

THE YOUNG OFFENDER — RETHINKING TRADITIONAL METHODS

In this paper I intend to spend some time considering problems presented by the young offender in relation to the Conference's theme on Alienation. In the main my comments will relate to observations made in New South Wales, but I believe the conclusions reached can have wider application. My views are entirely my own. They do not necessarily reflect the position adopted by, or the opinion of, the Corrective Services Commission of New South Wales.

At the outset might I restate what most workers in the field would agree on — that it is impossible for anyone to provide answers which would reduce completely the specific problems set by young prisoners, or by young offenders, or by young persons at risk in society. Nor is any ready answer to be found to the widespread aspects of alienation except to attempt, where possible, to reduce those forces that create and perpetuate social and personal inequality, or to overcome the dimensions of social distance brought about by lack of acceptance, personal abuse and maltreatment and rejection, and the inability to relate to others.

What ready answers can there be to the crushing problems of unemployment, which for example were reflected by the 87.5% of working age offenders who were unemployed when admitted to a remand centre in New South Wales during July 1983. What answers do we have to the loss of hope and the growth of alienation, when for example, a survey in 1982 of fifty randomly selected residents, with an average age of fifteen years, of a New South Wales Remand and Assessment Unit, in its preliminary findings, found that almost all of those interviewed, felt they had little control over the things that happened to them in their lives. A situation which seemed to be worse for the girls who were interviewed.

The majority of this particular group were assessed as having poor self-esteem, with a feeling that they had achieved nothing in life. Sixty five per cent of the group stated that they had suffered from acute bouts of depression with serious contemplation of suicide on more than one occasion. Indeed, 24% claimed that they had unsuccessfully attempted suicide, usually through overdosing.

The personal problems faced by these groups alone seem to spell out the types of difficulties faced generally by young offenders. The problems set by unemployment, the attitudes expressed in a contempt of authority and for any form of constraint, the feeling of 'going nowhere' are common elements in the lives of young offenders. Moreover the background of seeming aimlessness in life, and the lack of personal security, so frequently creates a situation in which field and institutional workers themselves feel powerless to halt the drift towards destruction.

The answers to a restructuring of society, the redistribution of resources, the refashioning of values relating to personal worth and the development of a greater sense of social self-awareness, lie far beyond the individual efforts of workers faced with immediate day to day problems. Yet if practical steps are not attempted, or time is not taken for a re-examination of the problems, particularly to evaluate what we are doing in terms of our operational principles and the justification for our actions, we will certainly get nowhere.

It is for this reason that I suggest we look at some of the practical problems involved in the institutional treatment of young offenders, and then to consider the basis for society's action in the treatment and management of young persons in prison or residential care. In so doing, to ask whether a further dimension might not be developed within the traditional beliefs



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that provide a rationale for punishment. From that point, to consider the practical application of that dimension and its effect on traditional methods related to the control of offenders.

For what we have created in our field and institutional systems can be self-perpetuating. We set the course. The system ploughs ahead. It gathers strength year by year, as repeated submissions are made for more staffing and resources. Sometimes the resources are available, sometimes they are not but eventually through a dint of sheer persistence the system grows in strength, often without a regular evaluation of performance.

A social audit of performance is as critical in its accountability as a financial audit. Both types of audit, however, are limited when society permits problems to be spawned which seemingly are uncontrollable. For example, the violence associated with the behaviour of some young people is appalling.

There is a senseless destruction of property. There is an insensitivity displayed by many young offenders in criminal acts which makes one wonder what can be achieved in any form of treatment — yet we ourselves fail frequently to comprehend that many of our treatment methods of control and management do nothing other than exacerbate the problem. What value is institutional work if it is only a form of warehousing, amounting to a temporary holding situation — out of sight, out of mind . . . ? What lasting value is to be found in institutional care if for some offenders, who often present the greatest behavioural and criminal problem, it is only a place of habitation prior to release, which in turn, is only for a limited period of freedom.

As described by John Irwin in his book "The Felon", release for many young offenders amounts simply to release to 'the streets'. Freedom thus is nothing more than a period of time in which to commit crime prior to arrest and reimprisonment. What value is there in institutional work if the real impact of imprisonment simply means immersion in a different kind of life? Donald Clemmer, some years ago wrote of 'prisonisation' and the fact that few, if any, prisoners leave an institution with exactly the same attitudes and values which were present prior to their committal.

A prison experience is likely to affect the young offenders' subsequent behaviour. Frequently involvement in prison living means the acquisition of greater skills for a criminal career. Hopefully we look for change but whatever changes are effected through imprisonment, may lead only to making the young offender more adept in criminal behaviour; more resistant to the law, or authority; more alienated from society. What I have said, however, does not mean that every person committed to an institution automatically becomes involved in further crime. The great majority of released offenders appear to eventually settle down to what can be assumed as a law-abiding existence. At least, as they grow older they do not come back into the institutional fold. There are others, however, who do. It is that particular group who are likely to become hard-core offenders — recidivist prisoners of the type I came to know in Parramatta Gaol some years ago. Ninety per cent of those men had been institutionalised as delinquent at an earlier stage. It is amongst these men that the network of acquaintances and friendship links remain over time.

As depicted by Jim McNeil in his play 'The Chocolate Frog', incidents which occurred many years before in a Juvenile Training School and, which, in the eyes of other young offenders, added to notoriety, or to infamy as gauged by inmate standards. These matters are not easily forgotten. The antecedents of the "dog" or the informer, are never really obliterated from the institutional record of performance as viewed by other offenders.

"Willingness" and an ability to fight the system in the Training School, give lustre to the social standing of the young prisoner in the adult prison. Criminal contacts come in handy for many young prisoners and a return to freedom may mean a reactivation of past contacts both in the sense of committing further crime, or in turning to persons who may be able to help materially in the post-release period. At least they speak the same language. There is a measure of acceptance that may not be found elsewhere. It is not really much different to the 'old boy' network which operates in the other, but distinctively different, social settings. This type of correctional charade for some offenders continues through time. The values of institutional life in the juvenile or the adult prison, become the backdrop against which criminal careers are crystallised, replete with the reinforcing qualities of suspicion and hostility towards law-abiding society.

However, these comments in no way are intended to reduce the importance of the work of staff, either in institutions for juveniles, or in prison work. Staff face an extremely difficult job. There are plenty of experts who can tell them how to do their job better, or who offer critical, if not destructive comment, without much understanding of the difficulties of a job which cannot be reduced simply by the addition of more resources or the building of more institutions. It is not my intention to denigrate the efforts of staff. As mentioned earlier, my comments are directed towards the development of measures in a way which may reduce the number of young offenders who progress to recidivist criminal status.

The first point that I wish to make is to reiterate the observation made by Mr Justice Nagle when he referred to imprisonment as being a measure of last resort. Every effort must be made to find constructive alternatives. That comment I believe, can be applied also to most forms of institutional treatment. Diversionary measures must be sought, and applied where feasible, before committal to an institution.

Nevertheless there are some offenders for whom society has no answer other than committal to an institution. There are some offenders whose crimes are so brutal, that the only answer seems to be imprisonment for as long a period as possible. The concept of correction really does not encompass a small group of offenders other than through the ageing

process, which at least appears to reduce the likelihood of a return to crime. Yet if the designation "correctional" is to be applied, then the effort should be made as early as possible, to prevent progression to an institution.

Perhaps this is done through probation, attendance centres link up, outreach or similar programmes. But are we doing enough? How effective are our field measures? What real impact do these programmes have on the lives of young offenders? Do heavy case loads and a range of duties reduce probation and after care to perfunctory measures; good in theory, but light on, when it comes to a helpful practical influence in the lives of young people.

At this stage let us look at some of the issues associated with institutional or prison work. Thus if a young offender is committed to an institution the punishment meted out by the State is loss of liberty, but the young offender, or for that matter all offenders, should be able to retain all other rights and obligations except those limited by the requirements of security.

It is that matter of obligation which also expresses a link with the free community. It is a sense of obligation which, if activated, can reduce the feeling of alienation from society. It is that quality of obligation in the attempt to help others, which if developed by good leadership, can assist in providing the way back to freedom, aided through institutional after-care services by those persons charged with responsibility for the offenders' treatment and management.

In other words, the process of punishment does not become in every sense a negative experience. Punishment, as you are aware, traditionally has been based on three basic reasons. Firstly, retribution in that an offence has been committed which 'deserves' punishment. Secondly, deterrence in that the effect of punishment is directed towards the individual offender and to the community generally, in the hope that it will prevent further criminal actions of this type. Thirdly, reformation which arises from the effect punishment has on the moral character and the outward habits of the person punished.

However, the effect of deterrence and the effect of reformation is generally open to question. Those persons who work in this field are aware of the tremendous difficulties associated with the use of institutional measures, either in a deterrent, or reformatory or rehabilitative sense. We are also aware of how patronising the whole process can easily become. In the long run the so-called rehabilitative measures can add to a sense of alienation, unless certain elements can be introduced by the involvement of offenders themselves, aided by staff, whose sincerity, interest and practical expertise can remove that aura of omnipotence which inevitably seems to creep into institutional or residential care management. This can be counteracted by staff who have a firm sense of self-awareness, and an ability to influence in a positive, helpful manner, those persons committed to their charge, with clear objectives, and available resources to draw on, by way of advice and support as they carry out their work. But even with the best of staff, how effective are custodial measures unless we take stock of what punishment really amounts to, irrespective of the roneoed words we might use to describe all aspects of its application? There are some persons who would say that nothing works — that there is no evidence that any rehabilitative programme in the criminal justice system works. Even Dr Tony Vinson, former Chairman of the New South Wales Corrective Services Commission, considered that one of the key principles on which the recommendations of the report of the Nagle Royal Commission was based, was that "imprisonment must be justified as punishment, and not based on false claims of rehabilitating the offender".

Dr Vinson went on to say that "research has generally shown that 'rehabilitation programmes' are ineffective and that a more realistic goal is to prevent people from deteriorating,

morally, emotionally and physically during their sentence. Nevertheless the prison authorities are obliged, he states "to provide work, education and training opportunities for inmates". Vinson realistically sets out a principle that can be drawn from the Royal Commissioner's statement, but he fails to also make clear that Judge Nagle stated, in respect to rehabilitative attempts, "This is not to say that attempts to rehabilitate should cease. Far from it . . . while there is a chance that offenders, by education and training or otherwise can be rehabilitated or reformed to any extent while in prison, then the attempt should be made to do so."

I have made this point because under the influence of the 'nothing works' philosophy, correctional services seem to have been encouraged to abandon their rehabilitative efforts — in fact there often seems to me to be present, a negative, passive approach which amounts simply to begin warehousing — a holding situation providing a temporary respite for the community and little more. Of course there may be some who would support the travesty of change depicted in the extreme, in the film 'Clockwork Orange' which leads to the young prisoner acting according to the rehabilitative extensions of his keepers without any real or lasting benefits being effected, as many parole and after-care workers know as they witness the end of the charade on re-entry to freedom, and a rapid reversion to criminal or delinquent behaviour. The point I wish to make is that in a rethinking of traditional methods, we do not abandon a rehabilitative approach provided those efforts involve the young offender in a way which takes account of his needs, his capacity to participate, and his ability through his own efforts to make a new life for himself. It is not just an 'ego trip' for the institutional worker. It is not just an opportunity for the worker 'to play God' in which the offender takes a minor role. Rather it should be a process in which the offender feels that his institutional or prison experience was not completely wasted. If he does not have hope and a sense of self worth, it is possible that the offender will become more embittered and to a greater extent more alienated than ever before.

What then can be done about that sense of self worth and self-esteem in a way which can bring hope to many young offenders who wish for some form of reconciliation with society, rather than being caught up in the aimless drift to destruction? In the rethinking of traditional methods it would be well, therefore, to consider a comment made by A.C. Ewing in his book 'The Morality of Punishment'. In his reference to the compensatory effect of punishment — the effect of recompense through the young offenders' own efforts to pay, at least where possible, and to a feasible degree, for the harm caused.

Ewing published his book 53 years ago and at the time he wrote that this compensatory effort 'has been neglected to a most surprising and deplorable extent'. Of course fines and compensation have been in evidence for centuries, but more could be done through application of this principle within institutional life.

It is to be hoped that the effect of Community Service Orders will be to extend as widely as possible this form of non-custodial sentence whereby an offender can make reparation to his community at large, or directly to his victim. But the principles of reparation, leading to reconciliation, need not be restricted simply to community service orders as an alternative to imprisonment. These principles do not constitute 'soft treatment' or a 'let off' for the offender, because he is willing to give of his own time and effort in an attempt to recompense his victim or society. Rather does it constitute a situation in which a better sense of social responsibility can be created, and the involvement of offenders in work through which they can obtain a better understanding of what can be achieved through helping others.

Undoubtedly many offenders are bored stiff with institutional life and involvement in any sort of activity is a diversion from controlled regulated institutional life. I do not want to go too deeply into practical examples as the two commentators are in an excellent position to draw on their own experiences. But I should refer to an observation I made while visiting an institution for young offenders recently in Western Metropolitan Sydney.

This is an institution to which reference has been made in the newspapers as to possible closure. It is a large dormitory-style institution which could be regarded as the traditional legal custodial model of residential care. Yet despite the physical constraints set by the nature of the institution and the overtones of bleakness, it had some remarkable programmes of offender involvement, based on principles of reconciliation, self awareness and directed towards the development of self-esteem and restoration of self-worth amongst the young offenders. Moreover its programmes were linked with the community in a practical sense with considerable volunteer involvement.

Two aspects in particular expressed these qualities. Firstly work with disabled young people and secondly, with elderly folk. Activities which could not fail to do anything other than increase a feeling by young offenders that they were doing something useful. Those experiences could only widen an understanding of the problems faced by others and although it may not positively affect every young offender in terms of rehabilitative change, at least most would experience a sense of achievement, which in turn helps to alter the feeling of personal devaluation. All our residential care programmes should in some way achieve this end.

Yet are we taking these steps to the fullest extent possible, bearing in mind that there are restrictions in community work with offenders? Are we also looking at the contribution that can be made by the community, by volunteers? I feel that there are too many platitudes — too many words — too many hopeful resolutions as to what should happen — but not really a great deal of action in the development of volunteerism. Those people interested in the extension of community assistance do not want to see volunteers putting full-time workers out of a job. Volunteerism, however, is not just a means to save money, but an opportunity to reinforce the work of parole or probation or district officers or institutional workers, with qualities of help, acceptance and understanding without any commitment other than to help. It is work that can be blended with the work of the full-time professionals in providing services that may be impossible for the professional to undertake.

There are cases of young offenders where we know that it is necessary for friendship and personal contact to be maintained — but this may not be possible because of the limiting role of the statutory officer irrespective of his, or her, skill or understanding. For example, my old friend the late Brigadier John Irwin, a Salvation Army Court Chaplain, could respond to the need for friendship by a young released offender surrounded by the dingy bleakness of a 'skid row' hostel in 'beautiful down town' Sydney. A young man whose future in the free world was limited because his circumstances were such that inevitably he would be on his way back to gaol; but the interest of John Irwin was an antidote to the hopelessness that engulfed this young offender. Irwin was not on a proselytising mission. He was following the course of many volunteers in corrections. He was providing the outreach of personal service.

In rethinking traditional methods in dealing with young offenders, do not overlook the contribution in ideas, service and friendship that can be made by volunteers — it's not the 'do gooders' having their way, but citizens in the community, in service clubs and in a wide range of organisations who can

bring to bear needed assistance or who can collaborate in the arrangement of community programmes to aid the return of young offenders to society, or who can help the public know what is needed and what the statutory services are about. This is only one strategy that can be used in reducing the clustering at the end of the correctional trail of the recidivist prisoner who regards the unsuspecting citizen as 'fair game' and gaol as an occupational hazard. It is vital however to ensure that the volunteer is used as a contributor and not as a token symbol of intent. The work of a well-planned volunteer programme already has been demonstrated in this country. The work of Civil Rehabilitation Committees is an excellent example of what can be achieved with collaboration and common sense. Volunteer work is a useful component. Regrettably it is under-utilised, which is the community's loss.

In conclusion, I wish to make several observations — one of which is related to a useful project under way in Canada. Firstly, however, it is important to emphasise that eventually we reduce the numbers of young offenders who are a sizeable component in adult prisons. In New South Wales over the last ten years approximately 14% - 20% of the total sentenced gaol population are between 18 and 20 years of age. Prison officers who are present at the conference, like Superintendent Coleman, would agree that many young men and women constitute an unpredictable, volatile and violent section of the prison population, who as the social structure of the contemporary prison scene changes, become more powerful through the use of violence and terror. Therefore in the rethinking of traditional methods is it possible that the use of custody be reduced?

In many cases this may not be feasible. But wherever it is possible, can greater attention be given to the interventional services found in probation, probation and bail hostels, community service orders, attendance centres, immediate work release centres, intensive neighbourhood care and support teams and any other measure that can be validated as a real alternative to imprisonment, which will involve the offender, instead of committal to an institution or to prison. Let us go further so that wherever possible the qualities of reparation and eventual reconciliation with society can be applied so that the victims of crime to some degree are compensated through the efforts of the offender. In this way the offender has a clearer realisation of what his delinquent or criminal action has meant, but through compensatory work he can restore his own sense of self-worth through self-effort.

These points are brought together in a practical community project which I observed recently in Nova Scotia. Throughout Canada there are many progressive community programmes in hostels, half-way houses, community work centres as well as community correctional centres involving Federal and Provincial offenders. On a smaller scale the Alternative Youth Society was an interesting and useful development.

The Society began in November 1978 as a three year demonstration project under the auspices of the Federal Department of the Solicitor General and the Nova Scotia Department of Social Services to test out the feasibility of implementing a post-charge, pre-trial screening agency as an alternative to court.

The success during the demonstration period for changes to be incorporated in the Young Offenders' Act was such that it was proposed to continue its activities on a private funding basis from the Nova Scotia Law Foundation and assistance from the town of Bedford and the province of Nova Scotia.

The Society has three full-time staff, including two professional social workers, together with over twenty volunteer mediators who are responsible for negotiating settlements between alleged juvenile offenders and their victims. Offenders are referred after a charge has been finally laid out, but prior to an appearance in court; city and town

police and the Royal Canadian Mounted Police use the programme.

In essence therefore, this project was used to explore the possibility of using the community help resolve the problems of young offenders and victims. It involves young people between eight and 15 years of age, charged with an offence under the Juvenile Delinquents' Act. The crime must be of a non-violent nature — such as shoplifting, break and enter, property damage and theft. The objectives of the scheme are:

1. To involve youth in taking responsibility for their behaviour and to actively participate in the resolution of problems created by their offence.
2. To involve the victim in the process to ensure their needs and concerns are considered in reaching a resolution.
3. To involve the community in the resolution of minor legal difficulties of young persons.

The procedure is as follows:

1. Young people referred to the programme must agree to participate.
2. A meeting then is arranged between all parties concerned — the youth, parents, the victim, the police and two volunteer mediators.
3. The volunteers ensure that the facts and circumstances of the offence are disclosed.
4. The needs and concerns of both the victim and offender are taken into consideration and details of reparation are determined and stated in written form.
5. The agreement may include an apology, carrying out work for the victim, financial restitution, an essay, or a form of community service.

There are procedures in Australia which are somewhat similar, but the Nova Scotia project includes the victim in the discussion. This may not always be appropriate, but where there is this form of involvement, it seems that in most circumstances it can bring home to the young offender what the offence has meant to the victim. That really is one of the main elements in reparation — not a procedure that for some can prove impersonal, but knowing from the victim what it has actually meant to him or her. Then working out an agreement leading to a feasible form of recompense which underscores the compensatory effect of punishment, as well as allowing the victim an opportunity to understand some of the problems of youth.

A further aspect of this work is the involvement of community mediators. In other words, volunteers who undertake training to prepare them for this work. In so doing, citizens become better aware of youth needs, as well as becoming aware of how youth can be helped through self effort. The volunteers work under the direction of a Board of Directors whose members also give freely of their time and are drawn from a wide range of professions such as legal, judiciary, social service, police, business, corrections and education.

What I have described is a modest project. However, it is one which involves those dimensions which seem to me to be some elements in the rethinking of traditional methods in dealing with young offenders. Perhaps it may be that it enables us to return to an earlier stage where community and family had a greater role in such matters. However, in no way would the Canadians regard this project as a panacea to delinquent behaviour. Rather is it a practical attempt to develop a process of restitution in which both victims and young offenders are involved in a way which has the potential to divert many youth from further offences. It involves community members in a way which can effect greater understanding of youth problems which can lead to community action and unity on matters concerning young people and families. More importantly, it puts into perspective the comment made earlier this afternoon by Sir Edward Williams: "If you don't get them early, you may have lost them for good."