation of powerful technological advances. Unfortunately, it is at this very point that Schwitzgebel's ingenuity gives out. He gives us only injunctions, "we must," "they must," but we get no help if we cannot and they will not. Can we expect that sometime the same technical cleverness that devises systems like this will devise strategies for insuring the responsibility of adopting agencies? Or would that be one more gift from Pandora's box? In any case, whatever we answer, if this is a workable idea it is likely to find acceptance and render most of the discussion moot. So many of the bright ideas of the past have been implemented as half-hearted compromises, whose ultimate consequences are seen by some as worse than the evils they were meant to remedy (witness the juvenile court system or civil commitment for sexual offenders). It would be foolhardy to rely on Schwitzgebel's civil libertarian package being swallowed intact.

To turn to the second question, there is reason to worry that if such a system became routine procedure for large numbers of offenders over a period of time, routine abuses would appear, however exemplary the original rules of procedure might be. The field of social reform offers many instances of the generalization that all pilot projects work. Their staffs are specially chosen, have heightened motivation, and the unique ego-rewards which come from being pioneers. Their "target populations" show the Hawthorne effect, that any change is taken as a sign that somebody cares. They, too, are specially chosen, and are likely to be on their best behavior because everybody is looking. But what will the system look like in practice when it becomes routine? When the agencies are understaffed and overworked? When salaries are too low and when manpower recruitment and turnover are chronic problems? When it gets harder to find people with optimal qualifications

to take the staff jobs? When the pressures of collateral bureaucracies become more significant than the rules of the system? The article tells us quite a bit about how the system will look if the most positive ideals of parole work are realized, including the glittering but ever-elusive goal of therapy. But what we really need to know is what routine level the system will actually find if the future bears out our experience of the past. Here again, research and technical ingenuity might come in very handy to tell us how such mass systems might be kept up to the mark. But here again ingenuity is absent.

Finally, Mr. Schwitzgebel has given us a most provocative and well-considered discussion. But we will not be surprised if, in spite of his efforts, his idea in practice turns out to represent his worst fears rather than his highest hopes.

REPLY TO PROFESSOR BECK'S COMMENTARY

With his usual clarity, Professor Beck has commented, "The summary question is this: We are told several things *could* be done or *should* be done in applying the system humanely. But what confidence can we have that any of them *will* be done?" The answer to this question is, in my opinion, "None." No guarantee can be given that our present institutional arrangements will realize the human potential of this system or, conversely, will prevent its wide spread misuse.

I agree with Professor Beck that the present rules of procedure may not be adequate to prevent routine abuse within typical correctional systems. This is why the suggestion was made that demonstrated, long-term therapeutic effectiveness should be a prerequisite for the use of the system. However, I did not make it sufficiently clear that therapeutic effectiveness was also to be a continuing standard for the permissible use of the system. Additional criteria such as adequate interpersonal privacy might also be put into the form of a standard to be met subject to periodic review (*e.g.*, FCC license renewal).

However, as a society, we have very little experience in regard to methods for the regulation of the growth or effects of technology. Research is needed to provide the data necessary for finding suitable regulatory methods. In this sense, the electronic rehabilitation system is a case study now in progress within the broader area of science policy. Of course, even with very much research data there are very few