



The Royal Commission (Rehabilitation of Offenders)

A paper by Mr R. J. Kidney, Director of Offenders Aid and Rehabilitation Services of S.A. Inc., prepared for a Seminar at the Flinders University, South Australia, on 19th March, 1982.

An editorial from *The Advertiser* reads as follows:

"It recognises that the main aim of any penal system, in the interests of the community, should be not to punish offenders, but to rehabilitate and reform them. It recognises that there are no simple solutions, but, admitting this, it recommends some practical and humane steps in a progressive overhaul of all our corrective machinery.

"Its basic attitude is revealed in its suggestion to change the name of the Prisons Department to the Department of Correctional Services, and in its forth-right recommendation to abolish capital punishment as being obsolete and morally abhorrent.

"It would change life in the prisons, both physically, by building a new one in the metropolitan area and changing the functions of existing gaols, and psychologically, by paying more attention to the simple welfare of prisoners and by improving the training and recruitment of staff.

"The present standards of our gaols do not escape criticism, and the committee makes it evident that it feels that men who are condemned to live in sub-standard conditions and in poor health are not the most receptive to any kind of constructive correctional treatment."⁽¹⁾

So reads *The Advertiser* 1.8.73. When reporting on an enquiry which was hailed as a 'blue print' for much needed reform in South Australia, *The News* editorial said:

"There is no doubt it will be studied closely elsewhere in Australia and in other countries too."⁽²⁾

One cannot be blamed for being sceptical about enquiries and Royal commissions that are set up by Governments. It also illustrates how slow change is in correctional systems — yes we can pin point problems and even change names of Departments, but getting to changing the system seems to be at the heart of the problem.

There is abundant evidence from the Western World about the failure of the prison system to rehabilitate the offender.

In 1973, the National Advisory Commission of Criminal Justice Standards and Prisons U.S.A. had this to say:

"The failure of major institutions to reduce crime is incontestable: recidivism rates are notoriously high. Institutions do succeed in punishing, but they do not deter. They protect the community, but that protection is only temporary. They relieve the community of responsibility by removing the offender, but they make successful reintegration into the community unlikely. They change the committed offenders, but the change is more likely to be negative than positive."⁽³⁾

An even stronger condemnation comes from Anne Newton of the National Council on Crime and Delinquency. She writes:

"Imprisonment is neither socially nor economically desirable for the hundreds of thousands of non dangerous and non violent offenders among the population of inmates. Prisons have been proven to be ineffective in

rehabilitation, probably incapable of being operated constitutionally, productive of crime and destructive of the keepers as well as the kept. Imprisonment provides no benefits to the community or to the individual victim of crime who has suffered damage or loss."⁽⁴⁾

The Canadian 1977 Report to Parliament states:

"Society has spent millions of dollars over the years to create and maintain the proven failure of prisons. Incarceration has failed in its two essential purposes — correcting the offenders and providing permanent protection to society. The recidivist rate of up to 80% is the evidence of both."⁽⁵⁾

It is significant that in his report on the Royal Commission, Commissioner Clarkson said:

"In evidence which occupied over 13,000 pages, I do not recall any witness saying that the present prison system in South Australia achieved any substantial degree of rehabilitation. At least all reasonable steps should be taken to ensure that it does not provide specialist training for criminals."⁽⁶⁾

The South Australian Royal Commission found improper use of prison labour, property and facilities, irregular practices, resulting in deaths of prisoners in custody, assaults etc., all of which highlight the problems caused by the prison system and go to support the statements I have just made.

What I find disappointing, however, is that when we had a Royal Commission, it was so restricted by its terms of reference, that it could not examine the system that caused the very problems it was set up to investigate, let alone examine the failure of prison to rehabilitate.

We remember that these covered investigation into allegations of graft, corruption, misappropriation of goods and irregular practices at prisons under the charge, care and direction of the Director of the Department of Correctional Services.

Allegations of sexual and non sexual assaults, allegations relating to the security of prisons and discipline of prisoners.

Finally, allegations relating to the presence of unauthorised material within the prisons.⁽⁷⁾

I repeat, there was no investigation into the system that generates such problems. A good example of trying to deal with the effect without the cause or treating the symptom without examining and treating the disease.

The reasons why prisons fail to rehabilitate are obvious to people working within the system. Prisons strip people of responsibility by separating them from the community for a period and then turns them loose again, expecting them to have been motivated towards responsible behaviour.

With a job lost or career ruined, family life broken, scars of the experience are there for life — another casualty of the system and at what cost to the society that allows all this to happen? . . . and at the cost of \$16,500 for each person per year kept in prison in S.A. If prison does not change people

for the better and equip them for resettlement — we will only see patterns of recidivism, as our earlier quotes state.

At the beginning of the Royal Commission, unsuccessful attempts were made by correctional officers, counsel from prisoners, as well as submissions from concerned people like OARS to have the terms of reference widened.

The Commissioner, however, pointed out what most people were unaware of at the time, that two other enquiries were also in progress — one, a study by the Public Service Board and another being the Touche Ross investigation of the Department of Correctional Services: so, to get the total picture regarding future proposals, we need to take these investigations also into account.⁽⁸⁾

As I said earlier, change in correctional systems has been slow, and we have had to be content with small improvements to existing facilities instead of changes that we would like to see. So, for this reason alone, the Royal Commission and investigations have to bring hope that some action will result and cause some change, because many important issues were dealt with.

It was important that some very basic concepts were re-stated by the Commission.

e.g.: that people are sent to prison as punishment and not for punishment. The need for segregation was stressed.

Before looking at some recommendations of the investigations and because of the evidence about the failure of prisons to rehabilitate, it is pertinent to ask "To what extent do we need prisons in our society today?"

There are not too many people who advocate complete abolition, but there is increasing support for only incarcerating those from whom society needs protection. In other words, the violent and dangerous offender. Hopefully we may even discover better ways to deal with these — but at present this small percentage of offenders need maximum security.

A recent statement prepared by a sub-committee of the South Australian Branch of the Australian Crime Prevention Council says:—

"Our information and belief is that approximately nine-tenths of those who are ordered to serve substantial custodial sentences are anxious to serve their sentences with as much dignity as possible and anxious to obtain their release at the earliest possible date achievable through good behaviour and application whilst in custody. This large group, we would contend, involve but a small security risk, either to others or to themselves. We would submit that it is only a comparatively small percentage of prisoners who require attention at a high security level. There are those that must be closely confined because of their propensity to do harm, either to themselves or to other inmates, if they are not closely supervised. There are those who must be especially supervised because their safety is at risk if they are left to the mercies of other prisoners.

We recommended that consideration should be given to the establishment of a system whereby prisoners in custody are classified for security purposes. The accommodation provided in the various institutions could then be tailored to meet the requirements of those classifications. Obviously, there would be a need for a high security prison containing different sections for the various classes of persons who are security risks for the different reasons already discussed. We would suggest that the Yatala Labour Prison should continue to fulfil that function.⁽⁹⁾

I believe our greatest error is to regard too many prisoners as high security risks in need of expensive confinement.

For this reasons OARS questions the need for Government to spend millions of dollars to build a super security prison adjacent to Yatala — I understand to accommodate fifty. Based on Victorian figures, this would cost over \$11 million. Before we rush into such expenditure, we should heed what

Royal Commissioner Nagle said about Katingal in Long Bay — now closed because considered inhumane.⁽¹⁰⁾

To feel the real pulse for correctional change and interest in rehabilitation, we need to start with the community and ask how the ordinary citizen sees things. Perhaps this is where the problem lies — because, when most people think about punishment or corrections, they think about traditional prisons with walls, bars, cells and security. This is exactly what Norval Morris has written.

"Prison is today the core of the world's penal system and is the norm of punishment in men's minds. It is the heart of all present criminal law systems."⁽¹¹⁾

I believe that in our thinking we need to depose prison from its central place and see it as just one of the options in our correctional system; obviously much community education is necessary.

The New South Wales Prison Royal Commission was heavily in favour of alternatives to imprisonment. The Commission argued that these "should be used as extensively as possible and prisons should be used only as a last resort."⁽¹²⁾

Community correctional programs will be more successful in rehabilitating offenders as they don't take them out of the ordinary social environment, suspending constructive relationships and contacts. Secondly, they are cheaper and, thirdly, more humane because they avoid the harmful effects of institutionalisation.⁽¹³⁾

Now is a vital time for the S.A. Government. There is opportunity to be courageous and formulate careful correctional planning which will set the pattern into the 21st Century. If by the introduction of community based corrections more people can be kept out of prison, even the need for more minimum security institutions may lessen.

It is interesting to note at this point that the Government, while legislating for community work orders, has not, in the present legislative session, provided for two excellent options, namely:— Periodic or weekend detention and work release — despite the fact that these are operating elsewhere in Australia.

The courts will have sentencing options of fines, bonds, suspended sentences, probation and, later, Community Work Orders: but, for successful rehabilitation, we need as wide a range as possible, both in the community and in institutions. So I hope they will be considered.

Community Work Orders provides a very important ingredient in punishment — restitution.

"Restitution to society in general can take the form of Community Service — a symbolical, non-monetary way of rectifying anti-social behaviour, by contributing to the welfare of the community in the form of services performed."⁽¹⁴⁾

This is involving the offender in positive action — he is not the negative recipient, as in some institutions, where he would be told what to do and have all decisions made for him.

Doing community work, he can expiate his guilt feelings, experience self esteem by doing good — after perhaps having been previously labelled bad and doing accordingly. Those people involved in providing Community Work Order experience would exert a more positive influence than those he would encounter inside and thus change in attitude would be likely.

In addition to using alternatives to decrease the need for more prison accommodation, we should be asking questions whether some of the people now in our prisons should in fact be there at all — could not alcoholics and other drug offenders be sentenced to more appropriate treatment facilities; what about the mentally disturbed — of the kind that had great prominence in the Royal Commission; and surely there are too many Aborigines for whom alternatives should be

found; and, finally, 65% of all prisoners serving sentences in S.A. are in for a shorter period than 28 days. These are the kind of people who should not be in gaol and who are there because the Courts have no other option available. Solve these problems, and our prison accommodation needs will decrease even further.

Maybe we need to be looking to building treatment centres for some of these people, but it is questionable whether they need to be traditional prisons, even though such facilities could still be under Correctional Services control.

To cater for all these needs, I would like to see a new complex built for the non-violent — a minimum security village-style facility, containing hostel type accommodation — with a security fence, possibly to keep the public out, and built near Yatala, so that residents could have advantage of the new industrial complex.

With a new remand centre and this holding accommodation, the rest of Yatala could comfortably hold maximum and medium security prisoners.

By classifying and clearing and segregating, there would be more hope of achieving more overall for everyone than at present.

Trade training could proceed and education opportunities continued through the Department of Further Education, as is being developed.

While mentioning training, it is appropriate to comment on prison industries, because of their importance in rehabilitation.

The Touche Ross report, in its section on prison industries, states, firstly, the importance of providing work for prison inmates; secondly, to maximise the economic benefit to the state; thirdly, to stimulate rehabilitation through impartation of a sound work ethic; and, fourthly, to provide training and special skill opportunities to those inmates desiring such benefits. The rehabilitation objective in this is to create a prison industries work environment, which, as closely as possible, parallels external conditions.⁽¹⁵⁾

For this to happen, it will be necessary for the Department to establish firm guidelines and priorities in what prison industries are expected to achieve — whether the aim is production to defray prison costs, or just production to provide work to occupy time and to provide discipline, or industry to provide training and rehabilitation. In Canada, I saw a large prison industrial complex in trouble in its inability to keep up with production schedules to fulfil orders; this being consistent with the common belief that, to accomplish any one of the functions that I mentioned, one or more of the others had to be sacrificed.

From what I saw in two South African prisons last year, however, they seem to be accomplishing all these goals. I trust that our new prison industries at Yatala, when fully operational, will have similar success.

In the cause of real rehabilitation, it is important that other conditions in prison that are on-going causes of strife be looked at thoroughly. I refer to matters like censorship of mail, hours in cells and visiting conditions — just to name a few.

For too long, insufficient staff and industrial problems have been used as reasons why evening 'out of cell' activities haven't been possible. For some years OARS has been advocating mid-week evening visits and group activity.

It is acknowledged that during the past 10 years the frequency of visits have increased and, with inadequate facilities, this has proportionately increased pressure at weekends in the institutions.

New visiting facilities for the public are urgently required, where women and children can wait in comfortable surroundings, without having to endure the extremes of heat, rain and cold, as at present. This is an urgent need, particu-

larly at Yatala, and is deserving of No. 1 priority, even ahead of super security. (OARS has recently been able to finalise arrangements for the installation of coffee and Coke machines in the waiting room at Adelaide Gaol.)

Visits for all prisoners should be contact visits, unless it is found that there is abuse of the method. Then and only then should non-contact visits be enforced for those who abuse the system by passing contraband. My point is that every prisoner should not be penalised because of the few who abuse their opportunity, as happened when contact visits were discontinued in the seventies.

In our institutions, we need to recruit and train the very best people for the task. The role of the prison officer is vital in rehabilitation.

Quality control in selecting prison staff is of utmost importance. The prison worker is the most visible representative to the inmate of the society that incarcerated him, and is the most visible model of integrity of that society — in communications, in caring, in attitudes, in morality, in integrity and in relationships. Unfortunately, commissions and enquiries, in bringing offending prison officers to justice, can cast slurs on many fine officers of the service.

All I can say is that officers working in this field who see it just as a job, or who see prisoners as disposable garbage, or who are so weighed down with their own problems, would do better being honest with themselves, and others, and find another vocation.

Probably one of the most important aspects of rehabilitation is the provision of job opportunities on release.

Firstly, there is the on-going need to approach industry. It is important that employers are made aware of subsidy training scheme now available for ex-prisoners (minimum of 6 months of \$69.00 per week). Organisations like OARS can only appeal to employers and to encourage an awareness of the problem through public speaking appointments to community groups. A breakdown by the offender, which is not always his fault, because of pressure and lack of understanding, always makes it harder for the next approach — but subsidies should help.

It is for this reason I feel a Work Release Program and adequate pre-release counselling, training and liaison is so important. By allowing the person to go to work in the community prior to being fully released (and that from a hostel rather than the prison) he is better able to settle into employment first before facing the other sudden changes in lifestyle. Adjustments with his family and the community at large follow as an easier second step.

For some prisoners qualifying for work release, there could be great benefit in setting up special work release programs in the community, rather than placing them immediately into industry. As an example of this, our organisation employed 19 ex-offenders to erect new offices over a period of 12 months. A number of these men were placed with us directly from prison.

Working among people who understood them, was of considerable benefit and enabled a good settling in process and provided an opportunity of a reference for the next job.

Our organisation has seen many other ex-offenders make it through the job opportunities and training we have been able to provide. Among these was a rather notorious criminal (imprisoned in three States for armed hold up and was the first to hold up a T.A.B. agency in S.A.).

The fact that he is, today, ten years after his release from Yatala, a member of our Executive Committee, illustrates that rehabilitation works, and is not a myth as some say today.

In 1973, our organisation pioneered post release houses and today has 12 such places which have become an integral part of corrections in South Australia — accommodation also being a very important part of rehabilitation.

Getting back to Work Release: whether it is used or not, it is imperative that greater efforts be made to introduce expanded pre-release programs. This is, in fact, recommended in the Touche Ross report also.⁽¹⁶⁾

At present pre-release groups are held over about six weeks for 15 hours. Topics cover legal rights, finance, housing and employment, relationships, problem areas, alcohol and drugs. These could be expanded to cover a wider range of whatever subjects thought desirable.

I would like to see the introduction of 'in prison seminars'; held at least quarterly, with people from the community interested in the particular prisoner and being invited to join him for the sessions. I was involved in one of these last year at Pentridge in which about 12 visitors sat with, and joined in, group discussion with 15 inmates for 3 mornings.

Such seminars could be designed to motivate the inmate to change behaviour patterns, set goals for his future and provide the necessary incentive and encouragement for him to be able to achieve all this. Obviously these personal encounter type growth groups need to start well before immediate release — in fact, they could well start shortly after intake and be part of the personal planning that needs to be done for rehabilitation of every offender.

Important as programs and conditions and well trained staff are, I think rehabilitation, or motivation for change, is achieved very much by a one to one relationship.

We need to find people or a person who is concerned enough to get involved in the inmate's life and be prepared to share his problems. Well motivated, caring people can be instruments initiating change in people's lives, particularly in values, motivation and goals. As we have seen, this is an uphill job, because of the problems caused by the system which tends to destroy or damage the person's ability to develop in the direction of responsibility. Again, we need to be reminded of what is happening to the incarcerated person.

The prisoner suffers loss in decision making; he has been separated from everyone who is important in his life; he lacks people who can care for him; he lives in an abnormal sexual climate; and has little motivation for work.⁽¹⁷⁾

The offender needs exposure to thoughtful, caring people, who can inspire hope so that he is motivated to change.

This is the very task that OARS and the Department is attempting in finding people who are prepared to give time and effort as volunteers, both in prison visitation and community after care.

This is an important area where ex-offenders, who have been through all this themselves, and have made it, should be encouraged or enlisted to get involved. I would go further and say — ex-offenders with suitable skills should be given opportunity in correctional services. OARS has 7 such people on its staff.

Finally, tied in with the rehabilitation of the offender is his family and the community and the conditions from which he came and to where there will be a return, sooner or later. Effective work has to be done with the family, both in caring for them in his absence, and by way of problem solving and adjustments in preparation for his release. This is another area of work undertaken by OARS, but much needs to be done in the understanding of the relationship between the family and the offender and the reasons for his offending.

The bearing of social conditions, the injustices, poverty, unemployment, are also aspects needing attention. Unjust laws, unjust treatment, unjust economic conditions can destroy public respect for law and authority. We see some people commit offences because of economic pressures caused by unemployment and other circumstances in which

they find themselves. If people volunteer to get involved with offenders, the underprivileged and, at the same time, deal with social injustice, it will go a long way to reduce crime and foster a spirit of individual generosity and our sense of communal values.

in summarising — the Royal Commission had nothing to say about rehabilitation. We can hope that it and its concurrent investigations will bring about change within institutions that will facilitate rehabilitation.

I see a need for the Government to state clearly its policies or its philosophy and aims on corrections and, in particular, how it will dovetail these into the rest of the criminal justice system. I see the Touche Ross report as a good start in this direction.

We need community support for and participation in corrections in the future.

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