

# **The Process of Ideological Change in Corrections: Some Nova Scotian Cases**

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## INTRODUCTION

It has been said somewhere that to study one thing well is to study the whole world. This has certainly been the case in the present investigation where an analysis of one small attempted innovation in the field of corrections has led us not only to a comparison with other attempts at correctional innovation, but to the historical and sociological foundations of corrections in general. And this, we believe, is as it should be since no case study can be theoretically grasped without its situation in broader experience and broader theory.

The research then was originally concerned to focus on what at the time had appeared to be a significant innovation in correctional practices in Nova Scotia. It was not the specific claims of success made both by the originators of the programme and its official sponsors which made it appear to be unique – such claims are commonplace on the part of interested parties – but rather the orientation to the problem of individual transformation in prison which the programme articulated.

In the view of its originator, the programme was successful in curtailing drug abuse, in providing a deeper sense of individual fulfillment, in enhancing prisoner' social status and self-esteem, in encouraging attitudes of individual and social responsibility, and in assisting prisoners and -in becoming more socially productive.

These claims placed the programme squarely within the modern tradition of rehabilitation. What had appeared at first to be an anomaly in the treatment field began increasingly to appear to be one manifestation of a particular emphasis in correctional philosophy. Nevertheless, the programme explicitly condemned the notion of rehabilitation for its failure to achieve the goals of individual transformation and asserted that programmes in the prison were intrinsically incapable of meeting the needs of prisoners. The rehabilitative ideal attempted to compensate for a presumed deficiency of individual characteristics which derived from a thesis of under-socialization; the innovative programme attempted to overcome the repression of the prison regime and liberate individual creativity and self-expression. It was necessary to examine the ideological foundation of the new programme as it related to the ideology of rehabilitation.

The question of the basic ideology undergirding the programme involved two separate areas of enquiry: first there was the explicit rationale and logical means/ends connection which the programme explicitly espoused – its “official” ideology; and second, was the larger question of the implicit ideology underneath its pronouncements. We had to distinguish between the explanation of its practice which was consistent with its own view of the world and a sociological explanation which attempts to situate this world view both in relation to the development of ideological positions in corrections and to the concrete historical practices evolved by the programme itself.

It became apparent that if the programme did indeed have some unique features, these would necessarily require explication through comparison and contrast with both the prevailing ideology (with which there was some discrepancy – in practice even more than theory) and the attempts to implement this dominant view within the prison. The most appropriate comparison points would be those relatively innovative programmes which were developed at approximately the same time. The actual acceptance of these programmes as a whole was an expression of the development within the rehabilitative philosophy of a trend to community corrections. In searching for the unique aspects of the programme with which the research had been concerned its conjunctural aspects had been ignored. This indicated the need to situate it within the context of the philosophy and practice of the correctional field overall.

Furthermore, our initial study of the one programme revealed that in order to understand the phenomenon it was inappropriate to take a static ahistorical and non-developmental approach because just as the specific conjuncture changed over time, the programme itself exhibited an internal evolution which transformed it from the inside and which appeared to heighten the contradictions between the programme and its ideological environment. This internal/external dynamic was not merely specific to the one programme but was equally applicable to the many innovative developments which occurred during the period. In order to study the evolution of programmes over time it was necessary, first, to place them within their social context, isolate those general social trends upon which it arose and then study its development in relation to changes in these trends – changes which relate to the process of transformation in the social structure as a whole.

The transition from a position of proportionately little interest in “rehabilitation” to one of relatively greater interest was connected to wider social forces which can best be explained using a socio-historical approach within a wider theoretical perspective, Arising in the middle and late 1960’s in response to a deepening social crisis, a general reorientation towards the social causes of individual problems emerged which was reflected in correctional ideology by a recognition of the social responsibility for crime and which emphasized the potential of resocialization. The social climate surrounding the “peace and security” debate in Canada marks a significant decline in the emphasis placed on rehabilitation. The reiteration of a more traditional punitive approach to criminal justice is related to wider social phenomena which are equally manifest in social service cutbacks and tighter government controls. The state exercises a monopoly over the legitimate means of coercion and the apparatus of coercion is a particularly sensitive weathervane with which to understand wider social forces. It is within this broad framework that we approach the question of ideological transformation in the criminal justice system and the place of innovative programmes within it.

The optimism of reform within which the innovative programmes were devised was followed by a rapid disillusionment and a new orientation to social questions which had negative effects on the various programmes. The study of these phenomena took on several dimensions: it was important to study the programme as it corresponded to or deviated from the dominant ideology. The most important characteristic of the present period of social theory however, is the apparently great diversity of sociological paradigms all competing with each other. Out of this seeming diversity it emerged that the predominant orientations were not unique philosophical creations but on the contrary were new adaptations of old historical problems. Inquiring into ideological change must involve an attempt to come to grips with the origination of social theory and its modification or supersession over time by new theory, the orientations of the present being based on an evaluative stance towards the past.

The study of the process of ideological change in corrections is concerned with the inter-relationship of four processes: developments in social theory, orientation to social problems advanced by representatives of official institutions, implementation of programmes, and, underlying all three, salient aspects of the historical conjuncture, with each process exhibiting an internal dynamic as well as reacting to external developments.

This monograph represents no more than an initial sketch of such a study. It has not been possible within the time frame of the research to even approximate a comprehensive study of correctional developments in Canada and their relation to theoretical positions and social practices which by and large have their origin outside of Canada. We approach the question of theory by briefly examining some developments in the field of social problems and corrections devised in the United States and Britain, the most important foreign sources of Canadian conceptions, which we believe to be illustrative of generalized trends. The attempt is made to understand the development of theoretical positions not as disembodied ideas but in relation to social practices. Three separate levels of research are undertaken: general theory, national policy, and local practices.

It would be incorrect to generalize from the local to the higher levels, and conclusions drawn about programmes in Nova Scotia need not be directly applicable to other regions. Nevertheless, the wider contexts do have an effect on programmes in Nova Scotia, and this must be taken into consideration. Secondly we examine the practical application of reform proposals within the framework of specifically dominant ideological models as official responses to perceived social problems within this general theoretical framework. A programme of individual reformation is based upon, either explicitly or implicitly, a theoretical frame of reference which makes a coherent connection between three primary elements: the original behaviour or attitude deemed in need of change, the alternative behaviour or attitude considered the goal of a process of intervention, and the actual programme designed to promote

the transition from the first to the second elements, there being an assumed logic linking the three.<sup>1</sup> Initially, the crucial underlying material component of historical specificity is not presented systematically but merely suggestively since as thorough interpretation would require a more substantial empirical investigation than is possible at present.

The overall context of this study is the larger question of correctional ideology and practice. The appropriate framework in which to situate our analysis of innovations in correctional practice in Nova Scotia is the development of ideology and the process of ideological change. Policy implementation as well as the philosophical basis of programme must be assessed within the widest social context. It is only within such an investigation that the meaning of social phenomena can be understood.

### **Endnote, Introduction**

<sup>1</sup> Walter C. Bailey, "Correctional Outcome: An Evaluation of 100 Reports," *The Journal of Criminal Law, Criminology and Police Science*, Vol. 57, No.2 (1966), p.155.

## **CHAPTER ONE**

# **METAPHYSICAL, CLASSICAL AND POSITIVE CRIMINOLOGIES**

### **Religious, Classical and Positive Models**

Prior to the development in Western Europe of centralized authority and the nation state, acts deemed in violation of group norms were sanctioned at the local level by means of individual retaliation.<sup>1</sup> The rise of the modern state was inextricably linked with the need to centralize legal authority in the interests of securing the social stability which was required for the peaceful development of commerce. The state abrogated to itself the function of sanctioning the transgressions of the "common law" which rested ultimately on religious prescriptions. While the church was the overseer of human morality and monopolized control over the intimate sanctions deriving from the postulation of eternal life, the state became the "this-worldly" agent of divine retribution.

The transgression was not seen as an offence against the state as such, but rather as an offence against the supernatural order of which the state, under the aegis of the divine right monarchy, became the appointed guardian. The considerations underlying the state response were retaliation, revenge and retribution.<sup>2</sup> Nevertheless there were notions of both particular and general deterrence: the amputation of a hand as punishment for stealing has a certain logic in relation to the former, and the full exposure of the public to corporal and capital punishment was meant to serve as more than mere entertainment for a population we often assume to be far more callous and brutal than our own.

The rationale of punishment rested on the religious ideology which considered the human soul to be a battleground between the forces of darkness and light. The forces of the underworld operated through the agency of individual human being. There was a contradiction inherent in this view regarding the concept of "criminal responsibility," for if the human body was merely the unwilling vessel of evil intent, the responsibility for the criminal act did not rest with the individual, but rather with original sin. However, the commission of an evil act was not seen merely as a passive happenstance over which the individual had no control, but rather as the result of succumbing to temptation, there being hypothetically the power to resist and remain in the state of grace. The basis of punishment rested on a religious model which postulated a dichotomy between good and evil people and justified punishment as an attempt to restore the individual to a state of grace through the infliction of suffering.<sup>3</sup>

Within the religious justification of punishment there was a notion of individual reform in the general sense that actions short of capital punishment which culminate in the return of the transgressor to the population are frequently based on the supposition that people can change, in this case that people can learn to resist temptation. Nevertheless, the point to understand is that the origin of the metaphysical conception of an absolute division between "good" and "evil" people rests ultimately on a view of the world originating in religious doctrine.

The rise to economic pre-eminence of a commercial class in Western Europe precipitated the systematic refutation of feudal institutions and ideals by the appeal to human reason. The whole bagatelle of ideas associated with divine right monarchy, including the right of the monarch to impose arbitrary punishments and decrees, was rejected outright. The materialist attack fundamentally undercut the legitimacy of an appeal to divine authority, and the doctrine of reason re-defined the meaning of evil by incising its other-worldly origin. In place of the feudal conception of a supernaturally ordained order, enlightenment thinkers developed the concept of nature (which remained compatible with the concept of the divine as a prime mover) which operated according to its inherent laws, discoverable by reason. The fundamental element of social being was the unique individual endowed with inalienable rights, with each atomized man pursuing his individual advantage in a process which embodied the threat of infringing upon the rights of others. There existed, in contradiction with full utilization of free will, determinable natural laws. In this setting acts defined as criminal, although perpetrated in most cases against an individual, were viewed as infringements of natural law. The state, the rational embodiment of the interests of the aggregate of individuals for their self-preservation, continued to be the institutionalized avenger of actions in contravention of these laws.

It was during this age of reason or enlightenment, when human beings were conceived to be rational agents imbued with free will that a model of criminal law was developed by the Classical school.<sup>4</sup> Since an integral and defining component of the human condition was the fact of freedom, criminals were considered to have knowingly broken the natural law and were consequently morally responsible for their actions. Having chosen to infringe upon the natural rights of fellow citizens, criminals became outlaws and forfeited, at least for a time, their own rights.<sup>5</sup> The offender received justifiably both moral condemnation and punishment<sup>6</sup> at the hands of designated agents of the state.

The element of correction in the classical view of punishment was based on a utility theory which assumed individuals to be motivated positively by pleasure and negatively by pain. The dominance of the prevailing conceptions of retribution, retaliation and revenge, however, resulted in the total emphasis being placed on the application of the principle of pain. Since the individual had rationally chosen to act in an unlawful way, deterrence by punishment

seemed the only logical and satisfying response. The certainty of punishment would deter both the actual and potential offenders since the punishment inflicted was to be in measured amounts in excess of the criminal gain.<sup>7</sup> As part of a reaction against the capriciousness of feudal justice classical thinkers advocated the determination of explicit legal formulations stipulating a hierarchy of penalties for progressively severe infractions of the natural moral code. Punishment was to be dispersed in known and rationally determined quantifiable doses. The use of imprisonment as a form of punishment was logically consistent with the classical approach which considered the loss of liberty to be sufficient punishment and easily apportioned in quantifiably greater amounts for progressively heinous crimes.<sup>8</sup>

This emphasis on certain and definite punishment with rationally determined sentences of escalating severity was modified, both in theory and practice, in two directions. Children and lunatics were not deemed to possess the necessary faculty of reason; consequently, they were not fully responsible for their actions. Since they were thereby delegitimized as responsible agents the full provisions of the law had to be suspended. Secondly, the realization that abstract 'equal' standards did not apply equally in concrete cases led to the practice of recognizing judicial discretion in sentencing. These modifications formed aspects of what became known as "neo-classicism" in criminal law.<sup>9</sup>

Classicism was clearly an advance over the previously prevailing religious model. While the dichotomy between good and evil people remained, this conception was modified by postulating degrees of evilness. Although the debunking of the mediating supernatural elements of religious mythology was progressive, the new philosophy shared similar assumptions of philosophical idealism: its other-worldly foundation was replaced by "eternal reason." The recognition that the social structure was more than the rational balance of individual wills awaited the development of modern mass production and the advancement of natural science.

It remains true, however, that classical ideas still prevail in the administration of criminal law.<sup>10</sup> The religious model, which emphasized moral culpability, was not incompatible with the classical notion of the freedom of will. In both conceptions of crime, an element of reason was involved, and in neither case was the criminal expected to 'understand' fully what he had done wrong; he had rather to merely recognize, in a purely instrumental way, that his actions contradicted either divine scripture or natural law. Classicism, however, ideally contained within it the purely intellectualist possibility of deducing by logic the rules which had been contravened.

The development of the penitentiary system was related to the ascendancy of the ideology of classicism with its emphasis on a measurable hierarchy of punishments. More practically, prisons developed as a response to the problems associated with the decline of transportation and as a convenient means to exploit the labour of convicts.<sup>11</sup> During the first hundred

years of the existence of the American Republic the 'silent system' predominated in the newly-established prisons. The Walnut street (1776) and Cherry Hill (1829) prisons were designed according to what became known as the Pennsylvania model. Consistent with the essentially "Puritan" origin of imprisonment in North America the Pennsylvania system had a strong religious orientation. Prisoners were confined to solitary single, cells and forbidden to talk to one another, a restriction which was enforced by corporal punishment. In the solitude of their cells prisoners were expected to reflect on their crime and become penitent (hence the term "penitentiary").

The prison sentence was presumed to permit the prisoner an opportunity to take the time to reform himself by coming to accept the fact that he had sinned and then consciously adopting Christian morality.<sup>12</sup> Consequently they were permitted to read from the Bible, the only reform facility provided.

It was not only a matter of emphasis that the punitive aspects of this system far out-weighed a rudimentary conception of religiously-inspired personal salvation; punishment itself was to be the catalytic agent which would convince a reasonable person to reform. This conception of personal change was at first thoroughly idealist in nature - by individual contemplation the prisoner was expected to be overwhelmed by his protestant sense of guilt and then consciously choose the path of moral responsibility. The silent system was an approach to individual reformation, and the provision of a bible reflected an age in which there was little uncertainty over the correctness of prevailing ideology and the necessity, for reformation, of imbibing a determined world view. It is clear that the development of the classical school, despite its emphasis on reason, did not totally supersede the previous religious model but on the contrary incorporated it as an integral part of the new penal philosophy. Prisons became in part the instruments which were to facilitate the religious conversion.

While there was little theoretical articulation of the material causes underlying criminal behaviour, there was as early as the 1820s and 1830s some recognition of the effects of a pernicious environment on individual conduct. Such an environment however, was not then considered a social fact in the sense that those partaking of it could not reasonably be considered totally responsible for their actions. The supernatural attributes of temptation were undermined, but the conception of an individual flaw was retained. The criminal was not so much evil as morally weak, having succumbed to temptations which the morally upright could resist. Imprisonment served the purpose of removing the offender from the social environment within which he had yielded to criminal behaviour and placing him in a sanitized environment<sup>13</sup> in which he could repent and gain moral strength. Consequently, prisons were built in rural areas away from cities making communication with both relatives and friends difficult, both provisions

intended to sever connections between the individual and negative influence in his environment.<sup>14</sup>

Consistent with its Puritan origin with its emphasis on the spiritual benefits to be derived from the regimen of work, the prisoners in the Pennsylvania system were expected to labour in individual handicraft work in their solitary cells. The importance of prison labour was institutionalized in the New York prison system, first in Auburn in 1819. Like the Pennsylvania system, Auburn did not rely on individual penitence alone but rather placed its attempt at positive transformation on more practical grounds by also introducing labour into the prisons, although in a collective form.<sup>15</sup> Despite this ideological justification, reformation was by no means the primary motive for introducing collective work: as Sellin pointed out, the origin of the prison system was connected to the desire to confine manpower and make it exploitable. Prisons were expected to become financially profitable, and a whole host of lease and labour programmes were operated in U.S. prisons up until the Second World War.

The first state prison in the United States for example, was located in a mine.<sup>16</sup> Hard labour was introduced for the purposes of punishment and profit; individual reform was essentially an after-thought which made the process acceptable to at least some sectors of the population. As an ideology of legitimation crystallized, the act of compulsory labour, with no reward other than the supposed intrinsic satisfaction of expending physical exertion – work being a good in itself irrespective of its social content – was expected to produce the appropriate 'work ethic.' The convict was less simply a sinner lacking Christian morality, but more a lazy degenerate lacking the virtues which come from hard work.

With the primary goals of punishment, retribution and deterrence, the silent system was in conformity with both religious and classical theories of criminality. As Neier points out, there was nevertheless some sense of prison existence having a reformatory capability with its regimentation producing the discipline which the convicts had never previously received. He quotes a nineteenth century prison chaplain who suggests that society would be better off "should [it] change places with the prisoners, so far as habits are concerned, taking to itself the regularity, and temperance, and sobriety of a prison." Relative to the chances for the "next world," the chaplain declared: "the prisoner has the advantage."<sup>17</sup> This essentially religious model of reformation was superseded only with the development of social theories in accordance with an epistemology deriving from the natural sciences, a development in criminology which produced the positive school.

The shift from the classical to the positive school was a progressive advance in that it recognised causality outside the realm of pure moral culpability. Positivism from Lombroso<sup>18</sup> onwards has utilized the natural sciences model and emphasized the objective study of criminality, abandoning any concern with moral character and explicitly denying free will. Radzinowicz

identifies two strands in the "deterministic" approach to criminality: those which attribute criminal action to inherited constitutional factors and those which postulate environmental causation.<sup>19</sup> While these opposing views have contradictory implications for reform they both reject the classical assumption of free will. Since criminality is defined to be largely outside the control of the individual the justification of punishment on the grounds of moral culpability is rejected.

Criminologists subsequently rejected the various crude physical notions which derived from a too literal application of the natural science model to human affairs represented, for example, by social Darwinism. At the same time western social science was not prepared to follow the social causation thesis to its logical conclusion which called for the restructuring of social relationships. Without necessarily rejecting the possibility of congenitally determined criminality, social scientists emphasized the complex interplay between the social structure and the character development of the individual. As social determination undercut the justification of retributive punishment in the classical model, the positivists were faced with the contradiction of reconciling social causation with individual responsibility.

To solve this dilemma, the positivists had recourse to the notion that "society" was an ultimate good and hence to breach its laws was a moral offense.<sup>20</sup> Criminals did not transgress the natural order so much as the social order. The liberal argument that the compulsion to obey social laws was dependent upon the correspondence of these laws with the natural rights of man was replaced by the view of the state as an institution above society which reconciled the best interests of all social classes in a grand compromise. Deviant action in general, and criminality in particular, became threats to the established order the preservation of which in its essentially existing form became a supreme value. The state not only had to guarantee the rights of the individual but had to preserve the social order. The putative needs of the society as a whole were paramount and the criminal was socially responsible to the society and its state. In theory the question of moral guilt was abandoned and the legal question became the objective powers of determining whether an individual had transgressed the moral consensus of the community embodied in legal formulations and, if so, what measures ought to be taken to prevent further crimes and protect society.<sup>21</sup>

Punishment was not only a moral retribution for willfully inflicted wrong, but also a means of social defense by which society protected itself from its criminals. Just as the question of guilt became less a moral category and more an objective category of jurisprudence, so too the question of punishment became one of the objective assessment of the best means to protect the social order. The norms of society were granted general validity from which it appeared to follow that attempts to coerce individuals to readjust to these norms were justifiable.

With the advent of the social sciences and within the premises of positivism there was an increased potential for developing rationality. Undermining the metaphysics of the religious view and the absolute free will idealism of the classical school, positivism focused attention on presumed material processes in the world, in particular social environment or inherited characteristics. Understanding of criminality usually focused on such observed deficiencies as a lack of education or technical skills, or inappropriate habits. Criminality became in the early crude positivism, merely a conditioned mechanical response to these factors and the possibility existed that the criminal could be brought to understand what had "gone wrong." In practice this self-understanding was considered irrelevant since the information was usually monopolized by official decision-makers who, with this knowledge, would then attempt to manipulate the individual to alleviate his shortcomings. While the potential for understanding on the part of the criminal expanded, this was not actualized. Secondly it may be added here that the more fundamental question of why, for example, what was defined as "stealing" was wrong was shuffled further out of consciousness.

As positivism emerged as the dominant approach in criminology, there was an accompanying shift from what Gill called the 'custodial prison' to the 'progressive prison.'<sup>22</sup> The development of sociology as a discipline in North America occurred in the context of such movements of reform in response to the negative social effects of rapid capitalist industrialization. By 1870 a National Prison Association had been founded in the United States and an International Congress on prison reform had been founded in London.<sup>23</sup> Among the Declaration of Principles of this Association were such reforms as the indeterminate sentence, parole, probation, classification and diagnosis – the gamut of early rehabilitation.<sup>24</sup> Penitentiaries were still justified on the grounds that they provided deterrence, but the negative conception behind the silent system was replaced by the imposition of more "positive" experiences which would assist the criminal to return to society.

Elmira Reformatory for men which was opened in 1876 advanced reformation as its explicit aim, systematically adopted the principles of parole and the general education for the prisoners. This reform programme was applied uniformly to all prisoners and the failure of the reformatory is usually attributed to this application of "mass treatment" which ignored the individual needs of each prisoner.<sup>25</sup> The application of common standards is usually attributed to the lingering influence of the classical tradition with its emphasis on certain and equal punishment and the trend towards positivism is viewed as a growing awareness of the individuality of prisoners and the need to tailor programme to identifiable needs.

Despite the development of a reform ideology and the implementation of specific recommendations in some prisons, there were few concrete applications of the principle of reform before the 1930s in either the United States or in Europe, where the prison authorities tended to adopt the

Pennsylvania model.<sup>26</sup> The primary punitive nature of pre-positivistic criminology had not been superseded. On the contrary, it continued to shape the contours of the North American prison system although it was supplemented by more sophisticated versions of positive penology. The further extension of the reformatory concept in the twentieth century was based on the empirical finding that, relative to the total population, those confined in prison had less education and fewer marketable skills. The assumption was then drawn that these deficiencies were the cause of the criminality, and educational and vocational training, carried out in a coercive setting, would logically undercut the necessity to commit crimes. Criminality might still be rooted in sin and sloth, but penitence and hard work alone were insufficient unless the prisoner could be returned to society with more options than he had had previously. Crime was seen as a social phenomenon related to material conditions within which the causes of criminality could be sought.

### **Conservative and Liberal Variants**

Within positivism as it existed in the first half of this century, two separate strands can be identified. Prior to the 1950s what is currently termed "conservative criminology" held ideological pre-eminence. This model dichotomized criminality and maintained a more or less absolutist perspective which continued to distinguish between good and bad people. Not only was society seen as basically sound but the existence of commonly shared values was simply assumed. Deviants, in general, were defined as those who violated these social presuppositions and criminals were societal misfits, the outcome of unusual "deleterious social conditions." Conservative criminologists were primarily concerned with seeking the origins of criminality and usually advanced a multi-causal explanation. Along with other existing institutions the prisons were accepted as being necessary and justified in the protection of the great commonality although specific problems were recognised, all soluble within the prescribed institutional order.<sup>28</sup>

Conservative criminologists assumed that the social order was essentially a rational and harmonious one and that this rationality was embodied in legal statutes. Consequently, violators of this law were societal misfits who acted irrationally and had to be isolated in some form of preventive detention.<sup>29</sup> It is generally considered that the conservative emphasis on punishment or the application of negative sanctions, follows logically from their overall consensual theory of society; conservatives, for example, generally promote a law and order orientation. Deviants, who are by definition out of line and must be coerced back into the mainstream, are considered less to be a product of society as a whole but an aspect foreign to it. It is in this sense that the metaphysical dichotomy between good and bad upon which the religious model was based, continued to shape social theory.

This perspective was particularly characteristic of early American sociologists who tended to focus their essentially descriptive analysis on what they conceived to be the margins of the society. The study of "criminals, juvenile delinquents, prostitutes, drug addicts, the physically defective, the mentally ill and the poor" was conducted within an individualistic perspective which implicitly condemned deviants as essentially marginal and blameworthy.<sup>30</sup>

What was termed a "liberal" view has been generally counterposed to the conservative one. While the social order is granted general validity more importance is placed on imperfections and inequalities within it. A certain degree of injustice is admitted in social distribution which is considered at least partially responsible for creating criminality.<sup>31</sup> Since crime is generated by structural social factors, and since these factors are usually interpreted universally as applicable to all types of social structure, then the only reasonable response is to reinforce the agencies which provide public protection and implement pragmatic and piecemeal reforms to mitigate the outbreaks of violence.

Particular attention is focused on the general social problems prevalent in an unplanned society: poverty, racism, unemployment, and so on. Crime becomes a derivative phenomenon resulting from these other social strains. While in this liberal view, crime is seen as rooted in the social structure rather than as a shadowy excrescence apart from society, criminality is conceptualized as a characteristic of certain individuals and the search for causality takes the form of seeking the motivational factors which make members of deviant sub-groups distinct from the law-abiding majority.<sup>32</sup>

The emphasis is placed on the combination of societal factors which produce criminality in individuals. The consensus view of society which undergirds both the conservative and liberal viewpoints above, gives way to studies of deviance which argue that North American society is characterized by sub-group pluralism, and social norms operative in specific social contexts may be contrary to those in other social groups. The concept of deviance, then, undergoes some modification, and becomes theoretically unproblematic since a general contrasting societal consensus is assured. However, the adoption of a pluralistic perspective makes the concept more relativistic: behaviour which is normative for one group may violate the prescriptions of a second group and be considered deviant. It seemed that the application of the label of deviant was not intrinsic to the behaviour in question, but depended upon the particular context from which the act was viewed. The liberal theorists however, did not at the time pursue the matter to this point. Consistent with their general view of assuming that the social order was essentially rational and deserving of support, the existence of criminogenic sub-cultures was postulated. Criminals were differentially socialized into patterns which were directly contrary to the general social consensus. The sub-cultural approach to criminality is expressed in the disjunction Merton

suggested between general social goals and unequal access to means.<sup>33</sup> In its application the approach is usually applied to youth.<sup>34</sup> and a counter-culture of poverty and vice is postulated which, on the one hand, assumes that criminality is a condition of the poor, and on the other introduces the theme of a sick sub-culture of which crime is the active manifestation.<sup>35</sup>

Fundamentally the two views share certain basic assumptions about the supposed normative structure of contemporary Western society. The concept of deviant behaviour served on the one hand to legitimize those whose social conditions of existence predisposed them to follow social norms which were taken to be generally valid for society as a whole and on the other served the moral function of discrediting other modes of behaviour. With this viewpoint, both the mode of conduct and style of life of the normative majority and those of the various deviant minorities were all shaped by the social structure, a structure which included both universal features assumed to be common to societies in general and specific historical antecedents, all of which were essentially out of the control of individuals in any of the positions in the social structure as a whole. The extremes of this view went so far as to postulate that the conflicts generated between groups in the society were ultimately functional in maintaining the social structure in its existing form.

Having rejected the overtly biased assumptions of the social pathologists, the value-free behavioural perspective itself served to legitimize the social structure by universalizing its transient features and by uncritically accepting its political ideology. The consensus viewpoint negated any conception which postulated specific social classes or groups as in general responsible for social problems and by adopting a structural viewpoint assessed no responsibility at all. But if substantial inequalities were indeed crucial to the existence of a social structure, and criminal behaviour was consequently endemic to society, the amount and seriousness of crime was a function of the degree of inequality. It followed that crime could be mitigated by the conscious intervention of social institutions – in particular the state – to try to ensure that as far as possible the unjust inequalities could be progressively eliminated. In this sense, the liberal viewpoint addressed itself almost exclusively to lower class deviance; it was an attempt to explain the supposed difference between law-breaking and law-abiding citizens.<sup>36</sup>

The liberal perspective seeks the causes of crime in a complicated combination of structural and psychological factors which are however, susceptible to conscious manipulation to alleviate the strain. One psychological model which seeks the causes of criminality in early childhood experiences postulates that children raised in the ghetto have deeply-rooted psychological problems of impulsiveness. An effect of large families in this condition is to inadequately socialize the younger members into delayed gratification patterns – not merely effecting material, but emotional needs as well.<sup>37</sup> The source of the social problem is really only peripherally related to poverty and it can be mitigated by instituting family planning. With fewer

children, adequately spaced, the emotional problem of rejection will be alleviated and scarce resources can be stretched farther. In this example we can see how the structural perspective adopted by the liberal theorist does not escape from the conservative emphasis on individual motivation; and in recognizing social causation it seeks the cause of criminality not specifically in the overall structural inequalities, but rather in behavioural aspects of these inequalities which can be manipulated without raising any larger questions. The social problems perspective isolates specific social institutions from their place in the larger social context and addresses the question of readjustments within the currently existing arrangements.

The conservative criminologist differs from the liberal principally on the focus of attention. To the conservative, social institutions are fine; the question is simply the pragmatic one of trying to adjust the individuals to the normative order. For the liberal, while the institutions in the society are given general validity, specific imbalances are noted, and the efforts at reform are directed more at attempts to rationalize the institution. Both come together, however, for liberal reformism is couched in terms of the most efficient means to adjust individuals to the social system. Both of these types can be considered consensus theories, as this term is developed by McDonald.<sup>38</sup> Both rest on a social problem perspective and direct their attention to questions of individual inadequacy, unequal distribution or malintegration.

Assuming a normative social order with various deviant sub-groups, consensus-type theorists assume that criminal law was developed in response to criminal behaviour (caused in a complex way, with both social and individual psychological factors operative). Crime then existed as an objective social fact which violated the commonly-held values of society, and consequently this overall agreement became manifest in both laws and sanctions which enjoyed popular support. McDonald draws a connection between consensus positions and the sanctioning of coercive measures of social control.<sup>39</sup> While the differentiation between liberal and conservative, developed above does not negate the general tendency of these theorists to accept repressive methods relative to the conflict theorists, which is McDonald's concern, it allows us to distinguish between variants of these responses. The tendency to define certain individuals or groups as external to the social order, the tendency to distinguish as a rule between good people and bad people, makes a punitive response to protect the law-abiding majority probable. The use of punishment is also justified to the degree that the individual deviants can be considered responsible for their criminality.

But the introduction of a social causation mode, operating within a consensus framework, undercuts some of the rationale for punishment. If both the perceived negative and the perceived positive aspects of society are united as merely opposite poles of one holistic social order, then the first level of metaphysical thinking that defines the deviant as essentially an outlaw and outside the pole of society is rejected. The deviant not being entirely

blameworthy, retributive punishment can no longer be justified totally. In fact, the extreme mechanistic, or behavioural perspective which sees social action as fully conditioned, leads logically to the total negation of retributive punishment (although not punishment as one means of behavioural control).

The acceptance of the structural viewpoint undercuts some of the justification for punishing social deviants and brings to the fore the necessity to transform social conditions, or at least to transform the individual manifestations of these conditions. In other words, consistent with the liberal view – within the consensus framework – is the concept of treatment, or “rehabilitation.” It is not surprising, then, that the development of the rehabilitative model in corrections arose concurrently with the ascendancy of structural analysis in North American sociology during the relatively prosperous post-war years. It is incorrect to claim that the punitive approach alone is intrinsic to the consensus theoretical framework.

The usual debate between punishment and treatment, is generally a false one, not only because both emanate from a single theoretical outlook, but because both are merely alternative strategies for an identical social goal. In this consensus perspective the object of the socialization process is to inculcate what are thought to be prescribed social norms and values. The deviant becomes by definition one who has failed to internalize these normative patterns. Having demonstrated social inadequacies or inappropriate behaviour, the deviant is subject to corrections which means attempts at resocialization. The question of whether punishment or treatment – the former implying the imposition of purely negative sanction, the latter implying the more constructive application of programmes designed to resocialize in a more positive manner – is to be advocated, is based purely on the pragmatic grounds of what works, what is successful in achieving the goals prescribed by the consensus model.

The integration in varying degrees of both aspects, punishment and treatment, in the liberal conception of corrections follows from the basic legitimacy which is granted to what are deemed to be general social norms, the criminal law, and ultimately the state, but elements of past models are incorporated. The conservative view was not simply superseded; on the contrary the dominant motivation of punishment has its source deeply in the roots of the conservative model. The liberal model, as was suggested above, did not supplant so much as supplement the earlier philosophy. But within this mixture of views the proportion of emphasis placed on purely negative or perceived positive aspects is not static or unvarying but rather is subject to changing emphases related to the specific historical conjuncture. The crucial questions are those of the fundamental aims of the correctional process: whether in their own terms rehabilitation is a serious objective or whether, despite the rhetoric and implementation of reforms, the administrators of the prison system remain fundamentally wedded to a punitive philosophy.

## **The Archambault Commission**

The basic principles of prison reform which were propounded during the 1879 Cincinnati Convention received relatively little programmatic attention for the next half century. By 1930 however, in both the United States and Canada, official enquiries were undertaken which again enunciated the failure to implement reforms and proposed a more systematic and centralized approach to the administration of the prison system. Prior to the Second World War, conditions in American prisons were characterized by overcrowding and idleness and it came to be held that prisons were "crucibles of crime" that, in practice they produced an effect opposite to that they were expected to serve.<sup>40</sup>

In 1929 a Congressional Committee was established to study the federal prison system in the U.S. and make recommendations for remedial action. In the following year the Hoover Act created the U.S. Bureau of Prisons which established the 'institutional infrastructure of the contemporary prison system. While some practical efforts at reform were made in the U.S. prison system during the Great Depression, and were based on ideas of reformation which had been enunciated by humanitarians for over half a century, what is generally termed the rehabilitative model, which includes its transformation into institutional programme, is primarily a post-1945 phenomenon.

Canada's first penitentiary opened at Kingston in 1835 with a major penitentiary expansion taking place during the late 19th century as Canada opened up and the population increased sharply so that, by the turn of the century) there were five penitentiaries across Canada. The British North America Act gave legislative jurisdiction over penitentiaries to the Federal government and, jurisdiction over reformatories and jails to the provinces. It made no provision for the terms of imprisonment and a purely arbitrary division according to length of sentence was made to allocate prisoners to the different institutions. Those offenders who were sentenced to two years or more were sent to federal penitentiaries to do their time while those sentenced to less than two years were obliged to undergo their imprisonment in a provincial institution.

This assignment of responsibility remains in effect today and has been the subject of debate in penal administration since this jurisdictional policy was first implemented. Prison reform as we now understand it was not a major issue, although a few officials and "humanitarians" raised their voices against abuses in prison and for a treatment approach to incarceration rather than the strictly punitive one. A Prisoners' Aid Association, consisting of churches, children's aid societies and other charitable groups, represented the only organized voice calling for reforms. After-care was first provided by the Prison

Gates Section of the Salvation Army. A few other after-care societies made attempts to assist inmates but lack of funds constantly curtailed their efforts.<sup>41</sup>

The Archambault Report describes conditions in the Canadian penitentiaries as they existed around 1936-37, conditions which demonstrated that little improvement had occurred since the early days of prisons in Canada.<sup>42</sup> The institutions were reported as all very old, with idleness, strict discipline, the rule of silence, corporal punishment, poor classification, unsatisfactory education and no worthwhile trades training as regular features. Inmates remained in their stuffy cells 16 hours every day, taking their meals in their cells, and were allowed a mere one-half hour exercise period each day. Ill-trained staff, poor medical services and no planned program of recreation added to the miserable conditions. No newspapers were allowed inside and writing and visiting rights were highly restricted. There existed no provision for the regular attendance of a psychiatrist. Only one set of regulations existed for all types of institutions with a total of 724 possible offences, many of them trivial, for which prisoners could be tried. Prison trials were unfairly conducted and no right to appeal existed. Corporal punishment could be administered for all prison offences at a time when corporal punishment had been abolished in the U.S., France, Belgium and most of the European countries.<sup>43</sup>

Classification was virtually non-existent, as the habitual, young and insane offender were thrown together in one institution. According to the Archambault Report, any classification that had taken place had been designed for security reasons not for reformation.<sup>44</sup> Since 1899 the Canadian penitentiary regulations had made provision for the classification of prisoners. However, these regulations had not been implemented, although previous Royal Commissions had pushed for the development of a proper classification scheme. The number of prisoners employed in productive labour at that time was described as extremely low, with short hours of labour for those who did work, which meant long hours of enforced idleness.

Provision for trade instruction existed but was not carried out adequately. Prison farms had been adopted before Confederation; however, inefficient management by unqualified officials produced many problems, and prisoners' pay on the farm of five cents per day represented very little incentive. It is not surprising, therefore, to find that the prisons were in a state of unrest. Twenty disturbances occurred in prisons across Canada between 1925 and 1936.<sup>45</sup> These disturbances ranged from mild riots and work stoppages to violent riots which involved serious damage to the cells and assaults on guard. All inmates partaking in these disturbances were prosecuted, receiving corporal punishment and, in some cases, additional sentences. Better living conditions and more privileges were said to be the demands of the rioting prisoners. The Archambault Commission attributed a high rate of recidivism both to the treatment of inmates inside prisons and to

the conditions faced upon release into society. In the words of the Commissioners, the alarming increase in the number of recidivists is due to:

... the absence of any serious attempt to effect the reformation of the prisoner while he is incarcerated ... and, second, the failure to provide him on release with adequate assistance to enable him to obtain honest work and support himself and his dependents.<sup>46</sup>

In 1936-37, 72% of the prison population in Canada were recidivists. At that time, an inmate was released in a suit of badly fitting clothing with \$10 prison pay. After-care agencies were run on donations and there was no co-ordination or uniform program among them. Under the provisions of the Penitentiary Act, prisoners are allowed to earn statutory remission of a portion of their sentences which is 72 days for the first year and 120 days each year after, subject to satisfactory conduct, diligence and observance of prison rules. When remission is granted) the prisoner is discharged and subject to conditions of conduct. Up until 1931, the Dominion Parole Officer had the task of visiting institutions and interviewing applicants for remission. This post was abolished and officers of the Remission Service handled all applications for remission of sentences and release on ticket-of-leave.

The system of release separate from remission included release under the Royal Prerogative of Mercy and the Ticket-of-Leave Act (1899). The Royal Prerogative of Mercy was a pardon, an act of mercy not a right, granted by the Governor General on behalf of the Queen to any person convicted of a criminal offence or punishment imposed by the court whereby the sentence or punishment could be commuted or remitted. A death sentence could be commuted to a life or fixed term. Sentences of imprisonment could be reduced, corporal punishment removed or pardons granted. The Governor-General could also, under the Ticket-of-Leave Act, grant to any person under sentence of imprisonment for a criminal offence, a license to be at large during a portion of his term and under certain conditions of conduct indicated in the license.

However, there were certain rules of practice followed in granting release on ticket-of-leave. Release would not be granted to drug addicts nor to confirmed recidivists, where no reform is indicated and until half of the sentence had been served. The official policy of the Remission Service would be to grant release on a rehabilitation basis, not on compassionate grounds, although this might not be reflected in their actual procedures. Supervision of released inmates was left to the few after-care agencies that existed then. After-care agencies started to be organized in the 1920s and 1930s but did not really gain strength until the late 1940s after implementation of some of the recommendations of the Archambault Report.

The absence of an adult probation service was also viewed by the Commission as a contributing factor in recidivism. Since 1892, the Criminal

Code has had provision for the release of convicted persons on suspended sentence. However, there was then no provision for supervision, either federally or provincially, except in Ontario. As a result of their investigation the Commissioners made a number of comprehensive recommendations. Parallel to the practice in the U.S. the centralized control of the penal system under the Federal government was seen as the most important. The method of classification followed in England was recommended for adoption. This would include a more thorough classification scheme according to previous record, education, training, as well as a medical and psychiatric examination. Appropriate principles of discipline for each class of offender and marks for good conduct and industry in return for remission and privileges would also be necessary developments in an effective classification scheme. The Commission's classification categories consisted of the incorrigible class of habitual and insane offenders and drug addicts, who should receive indeterminate sentences, and the reformable types of young and accidental offenders. They called for legislation which would provide for separate institutions for the incorrigibles and the young offenders, with the removal of the insane to be treated in special hospitals.

Changes in prison discipline should include the abolition of corporal punishment and the right to appeal any decision in trial for prison offences. A further recommendation stated the need for a complete reorganization of prison employment which would include procurement of equipment and facilities for the production of goods for state use and the provision of better trade instruction. Prison pay would be used as a reward for diligence. An additional area seen as requiring change was staffing. The Commission suggested a survey of all staff to dispose of unsuitable officers and efforts towards setting up courses in staff training schools. Other improvements in recreation, education and psychiatric programs were suggested. Supervision on release was mentioned as a necessary aspect of treatment and, therefore, the Archambault Report called for the adoption of an adult probation system with trained staff throughout Canada, and increased numbers of parole officers in each province. Co-ordination of the work of after-care societies was also strongly urged.

Wretched prison conditions had given rise to rebellion. The question of the leadership of these riots has received little attention. The 1930s are notable not only for the severe economic depression but also for militant labour battles and industrial union organizing drives. Some prominent members of radical organizations were imprisoned. It can be conjectured that a relatively larger number of politically sophisticated individuals were in the prison system at the time and may have provided a considerable impetus for the attempt to gain specific material reforms of living conditions. The government response to these riots had been recommendations which amounted to the call for a rehabilitative model in prisons.

## Endnotes, Chapter One

<sup>1</sup> Clayton A. Martzen, *Crime and Criminalization* (New York: Praeger, 1974), p. 127.

<sup>2</sup> *Ibid.*

<sup>3</sup> This discussion of ideas is not meant to indicate the supposed separation of ideas from the social context. Obviously the punishments were perpetrated by the state to protect concrete social groups from the actions of those with opposed interests, and it is impossible to understand the functioning of the law without this material analysis. In the case of the religious model the ideology of punishment was distant from the actual workings of the society; to which workings it nevertheless gave concrete support.

<sup>4</sup> Leon Radzinowicz, *Ideology and Crime* (New York: Columbia University Press, 1966).

<sup>5</sup> Richard P. Vogelmann, "Prison Restrictions – Prison Rights," *Journal of Criminal Law, Criminology and Police Science*, Vol.59 No. 3 (1968), p.386.

<sup>6</sup> Howard Jones, "Punishment and Social Values," pp.3-22 in Taderisz Grygier, Howard Jones and John C. Spencer (eds.) *Criminology in Transition: Essays in Honour of Hermann Mannheim* (London: Tavistock, 1965), p.3.

<sup>7</sup> Radzinowicz, *Ideology and Crime*, pp. 10-11.

<sup>8</sup> There were other, more practical, reasons for the establishment of imprisonment as the most common form of punishment. Sellin (note 11 below) mentions the desire to exploit a captive population.

<sup>9</sup> Donald R. Cressey, "Sources of Resistance to Innovation in Correction," pp.438-460 in Robert M. Carter, Daniel Glaser and Leslie T. Wilkins (eds.) *Correctional Institutions*, (New York: J.B. Lippincott, 1972), p.440.

<sup>10</sup> Jones, "Punishment and Social Values," p.3.

<sup>11</sup> Thorstein Sellin, "Corrections in Historical Perspective," pp. 8 - 16 in Carter, et al., (eds.) *Correctional Institutions*. Thomas Murton adds as one additional cause, in the realm of ideas, a response to humanitarian opposition to corporal and capital punishment. *The Dilemma of Prison Reform*, (New York: Holt, Rinehart and Winston, 1976, 1976).

<sup>12</sup> *Ibid.*, p.25.

<sup>13</sup> Aryeh Neier, *Crime and Punishment: A Radical Solution*, (New York: Stein and Day, 1976), p.134.

<sup>14</sup> *Ibid.*

<sup>15</sup> Murton, *Dilemma of Prison Reform*, p.25

<sup>16</sup> Sellin, "Corrections in Historical Perspective," in Carter, et al., (eds.) *Correctional Institutions*, pp. 11-12.

<sup>17</sup> James B.F. Finley, quoted in Neier, *Crime and Punishment*, p.134. Neier cites as his source a quotation in David Rothman, *The Discovery of the Asylum*, (Boston: Little & Brown, 1971) pp. 84-85.

<sup>18</sup> M.E. Wolfgang, "Cesare Lombroso," in Hermann Mannheim (ed.) *Pioneers in Criminology*, (London: Stevens, 1960).

<sup>19</sup> Radzinowicz, *Ideology and Crime*.

<sup>20</sup> Jones, "Punishment and Social Values," p. 7.

<sup>21</sup>Radzinowicz, *Ideology and Crime*, pp.52-53.

<sup>22</sup> Howard B. Gill, "Correctional Philosophy and Architecture," *Journal of Criminal Law, Criminology and Police Science*, Vol.53 No. 3: 312-322.

<sup>23</sup> American Correctional Association, *Manual of Correctional Standards* (Washington, D.C. :American Correctional Association, 1966), pp. 3-19.

<sup>24</sup> Murton, *Dilemma of Prison Reform*, pp. 9-10.

<sup>25</sup> *Ibid*, p. 11.

<sup>26</sup> *Ibid*.

<sup>28</sup> *Ibid*. This description is taken from Don c. Gibbons and Peter Garabedian, "Conservative, Liberal and Radical Criminology: Some Trends and Observations" pp.51-65 in Charles E. Reardon (ed.) *The Criminologist: Crime and the Criminal* (Pacific Palisades, Calif.: Goodyear, 1974), pp.51-52. Gibbons and Garabedian cite as examples of "conservative criminology," Robert E.L. Farris, *Social Disorganization*, 2nd. ed. (New York: The Ronald Press, 1955), and Harry Elmer Barnes and Negeley K. Teeters, *New Horizons in Criminology*, 3rd. ed. (Englewood Cliffs, N.J.: Prentice-Hall, 1959).

<sup>29</sup> David M. Gordon, "Capitalism, Class and Crime in America," pp.66-88 in Charles E. Reardon (ed.) *The Criminologist*, pp.69-70.

<sup>30</sup> Alex Thio, "Class Bias in the Sociology of Deviance," pp. 272-291 in Stuart H. Traub and Craig B. Little, *Theories of Deviance* (Uasca, Ill.: Peacock: 1975), p.276.

<sup>31</sup> Gordon, "Capitalism, Class and Crime," p.70.

<sup>32</sup> Gibbons and Garabedian, "Conservative, Liberal and Radical Criminology," p.53. Among the "liberal-cynical" criminologists the authors include Sutherland, Cloward and Ohlin, Cohen, Sykes, Cressay, as well as Merton.

<sup>33</sup> Robert K. Merton, "Social Structure and Anomie," *American Sociological Review*, (Oct.1938).

<sup>34</sup> See Albert K. Cohen, *Delinquent Boys* (New York: Free Press, 1955); and Richard Cloward and Lloyd Ohlin, *Delinquency and Opportunity*, (New York: Free Press, 1961).

<sup>35</sup> Erik Olin Wright, *The Politics of Punishment: A Critical Analysis of Prisons in America*, (New York: Harper and Row, 1973), p.7n and 17n.

<sup>36</sup> Thio, "Class Bias in the Sociology of Deviance," p.277-278.

<sup>37</sup> Jones, "Punishment and Social Values," p.8. Cf. Madeline Kerr, *The People of Ship Street* (London: Routledge & Kegan Paul, 1958), and Betty

Spinley, *The Deprived and the Privileged* (London: Routledge & Kegan Paul, 1953).

<sup>38</sup> Lynn McDonald, *The Sociology of Law and Order* (London: Faber & Faber, 1976).

<sup>39</sup> *Ibid.*, p.25.

<sup>40</sup> Richard A. McGee, "Preface," pp. ix-xviii in Carter, et al., *Correctional Institutions*, p. xiv.

<sup>41</sup> J. Alex Edmison, "Nineteenth Century Canadian Prisons," in W.T. McGrath (ed.) *Crime and its Treatment in Canada* (Toronto: Macmillan, 1965).

<sup>42</sup> Report of the Royal Commission to Investigate the Penal System of Canada, (Ottawa: King's Printer, 1938).

<sup>43</sup> *Ibid*, pp.23-24 and pp.54-63.

<sup>44</sup> *Ibid*, p. 104.

<sup>45</sup> *Ibid*, p. 69.

<sup>46</sup> *Ibid*, p. 249.

<sup>47</sup> Superintendent of Penitentiaries, *Annual Report, 1937*, (Ottawa: King's Printer, 1937).

## **CHAPTER TWO**

### **THE CONCEPT OF REHABILITATION**

#### **Reformation and Rehabilitation**

The first fruits of positive criminology identified the existence of significant objective deficiencies in the prison population which distinguished them from the hypothetical average citizen. The low educational level, lack of technical training, insecure employment, and so on were assumed to be causes of criminal action – the concrete manifestations of social inequality which at one level was slowly being ameliorated by state action, but which needed more direct intervention on an individual level to solve those problems which had already been developed and were manifest in the criminals themselves. The theoretical emphasis at this time was placed on the objective processes; there was less emphasis placed on the social psychological aspects such as motivation, which were to under-gird the fully-blown ideology of rehabilitation.

We can distinguish between the concepts of reformation and rehabilitation. The former refers to the process of attempting to re-socialize individuals to social rules which are considered to be valid by the agency responsible for the conversion. At its most basic level it necessarily assumes that people can change and that identifiable individuals or groups of individuals are in need of such changes. Rehabilitation will be considered to be a particular type of reformation which rests on specific theoretical and philosophical grounds. Its particular defining characteristic is its foundation in individual pathology and its emphasis on psychological mechanisms in the causality and “cure” of criminality. Rehabilitation assumes that criminals are psychologically sick and distinguishable from non-criminals who are normal, and further that it is possible to change individuals primarily through psychological processes to make them law-abiding citizens.

It is this emphasis on the individual psyche which especially characterizes the rehabilitation philosophy, although this has appeared as a component in other reformation schemes. By and large rehabilitation is a mid-20th century phenomenon, although it has historical roots in the 19th century. To say this is not to negate the interest in psychological explanations which occurred earlier. The idealism of the metaphysical and classical models contained elements of what might be termed “motivation”; and the religious component of prisons, which existed from its origins, administered to the criminal's mind in the name of the soul. In Dorchester Penitentiary in the Nineteenth Century the prison chaplain was diagnosing prisoners with regard to psychiatric notions and what he regarded as personality defects.

It is the official recognition of the rehabilitative ideal and the attempt to institutionalize its concepts which demarcates the post 1945 years as the

period of rehabilitation. The ideology was given official legitimacy and consciously advanced as the basis for a reform of the prisons. The rehabilitative model of corrections, which serves in this century particularly among criminologists as the most common rationale for imprisonment, has most succinctly been summed up by the concept "training."<sup>1</sup> It implies the practical imparting of vocational skills which are deemed to enhance the market opportunities of the ex-convict, and also carries a moral connotation which refers to the resocialization of the prisoner to values and attitudes assumed to be linked causally with non-criminal behaviour.

The notion of rehabilitation is also linked with the social conception of crime and particularly with the liberal view that criminal action is at least to a degree, socially caused. The predominant, if not exclusive, preoccupation of the practice of liberal criminology was its concern with the individual deviant. The contradiction between social causation and individual responsibility was addressed in such a way that, in general, humans were responsible for their actions, but "will" was to a degree conditioned socially. That is, criminals had had concrete options and could have freely chosen to act lawfully or unlawfully. They had chosen the latter and the issue was defined as a re-conditioning of the will so that upon their release ex-prisoners would choose the law-abiding path.

The view that criminals had to be removed from their social situation which was continually reinforcing their criminal choices, and removed to an institution in which they would learn to abide by legal stipulations, continued to prevail. It was deemed reasonable to distinguish between prisoners according to the extent to which their will was thought to be amenable to change. There were still those defined as incorrigible whose will to commit crime was unchangeable, but those relatively new to the status of felon were thought unlikely to be fully consolidated in their criminality and specific features of the environment of the prison were expected to reverse their desire to break the law.

This general philosophy behind the rehabilitative model has been clearly spelled out in Britain. As expounded in the first Rule (1964) of the British prison system, "the purpose of training and treatment of convicted prisoners shall be to establish in them the will to lead a good and useful life on discharge, and fit them to do so."<sup>2</sup> As L.W. Fox interpreted it, reform was simply "the substitution of the will to do right for the will to do wrong."<sup>3</sup> The issue was one of ideas, of values and attitudes, aspects which perhaps were not susceptible to precise measurement but were crucial to affecting real and permanent changes. The will to do right became a mysterious internal phenomenon and changing it required very personal influences: it was a "deliberate and very personal growth."<sup>4</sup> It was taken for granted at the time that the reformed prison provided the necessary external prerequisites for individual reform as well as real opportunities. As institutionalized in the British system, the

philosophy of rehabilitation reflected the strong influence of the classical tradition, intermixed with modern psychological theories.

In the United States, the concept of rehabilitation derived more directly from the positivist tradition which postulated the existence of "sick" sub-cultures, and consequently was based on an explicit medical model of criminality which defined criminal action as a form of psychological illness which, while originating in the psychological deprivations of lower class life, were supposed to be cured in the prison; that is, with even a greater degree of deprivation and degradation. Emphasizing the process of first diagnosing the illness then prognosticating and employing logically consistent treatment, the search for the cause of criminality did not extend beyond the prison wall (as though criminals were a random sample of those who committed illegal acts) and found its subject matter in the disturbed orientation of the prisoners.

The "rehabilitator" was charged with inducing a deeply-rooted personality change in the individual, a fundamental change in the prisoner's self-conception, rather than merely a surface compliance to the rules and the officials. It was maintained that the symbolism of social ostracism and rejection which being condemned to prison indicated, would tend to undermine previously maintained values and thereby open the possibility of subsequent resocialization which would involve the reconstruction of new values on a presumably non-criminal as is.<sup>5</sup>

The consensus view of society was incapable of contemplating a situation in which the act of imprisonment may be perceived as an unjust imposition of sanctions by a powerful group upon powerless individuals whose values are reinforced by the experience and the basis laid for more fundamentally rejecting the social system of which the prison is a part. The rehabilitative model has its roots in the late 19th century and involved a substantial reduction in the conservative emphasis on the evilness of criminality. The viewpoint of the social pathologists who had delved into the seamy underside of respectable society tended to condemn deviants less as evil and more as moral incompetents. The use of the notion of evilness, with its religious connotations has been generally abandoned, but the fundamental distinction upon which it is based: that people are largely incapable of change and criminals are in some way absolutely distinct from "us," the law abiding majority, has been retained. That is, there remains in the social consciousness a metaphysical dichotomy between good and bad which at worst is non-developmental and essentially cynical. Social science tended, however, to the liberal view that most individuals could be induced to change. Once it was assumed that criminals were pathological or sick, individual, psychological treatments were required in order to cure those criminogenic tendencies which were amenable to social influence.<sup>6</sup> According to the California Department of Corrections: "Crime is certainly in part a mental trouble. We ... hope that prisons are becoming more like hospitals."<sup>7</sup> Since prisoners were psychologically sick their cure required the skilled implementation of the

techniques of psychology: diagnosis and counselling, and the full use of the so-called healing sciences of psychiatry and social work.<sup>8</sup> The development of the philosophy of rehabilitation within the consensus theoretical framework reflected the Great American Celebration. Post-war prosperity not only provided the material basis upon which it was possible to implement some structural reforms, but also provided the basis for structural analyses which could assume a grand social consensus of liberal values to which the errant prodigals in the prison could be returned.

There was no significant distinction between the rehabilitative ideology as it appeared in Britain and the United States. Rehabilitation involved not merely the need to develop job skills, but to alter attitudes and the psyche of the prisoner. It is based on the premise that criminals are drawn into unlawful behaviour by particular situational factors which have left a more or less deep imprint.<sup>9</sup> In both cases there is a basic supposition which necessarily assumes that despite these social liabilities law-abiding options were open. The crux of the matter in the rehabilitative philosophy rests in the individual's need to develop a recognition of his own objective and subjective liabilities, and then commit himself to strategies to overcome these. But the essential point is that all this is viewed within the context of the individual re-adjustment to those social values which are assumed to be general in society, and moreover accorded universal validity. The problem was not the objective situation itself, but the subjective orientation of the individual to his situation.<sup>10</sup>

The possibility of developing an understanding of objective social processes within which a material basis for criminal activity could be discovered which the social sciences had opened as a possibility had been transformed by institutionalized criminology into an inquiry into individual deviance – reflecting an attitudinal and behavioural disparity between the criminal and the supposed consensual view of society. By focusing on the individual manifestation of social processes, rehabilitation carried the individualization of criminality one step farther.

Within the rehabilitative model it is also necessary to distinguish between various conceptions of "reform." As seen from the Archambault Report, the term "reform" when used by prisoners means to alter living conditions in the prison in order to minimize the degradation of their existence. These reforms are resisted by the conservative-minded as detracting from the primary purpose of punishment. Criminologists seldom think merely of this type of reform. Their interest first lies in devising alternatives to reform prisoners (individual rehabilitation) or in manipulating and changing the prison environment (institutional reform) still with the primary objective of rehabilitating individuals. To an extent the reforms of the prison might serve both of these functions, and at first this correspondence of interests was significant.

The transition from one metaphysical dichotomy to another – from conceptions of the criminal as being evil to being sick – which occurred with

the ascendancy of the rehabilitative philosophy in the 20th century in the case of ordinary criminals, paradoxically was slower and met more opposition in the case of those persons convicted of drug offenses. During the period prior to 1930 in the United States, according to Reasons,<sup>11</sup> under the Narcotics Division of the Treasury Department, the laws regarding addiction were shaped by the view of the drug addict "as a self-indulged pander to his own evil appetites instead of a gravely sick man."<sup>12</sup> According to this view "the addict is an 'immoral, vicious social leper,' who cannot escape responsibility for his actions, who must feel the form of swift imparted justice."<sup>13</sup>

In the case of drug offenses, we can see the close connection between the belief in individual responsibility and the legitimation of the application of primitive sanctions. The contradiction between the justification of punishment and the social causation of criminality is resolved by denying the second aspect. During the 1950s, while criminologists were busily suggesting the implementation of rehabilitation within a consensus framework, the older criminal model continued to mould legislation dealing with drug offenses,<sup>14</sup> which provided for no probation, and for more severe and inflexible penalties, directly connected with the responsibility imputed to the addict for his condition. Addiction was itself defined as a crime and the addict, along with sundry other "deviants," "was characterized [during the 1950s] as ... violent, degenerate, un-American [and] an enemy to society."<sup>15</sup>

This view was embodied in the Harrison Act of 1914 which imposed penalties on traffickers, smugglers as well as users. The result was that in the decade following World War Two the jails and prisons were increasingly becoming full of addicts and users, all denied alternative treatment. By the late 1950s, however, the medical model was being advanced by the Bar and Medical Associations, who advocated the establishment of experimental outpatient clinics for addicts, based on the view that addiction itself was an illness susceptible to cure. As opposed to the classical model which imputes individual responsibility and responds punitively, the medical model substitutes pathology and advocates treatment.

### **Implementation of the Concept of Rehabilitation**

In an attempt to implement systematically the concept of rehabilitation, which was revived in the late 1920s just prior to the stock market collapse and which was subsequently postponed for a decade and a half until the post-Second World War years in the United States, relatively more sophisticated efforts at classification came into existence, vocational training was expanded and opportunities for educational up-grading were increased. The various jobs within the prison which had frequently been assigned to prisoners and were necessary for the every-day functioning of the prison were re-defined to be consistent with the rehabilitative philosophy and were subject to more conscious distributional practices (not merely as rewards for compliant

prisoners) since they appeared particularly good on paper: nearly all convicts could be shown to be participating in the rehabilitation programmes in the prison. At the same time some beginnings were made to introduce the concepts of social psychology and psychiatry in this period with the development of some types of therapy programmes in the prison.

The first efforts at developing programmes in accordance with the rehabilitative philosophy included the concepts of probation and the indeterminate sentence. The latter necessitated the practical development of classification, training programmes and parole. While these developments were by no means startlingly innovative in the years surrounding the Second World War with precedents set in Philadelphia in 1870, with the early reformatory movement, and with tickets of leave and the release of some prisoners on the personal recognisance of specific individuals, what was new was the attempt to implement these concepts concretely in a systematized prison system. We can distinguish between three types of training programmes: first are those provisions which were designed with the aim of rectifying the objective disparities which prisoners demonstrated relative to the population. This led to the development of vocational training and educational up-grading programmes which were thought to allow the ex-prisoner more options in society upon release. These form one major foundation of rehabilitation in prison. Secondly, programmes were developed to provide what was declared to be constructive use of the prisoner's leisure time, to convert this period as well for use as rehabilitation. The third type relies on the social psychological aspects associated with criminality, and it is within this framework that the philosophy of rehabilitation, in its post-Second World War content, is most clearly manifest. Correctional intervention in penology generally takes two forms when directed towards individual rehabilitation.

The normal "sick" premise is treated in therapy sessions usually on a one to one basis with a psychologist or social worker. The "group relations premise" as classified by Bailey is only a variant of the "sick" approach and is concerned with individual/group interactions. Behaviour is regarded as a function of group relations and the major variables in treatment processes include "social status, role, significant associates, group identifications and the values and attitudes learned through and reinforced in these interpersonal situations." By manipulating group relations, the therapeutic programmes attempt to replace "anti-social" with "law-abiding" values.<sup>16</sup>

In 1947 the Penitentiary Service in Canada began establishing positions for Classification Officers who would assemble information about prisoners to present to the Classification Board who would then decide on a method of treatment. The concept of classification rests on the premise that there exist differences between prisoners which are related to their criminality and each prisoner requires differential treatment. This would involve a thorough diagnosis and planned program of activity for each inmate. This, in turn,

requires a team of professionals as well as consensus among general staff and administrative leadership. This was part of the "new deal" in the penitentiaries publicized by the Department of Justice, as various activities were undertaken to rehabilitate inmates. Most attempts were directed towards changes in the use of leisure time, with the introduction of competitive sports, hobbycraft, T.V., etc. To assist the large number of problem drinkers, Alcoholics Anonymous programmes were also introduced into the prison at this time - also as a leisure activity.

Since 1948 the Penitentiary Service has attempted to conduct a staff-training programme, with the first staff training college being opened in 1952 which offered a regular custodial course of 6 weeks. However, by 1962 basic training became the responsibility of each penitentiary and the staff college was reserved for special courses. During the year ending 1960 a total of 137 trainees out of a total penitentiary workforce of 2,261 participated in the staff college.

In 1953 an advisory committee was commissioned to look at the principles and procedures followed in the Remission Service.<sup>18</sup> It was felt by the Minister of Justice that the reorganization of the Penitentiary Service in the form of changes in methods of training and treatment of inmates required an investigation of the problems of parole and clemency. This committee used the broadest definition of their terms of reference so that their investigation also included sentencing, probation and prisons. The report describes the progress made in expanding vocational training facilities to the older institutions but stressed the need for even more expanded facilities, especially for young offenders and reformable types. The grave problem of overcrowding and the necessity for more institutions of a more varied character were mentioned, and the establishment of minimum and medium security institutions was urged for a more adequate means of classification and treatment. Canadian prisons were also described as deficient in the development of specialized institutions for special offenders, and in the number of reception centres, where inmates would be initially committed while an assessment was being made to prevent damage to impressionable young and first offenders.

Classification and segregation was also viewed by this committee as the fundamental basis for rehabilitative treatment. The classification scheme in the Archambault Report was termed inadequate. Classification was to be a highly skilled task conducted by specially-trained personnel. Since a survey of Canadian prisons undertaken by the committee indicated an inadequate classification staff to size and training,<sup>19</sup> it was recommended that the total staff should be doubled and suitable qualified staff with backgrounds in the social sciences found. The classification staff would be required to assess the needs of the inmate, and based on this diagnosis suggest a program of treatment, as well as prepare a case history of each inmate. The success or

failure of treatment programmes would depend upon the initial assessments and reports.<sup>20</sup>

The nature of the treatment would be decided in the end by the Classification Board of the institution which may consist of the Warden, Chaplain, School teacher, Chief Industrial Officer, Vocational Instructor, Classification Officer and other officers concerned with treatment, Throughout the report, great stress was placed on the concept of rehabilitation and the necessity of adequate classification and segregation facilities as fundamental to treatment success. The best approach was alternatives to imprisonment where possible and, for those who must be sent to prison, such treatment as will promote rehabilitation. In the words of the Fauteux Report:

Attention must be given to the physical needs of the prisoner, his education and his vocational or trade potential. The modern prison, therefore, must be more than a mere place of human storage. It should, as far as possible, be a place of worthwhile and creative activity. But education, in the merely narrow or formal sense, is not enough. The prison program must involve an attempt to change the basic behavior attitudes and patterns of the inmate. This depends not only upon the professional services of specialized personnel but on the atmosphere of the prison. It is only by sustained and determined efforts in these directions that imprisonment can be made to serve a reformatory or rehabilitative purpose.<sup>21</sup>

The Report goes on to recommend a pre-release program which would consist of the operation of small pre-release centres separate from the institutions which would serve as a transitional phase for inmates close to discharge, where inmates could become familiar with normal conditions of life by eating meals together, having visiting rights, and access to newspapers, radio and television. The classification of prisoners was and remains a fundamental cornerstone of the prison system. It represented an extension of the individualized conception of corrections which was the major thrust of criminological theory as applied to prisons. Classification was first introduced in the United States in Massachusetts, in 1930, and four years later it was adopted officially by the Federal Bureau of Prisons.<sup>22</sup>

Beginning with the premise that the criminal was an individual who was out of step with the social consensus, the cure rested above all on an adequate specialized diagnosis. According to the medical model which underlay the practice of rehabilitation, it was as though each prisoner had some form of "bug" which, through sophisticated medical-psychological treatment, could be cured. The theoretical question was shelved for the indefinite future: some conception existed that over a long time enough information on the systematic patterns associated with classifiable "bugs" would be compiled to enable a

number of pragmatic and useful "theories" to be developed, Meanwhile, the criminologist could get down to the essential task at hand, helping individuals to adjust to the prison and thereby curing them without being troubled by any of the larger questions of theory.

Classification was connected to the development of sophisticated behavioural techniques developed during the Second World War in an attempt to enhance the motivation of American soldiers to fight, as well as to the subsequent release of personnel trained in the psychological techniques following demobilization. The growing economic surplus of the cold war years provided the material basis for the utilization of these skilled professional workers in the prisons. Theoretically the development of classification had as its origins the conception of the criminal as being under-socialized or inadequate, as having failed to develop certain characteristics. Since at first these deficiencies were deemed to be relatively unambiguous – even the least detailed study of the prison population could not fail to note the objective disparity in education and skills – classification was designed to be the scientific instrument whereby these deficiencies could be appropriately diagnosed and then, if the program could not be tailored to fit the individual, at least the classifier would be in a position to choose the best programme to overcome the handicaps.

Some importance was placed on the development of programmes designed, as much as possible, to meet these identified needs. In one sense, for penologists, the search for causes was not so much abandoned as being futile, as assured to have been completed; and on this basis they proceeded to take remedial action. Classification became the "the cornerstone ... of any progressive and scientific system of dealing with offenders in penal or reformatory institutions. It is an indispensable element of the fundamental idea of individualized treatment."<sup>23</sup>

Classification was devised by criminologists, and put into practice by social science staff in the prisons, as a reform measure which, according to the prevailing theory of criminality, would allow the successful rehabilitation of the convicts. There was a second related aspect to classification less directly connected with the ideology of rehabilitation. One of the perennial problems associated with imprisonment was idleness. Of course, in the ideology of Puritanism idleness was in itself a bad thing, while work was a positive value. But when the crucial question is not concern for the well-being of the prisoner but rather for the orderly running of the institution, idleness; that is, idleness in the specific context of incarceration, seemed to be linked causally with rebellious attitudes and activities on the part of the convicts. In this sense the diversification of staff to run programmes served potentially to diffuse the atmosphere and provide activity which could be justified on rehabilitative grounds. This was particularly true of the programmes which were designed to fill the leisure time of the prisoners, since unlike control at work, there was not an equal opportunity for re-creation in other settings.

Classification was equally – some would claim essentially – a device to assess the security risk of the prisoner. There had existed previously notions of a distinction between the amenable and the incorrigible prisoner. This distinction was to be made more sophisticated by adopting, on a more systematic basis, means of assessing a prisoner's security level which would determine his degree of relative options within the prison. At the outset the classification of risk was based on such criteria as the length of the sentence, previous record and convictions, age and so on. Classification could then sift out those who would presumably most likely benefit from reform programmes and those who were considered too dangerous and required closer supervision.

Key to understanding the reverse side of this, however, is the realization that the specification of the degree of incorrigibility, that is, the security risk) determines the access to relative privileges within the prison. Consequently, both the threat of increasing the grade of risk, and the possibility of relaxing it, serve as potent control measures for the running of the prison. It is used to punish unacceptable behaviour and induce compliance; and the security risk is tied fundamentally to the chances of parole, one of the rewards of the system. In its operation, then, classification has a dual nature: rehabilitation and strategy for control.

Classification and parole served as the beginning and end of the rehabilitative scheme, with treatment programmes providing the connecting link between them. The major area of responsibility of the Fauteaux Commission in Canada in the 1950s was parole. The Remission Service at the time of the inquiry consisted of seven Remission officers, with headquarters in Ottawa, who investigated and reported on applications for clemency and parole. Parole was defined as a logical step in the rehabilitation process, while clemency was seen as merely an exercise of mercy by the Crown on purely humanitarian grounds and nothing to do with reformation. The justification of parole was outlined in the report as follows:

Parole offers an opportunity for the practical application of rehabilitation programs prior to the expiration of sentence.... The prospect of parole stimulates the inmate to derive maximum benefit from the facilities provided by the prison as preparation for parole i.e., the educational, vocational, religious, recreational and other services furnished by the institution. It offers assistance to the individual upon release. The possibility of parole revocation operates as a deterrent to anti-social conduct. The possibility of parole may be an incentive to good conduct in the institution.... It is a socially just procedure because it enables society to play an auxiliary role in the readjustment of the individual who may have become a criminal partly through shortcomings in society itself.... It offers a means of protection from further criminal activity on

the part of released offenders. Finally, it offers an opportunity to re-evaluate the role of institutional treatment and the relative merits of Alternative, less punitive techniques.<sup>24</sup>

An additional, attractive feature of parole is that it is cheaper form of treatment, not exceeding \$50 per year per parolee at that time.<sup>25</sup> However, a real savings would follow from great expansion of the parole system so that substantial numbers of prisoners were released. In the view of the advisory committee, the Ticket-of-Leave Act was antiquated legislation and should be repealed, together with the provincial Prisons and Reformatories Act and certain portions of the Penitentiary Act, and be replaced by one statute which would incorporate the recommendations. Rather than applications being made by prisoners, there should be automatic parole reviews, with a steady flow of information about prisoners from all sources. The Fauteux Report also calls for the establishment of a National Parole Board (NPB), a parole authority which would be a quasi-judicial body composed of five appointed members with backgrounds in the social sciences and law. This body would grant and revoke paroles and impose the conditions of parole, as well as discharge inmates from parole and authorize temporary releases. This would, in addition, entail an expansion of the Remission Service, with district and regional officials close to the institutions.

Along with this system of parole, a well-developed and extensive system of adult probation would need to be a primary goal in achieving an adequate corrections system. Probation was also viewed as part of the correctional treatment as an alternative to imprisonment. The report states that "Rehabilitation of an offender should, wherever possible, be effected without placing upon him the stigma of imprisonment."<sup>26</sup> The costs argument favouring parole also holds for probation. Implementation of some of the Fauteux Report's recommendations resulted in the creation of the Parole Act in 1958 and the National Parole Board in 1959, followed by the re-designation of the Remission Service as the National Parole Service (NPS) in expanded form.

The concept of parole is linked to the indeterminate sentence. Since one of the functions of the prison at the time, and for criminologists the fundamental function, was the rehabilitation of the prisoners, then the argument could be made that prisoners should be locked-up only so long as they have not been rehabilitated.<sup>27</sup> This implies, on the one hand, that those who can demonstrate successful rehabilitation should no longer remain in prison since the purpose of imprisonment had been fulfilled, without regard to how little of the original sentence had been served. Alternatively, the apparent failure of a prisoner to demonstrate the required degree of positive personal transformation implied that he should not be released from prison at all.

Advanced at the Cincinnati Conference of 1870, and implemented in selective reformatories, the indeterminate sentence was revived by courts in

the United States and took the form of sentencing a criminal to a specified minimum and maximum term. The minimum reflected the requirement of inflicting some suffering as retribution; the maximum reflected the view that even without rehabilitation it was unjust to sentence prisoners to a life term. Having defined the limits of the punishment of incarceration the court subsequently stepped aside, and it was left to the administrators of the prison and parole system to determine the precise time within these bounds when a prisoner was to be released.

The practice in Canada has a similar form with a different content. The prisoner is sentenced to a certain number of years and must serve a specified proportion of this time before he is eligible for parole. This period is normally one-third of the sentence. The possibility exists as well for the prisoner to be granted (the phrase is usually "to earn") remission time. As in the United States, the onus is on the prisoner to demonstrate that he has changed in the required direction; his release is "dependent upon his readiness to assume a law-abiding rule in free society."<sup>28</sup> By exhibiting good behaviour the prisoner can get time off, although, depending on the political climate at the time he requests parole, this requires more than merely staying out of trouble. While at first glance, the positive side of earning remission is apparent, once the reward is gained it turns into its opposite and the prisoner is threatened with its loss should he disturb the order. The indeterminate sentence makes the length of incarceration uncertain and "motivates" prisoners to participate in the various activities and programmes and to demonstrate responsible behaviour in the interest of getting out as soon as possible.

The granting of parole is couched in terms of the continued rehabilitation of the prisoner, who is expected to derive "the full benefit from imprisonment" and to "sincerely intend to reform." According to the Parole Board, institutional reports are especially important and participation in programmes is used to determine whether a change in attitude has occurred. This places pressure on the prisoner to conform to the regime.

The move towards rehabilitation was part of the developing welfare system and the increasing intervention of the state to ameliorate social ills. The expansion of the implementation of measures designed to rehabilitate meant an expansion of staff. Besides the ex-students with a background in psychology or social work, the rehabilitators comprised ex-policemen and ex-priests. For the new people drawn into the staff, the rehabilitation model was taken seriously at the beginning, although there was only a nebulous understanding of exactly what was meant. The ideology stressed that prisoners were not incarcerated to be punished but to be rehabilitated. The psychological model of "client-professional" relationships flourished, and the staff of the penitentiary and parole service wrote up impressionistic reports about "relationships" which, when time came to evaluate them, were found to be unsatisfactory. The paternalism on which the rehabilitation model was based was symbolized by father-figures at the top. In retrospect, this period

is currently evaluated as the result of a naive and idealistic approach which could not but have failed.

The pressure for reform did not come solely from well-meaning liberals, but from the prisoners themselves. Between 1950 and 1953 in the United States, there were reported to be 50 major riots in prisons, this period being described as the most disruptive period in the history of U.S. prisons.<sup>29</sup> The following table, derived from data analysed by Vernon Fox, demonstrates the escalation of prison rebellion in the United States:

Years	Number of Disturbances
1911-1915	12
1916-1920	9
1921-1925	2
1926-1930	32
1931-1935	16
1936-1940	29
1941-1945	9
1946-1950	28
1951-1955	112

Prior to the 1950s the years with the most disturbances had been 1929 (14) and 1937 (9).<sup>30</sup> The 1950s riots were spontaneous outbursts against intolerable conditions, and many material reforms were advanced by the prisoners. To some extent the riots were related to federal orders to desegregate prisons. According to Pallas and Barber, the uprisings supported demands for reforms of the day to day running of the prison, and were aimed at eliminating specific practices, but did not dispute the legitimacy of the social order: "They challenged the abuse of power rather than its nature." The authors imply that the rebels were largely co-opted by the trust they had in the rehabilitators,<sup>31</sup> which at the time made sense because of the overlapping interests of prison reform and individual reformation. This gives expression to perhaps the most profound contradiction: the official de-legitimation of the rights of the prisoners to fight, for their own reforms, and the monopolization of reform efforts in the hands of professional experts who presumably knew how best to rehabilitate and what was in the best interests of the prisoners.

In Canada prisons were experiencing a great increase in the number of inmates, and these increases were linked to prison disturbances in the years 1949-50 and 1953-55. The years 1948-51 were reported as being free of incidents. However, 1953 was a year of significant prison riots, attributed to tensions in the maximums. In 1954, fires and destructive riots occurred at Kingston Penitentiary, in which a minority of prisoners were supposed to have participated. Simultaneously, a disturbance happened at the Federal Training

Centre where some prisoners were demanding a more relaxed recreational program. One hundred prisoners out of 600 participated in a disturbance at Saskatchewan Penitentiary in 1955, causing fire and damage. It was reported that sentences were meted out to the "ring-leaders." In all reports, rioting prisoners were described as psychopaths and as being mentally disturbed.<sup>32</sup>

In the 1950s the U.S. Harrison Act (1914) continued to be the basic legislation in the field of drugs. This was amended in 1951 by the Boggs Amendment and in 1956 by the Narcotic Drug Control Act, both of which were punitive in nature. The latter Act eliminated the possibility of parole for second time offenders under the drug law, but this led to a particularly difficult situation in the prison as administrators claimed that prisoners simply did "flat time" meaning that they put in their time but refused to participate in any rehabilitation programmes.<sup>33</sup>

The application of the medical model to alcohol problems, while similarly slow, began to gain widespread currency in the early 1940s when it was deemed to be a "new approach to alcoholism."<sup>34</sup> Prior to this time public provision for alcoholics was confined to jails, asylums, public infirmaries or shelters. During the Second World War the first outpatient clinics were begun providing community-based treatment consisting of medical, psychological and social-work therapies. This, coupled with the development of Alcoholics Anonymous programmes, served to indicate that alcoholism was not exclusive to the working classes and the "underclass" but affected "middle class" individuals as well.<sup>35</sup> In Canada the basic legislation had been passed in a Narcotics Control Act in 1908 and increasing punitiveness, particularly for importation and sale (addicted or not addicted) followed from the Special Committee of the Senate of Canada (1955) and the Narcotic Control Act of 1961.<sup>36</sup>

It was during the middle 1950s that the first psychologists were employed in prisons in Upper Canada. They encountered a prison system in which there was a minimum of inducements, and in which (besides the internal rebellion which received publicity at the time) the prisoners exhibited, particularly in isolation cells, behaviour they described as psychologically disturbed. This was labelled the "malingering syndrome" and was described as a feigning of insanity – conscious or unconscious – caused by a situation of hopelessness.

It had been as one response to these conditions that the Fauteux Commission was appointed. The period following publication of the recommendation in the Report was relatively peaceful, as more and more potentially good-sounding reforms were discussed by the prison administration. The call for medium and minimum institutions, as a corollary to the classification of inmates, was particularly significant. The prisons had failed to rehabilitate, but the reformers were on a high wave and promising to deliver.

## Endnotes, Chapter Two

<sup>1</sup> Gordon Hawkins, "The Ideology of Imprisonment" in Blom-Cooper (ed.) *Progress in Penal Reforms*, pp. 101-102.

<sup>2</sup> Quoted in *Ibid.*, p. 102.

<sup>3</sup> L.W. Fox, *The English Prison and Borstal Systems*, 1952, p. 72.

<sup>4</sup> *Ibid.*

<sup>5</sup> Stanton Wheeler, "Socialization in Correctional Institutions" pp. 97-116 in Leon Radzinowicz and Marvin E. Wolfgang (eds.) *Crime and Justice: Vol. III The Criminal in Treatment*, (New York: Basic Books, 1971).

<sup>6</sup> Norman Bishop, "Aspects of European Penal Systems," pp. 83-100 in Blom-Cooper (ed.) *Progress in Penal Reform*, p. 97.

<sup>7</sup> Fenton, 1959. P. 7.

<sup>8</sup> Murton, *Dilemma of Prison Reform*, p. 27

<sup>9</sup> Clayton A. Hartjen, *Crime and Criminalization*, (New York: Prager, 1974), p. 132

<sup>10</sup> *Ibid.*

<sup>11</sup> Charles E. Reasons, "The 'Dope' on the Bureau of Narcotics in Maintaining the Criminal Approach to the Drug Problem," in Reasons (ed.), *The Criminologist: Crime and the Criminal*, pp. 144-145.

<sup>12</sup> Samuel H. Adams, "How to Stop the Dope Peddler," *Colliers* 7 3 (March 8):13, quoted in *Ibid.*, p. 144.

<sup>13</sup> S. Meisler, "Federal Narcotics Czar," *Nation* 190 (February 20, 1960), p.159, quoted in Reasons, "The 'Dope' on the Bureau of Narcotics," p. 145.

<sup>14</sup> According to recent revelations in the *New York Times*, at this time the Central Intelligence Agency was involved in brainwashing experiments involving mainly psychological tortures including drugs.

<sup>15</sup> Reasons, "The 'Dope' on the Bureau of Narcotics." p. 147.

<sup>16</sup> Walter C. Bailey, "Correctional Outcome: An Evaluation of 100 Reports," *Journal of Criminal Law, Criminology and Police Science*, Vol. 57, No.2 (1966) p. 155.

<sup>17</sup> Commission of Penitentiaries, *Annual Report* (Year Ending March 31, 1960), Ottawa: Queen's Printer, 1960.

<sup>18</sup> *Report of a Committee Appointed to Inquire into the Principles and Procedures followed in the Remission Service of the Department of Justice of Canada*, (Ottawa: Queen's Printer, 1956). (Fauteux Report)

<sup>19</sup> *Ibid.*, p. 45.

<sup>20</sup> *Ibid.*, p. 46.

<sup>21</sup> *Ibid.*, p. 47

<sup>22</sup> Howard B. Gill, "Correctional Philosophy and Architecture," pp.110-127 in Carter, et al., (eds.), *Correctional Institutions*, p. 113.

<sup>23</sup> Hermann Mannheim and John C. Spencer, *Problems of Classification in the English Penal and Reformatory System*, (London: Institute for the Scientific Treatment of Delinquency, 1949) p. 1.

<sup>24</sup> Fauteux Report, pp. 51-52.

<sup>25</sup> Ibid., p. 52.

<sup>26</sup> Ibid., p. 14.

<sup>27</sup> Wright, *The Politics of Punishment*, p. 44.

<sup>28</sup> Richard A. McGee, "Preface" pp. ix-xviii in Carter, et al. (eds.), *Correctional Institutions*, p. xiv.

<sup>29</sup> Richard McCleary, "Correctional Administration and Political Change," in Laurence Hazlenigg (ed.) *Prisons within Society*, (Garden City, New York: Doubleday, 1968), p. 130.

<sup>30</sup> Vernon Fox, *Violence Behind Bars: An Explosive Report on Prison Riots in the United States*, (Westport, Conn.: Greenwood Press, 1956).

<sup>31</sup> John Pallos and Robert Barker, "From Riot to Revolution," pp. 237-261 in Wright, *The Politics of Punishment*, pp. 240-242.

<sup>32</sup> Commission of Penitentiaries, *Annual Reports*, 1949-50, 1953- 1955.

<sup>33</sup> Richard Brotman and Alfred Freedman, *A Community Mental Health Approach to Drug Addition*, (U.S. Gov't Printing Office, Health, Education and Welfare, 1968), p. 4.

<sup>34</sup> E.M. Jellinek, *The Disease Concept of Alcoholism* (New Haven: Millhouse Press, 1960), p. I.

<sup>35</sup> Robert Strauss, "Alcoholism and Problem Drinking," in Robert K. Merton and Robert Nisbet (eds.) *Contemporary Social Problems*, 4th edition, (New York: Harcourt, Brace Jovanovich, 1976), p. 212.

<sup>36</sup> Commission of Inquiry, *The Non-Medical Use of Drugs Interim Report*. (Penguin Books, 1971).

## **CHAPTER THREE**

### **LIBERAL CRIMINOLOGY AT THE SERVICE OF THE PRISON ADMINISTRATION**

#### **Decision Theory**

Within liberal criminology we can identify two distinct schools of thought. Stemming from the social pathologists, the search for causes of criminal action led to an increasingly sophisticated sociological theory of deviance represented by the work of such writers as Merton, Sutherland, and Cloward and Ohlin.<sup>1</sup> In the field of penology sociologists adapted structural functionalism to the study of the prison and developed the concept of the prison social structure. The second strand rejected this theoretical approach and declared that the development of criminology had been retarded by the illusory search for causes. The days when sociologists could seek for the general causes of criminality were declared to be over; the medical model was taken to the extreme point at which it was declared that since it was ludicrous to seek for a theory of disease, to seek for a theory of criminality was equally a chimera. Walter Reckless, for example, rejected the concern for the search for causes and advocated instead the "realistic and comparative study of criminal behaviour."<sup>2</sup> The sociological approach was abandoned in this school of criminology and a form of behaviourism became dominant in its place. This school practiced what Grygier called "decision theory" by which was meant the scientific administration of the correctional system.<sup>3</sup>

If the search for the causes of criminality had kept sociologists in the ivory tower, the adoption of decision theory moved the social scientist squarely into the Warden's office. Most characteristic of this approach is an extreme empiricism which disdains to waste its time by discussing the contentious issues in penology and takes as its function the pragmatic attempt to determine rationally the most efficient way of achieving specified goals. That is, it must implicitly assume answers to these questions and its value neutrality is nothing but the acceptance of the dominant ideology. It is here that "grand theory" conducted within a consensus framework, and empiricism, which ignores theoretical questions, can be seen to arise from the identical ideological position: the pragmatists merely assume the essential part of the theoretical basis elaborated by the structuralists. During the 1950s and early 1960s there was not only implicit acceptance of the legitimacy of the social goals the institutions, such as the prison, were designed to serve, but acceptance of these institutions themselves as the best instruments to obtain the goals, albeit with manipulation which only they, the social science experts, could offer. The larger issues having been shunted aside, Grygier could then

claim straight-forwardly that, "if criminology is to have any practical application, it must lead to a scientific control of human behaviour."<sup>4</sup>

Decision theory may be regarded as the increasing development of more sophisticated methodology to answer a narrowing range of questions. Attainment of the goals of rehabilitation could not be measured precisely because it seemed impossible to operationalize the concepts of will and the notion of a profound personal and internal change which were bound up with the philosophy of rehabilitation. These mysterious inner changes were declared to be at best, unscientific, and at worst, ludicrous. Since the presumed inner state of the rehabilitated man was found to be outside the realm of scientific discovery, recourse was taken to the outward behaviour of the criminals which could, it seemed, be directly observed and understood. In particular attention was focused on the question of recidivism. It was argued – based on the assumption that criminality was an individual problem – that the idea of rehabilitation had, as its major goal, the transformation of a criminal into a non-criminal. Now various ideas might abound about what makes a person a criminal in the first place, but irrespective of the assumptions which underlie the intervention, and the nature of this intervention, the acid test was whether the individual was able to go straight.

Of course many problems are associated with the operationalization of "going straight," especially with regard to recidivism. Recidivism means avoiding reconviction, but not necessarily remaining within the law, and the odds are against an ex-prisoner escaping subsequent crimes at least relative to those who have no record. There is the issue of severity of the crime which may be less significant in degree for reconvictions. And even more fundamentally there are factors outside the control of the treatment programme which reduce or eliminate its significance.<sup>5</sup>

Recognizing that the ostensible aims of rehabilitation involve such concepts as increasing self-understanding, developing personal relationships, learning respect for authority, and so on,<sup>6</sup> criminologists rationalized the use of recidivism as the crucial measure by assuming that staying out of prison would be the practical outcome of these impossible to measure factors. Without being able to explain the precise causative chain which prevented an ex-prisoner from being reconvicted, the fact of being so was taken ipso facto as evidence of rehabilitation. Decision theory did not reject the philosophy of rehabilitation so much as assume its major tenets. The problem was trying to measure the effect that differential experiences in prison would have on behaviour. Unlike the extreme behaviourist position which asserts that attitudinal changes take place following and as a consequence of changes in behaviour, the pragmatists in prison administration assumed that failing to be re-convicted was a change of behaviour (as if there was only one independent variable) and that this change in behaviour could be an indication that some change in attitude had taken place. In practice the question of assessing attitudes became irrelevant and the emphasis was placed totally on

compliance with no consideration given to the basis of this behaviour. The trend, then, was towards an increasing methodological sophistication as prediction methods became increasingly individualized to take account of the numerous disparities which have to be taken into account for successful manipulation. From rather crude random sampling techniques, the technicians of social science developed individual matching,<sup>7</sup> and more complicated base expectancy tables.<sup>8</sup> From these the methodological precision has developed further divorced from the problems of theory construction and generalization.<sup>9</sup>

The optimism of the 1950s assured social scientists that social institutions were beyond reproach; they understood, however, that they were assuredly in need of reform of a kind which their expertise would offer. The behavioural perspective at this point in time was generally not introduced into the prison as programme but rather as the theoretical underpinning of a methodological approach to assess the efficacy of existing programmes. The pragmatic emphasis on "what works" was not presented simply as legitimating means; the administrators, consistent with their liberal orientation, considered themselves humanitarians and could generally argue in favour of a programme if it maximized the reform of objective conditions even if it could not be demonstrated to achieve relatively more success than a harsher punishment. If it achieved less success, then that was a different matter.

### **The Structural Approach to Penology**

The 'structural' view of criminality was not confined to a concern with the objective causation of "deviance." As we have seen, it recognized that what were defined as criminal actions were generated by social processes that were an integral part of the functioning of Western society. From this fact it was concluded that criminality was a "social fact"; that it was endemic to society as a whole. It was not incumbent upon criminologists to question how "crime" was created and defined by social institutions, nor did they question the legitimacy of the existing institutions. Their function was, on one level, to discover the processes by which the society generated criminality in the hopes that subsequent intervention could direct criminals from this path. The most widely applied attempts at this were those of Sutherland, who developed the concept of differential association, and Merton, who sought the source of criminality in the disparity between general social goals and unequal access to legitimate means. Both had programmatic implications and were reflected in the concept of "training," in both its moral and vocational aspects. Merton's theory, in particular, implied the need to devise schemes of redistribution to minimize the inequalities and hence minimize crime.

A second direction which criminologists who operated within a structural framework took, was to examine the prison as a social system. One of the basic assumptions with which these writers began their research was implied in the view above – that by and large existing social institutions were

appropriate and necessary. Whether they were adequately fulfilling their allotted purpose, however, was a second question. The existence of the prison was taken for granted, and sociologists began to study the social structure of the prison, divorced from the society of which it was a part.

The first major work in North America on the sociology of the prison came out of the Chicago School in 1940. Donald Clemmer's *The Prison Community*<sup>10</sup> applied the conception of human action as a functional adaptation to environmental forces to the prison.<sup>11</sup> Studies of penology which have utilized a functionalist framework have tended to emphasize two aspects of the social structure of the prison: the view that there is a normative code, and the question of leadership. The first aspect, the "inmate code," was seen by Clemmer to be the internal form of social control among the inmates. In his view, the code attempted to institutionalize solidarity among the prisoners on one hand, and anti-institution values on the other. Leadership in the prison community was generally accorded to those who best exemplified the tenets of the inmate code, and were most consolidated in anti-administration values. Clemmer noted, however, that there was widespread violation of this code in practice and that only flagrant violations were controlled by negative sanctions. There was a sense in his work, however, of a basic solidarity among inmates. The process of acculturation to the norms of the inmate code was termed "prisonization," which was determined by the degree of contact with "hardened" prisoners.<sup>12</sup> To the extent that this view was true, the problem of disorder was endemic to the prison. However, since the point of understanding is the scientific control of behaviour, this knowledge might form the basis for rational intervention.

Clemmer's work, as well as the studies conducted by Schrag<sup>13</sup> focused on problems in the prison for, in practice, the prisons were by no means running smoothly. The key question was the problem of power and authority. Ostensibly, the staff had complete power over the prisoners, but the prisoners valued non-compliance above all, a position-which was completely reasonable since, in the classical prison prior to the Second World War, there was virtually nothing but dead time. The situation was, at its most simplistic, that hundreds of men were confined in an institution, subject to significant deprivations, against their will, while a second group of men were designated to maintain order. In the classical prison there was only negative sanctions, and as these were progressively used, the store of possible sanctions dwindled.

Internal discipline had to be maintained in a situation in which systematic brutality was increasingly illegitimate. To the extent that concrete reform proposals were heeded by the prison administration, and corporal punishment outlawed, the problem of social control potentially intensified. Coupled with this was the atrocious state of prison conditions and the problem of overcrowding. The spectacular increase in the incidence of prison riots in the early 1950s in the United States had resulted from the accumulation of these long-standing problems. It became abundantly clear that the prison

system was not working. Despite the beginnings that had been made in 1930 in the United States in an attempt to reform the prison system, with the creation of a federal department, the effect of the depression and the war was to continue the process of ignoring prison reform. The sudden intensification of prison riots, as well as the uncovering of numerous cases of what were thought to be "maladministration" of the prison, had the predictable result: much more attention was given to correctional problems.<sup>14</sup>

The wave of riots disrupted prisons all over the country, and they received wide-spread publicity in the mass media. In May, 1953 the American Prison Association's Committee on Riots published its report and concluded that the causes of the rioting were basic to the prison system itself. The fundamental causes were thought to be: A. inadequate financial support, and official and public indifference; B. Sub-standard personnel; C. Enforced idleness; D. Lack of professional leadership and professional programs; E. Excessive size and overcrowding of institutions; F. Political domination and motivation of management; G. Unwise sentencing and parole practice.<sup>15</sup>

Despite appearances, it seemed that nothing had essentially changed, but the official response was more of the same; that is, it was argued that the reforms had not been implemented seriously and much more financial help must be allocated to the prisons. With sufficient money to support the appropriately sized army of social and welfare workers, it was thought, all problems were solvable within the present system. Post-war prosperity, coupled with the large expansion in the proportion of the work-force engaged in non-manual work, provided the basis for this view and allowed the implementation of some programmes. There was still the rather troublesome question of inmate solidarity and the view that prisoners were a consolidated mass with anti-administration sentiments. The 1950s riots seemed to provide substantiation that the prison was indeed a powder-keg which needed very little to set it off. The question of the maintenance of order was essentially the question of power, and social scientists began to look into the essential power relations within the prison.

An important theoretical statement of the problem of power in prison was formulated by Gresham Sykes.<sup>16</sup> While it has frequently been his typology of argot roles within the prison which has been the focus of academic attention, his major contribution was a recognition of the problems of social control. Sykes makes it clear that the social system of the prison is not simply a question of physical environment, but is undergirded by ideology – by a philosophical rationale – and that this must be understood in order to comprehend the prison's social system. He enumerated the ideologies of imprisonment as punishment, retribution, deterrence and reform, and suggested that the prison was attempting to fulfill contradictory goals. In particular there was a major contradiction between the "value or priority attached to the maintenance of order as opposed to possibly competing objective" such as individual reformation.<sup>17</sup> Sykes' approach to the social

system of the prison adopted an "organization" viewpoint according to which the guards and main administrators were concerned less about either punishing the offender for past wrongs, or for rehabilitating the prisoner to prevent future crimes, but rather were concerned with internal order, the smooth running of the institution. This pragmatism was blown up to a theoretical justification couched in the phrases of rehabilitation. At the level of every day activity the staff possessed a formal monopoly over the legitimate means of coercion, a situation Sykes termed "total power."

The crucial problem of power in the prison, as Sykes saw it, arose from the problem of legitimacy in the institution. In the Weberian sense, power based on authority combines two elements: the legitimacy of the wielders of power to exercise control, and "an inner, moral compulsion to obey."<sup>18</sup> Social organizations derive their strength from both of these aspects. Prisoners, according to Sykes (writing in 1958) did not dispute the formal legitimacy of the prison; however, the hierarchy of power consists of gradations of staff, on the one hand who, theoretically, obey orders because they think they should, and a mass of prisoners under little moral compulsion to obey; rather than responding out of a moral sense of duty, prisoners must be "forced, bullied, or cajoled into compliance."<sup>19</sup>

Sykes then goes on to explain that force must remain an ultimate sanction but that recourse to violence is only appropriate in extreme situations of unrest. Focusing on the prison as a social system Sykes recognizes the necessity of these other measures of social control, despite the formal existence of "total power," in order for routine functioning: "A blow with a club may check an immediate revolt, it is true, but ... will be of little aid in moving ... inmates through the messhall in a routine and orderly fashion."<sup>20</sup> If punishment cannot be used to maintain orderly functioning, Sykes was quick to point out that in the maximum security prison, the store of possible rewards was greatly minimized. Fundamental to the regime of the prison were specific deprivations which eliminates the ability of the staff to reward compliance. With the ability to force prisoners curtailed by the limits inherent in the use of punishment in the prison, at least for everyday activities, with no development on the part of the subject population of any inner moral compulsion to obey (although they accepted the legitimacy of the prison), with virtually no rewards with which they could "bribe or cajole" prisoners into the imposed social patterns of conduct, the prison faced a paradox of control.

The recourse to violent repression, as the ultimate weapon, might restore the status quo ante regarding power should rebellion occur, but there was no means to exercise ordinary control. It was in this situation that a system evolved in practice which allowed the two contradictory forces to exist in some equilibrium – the corruption of the guard. Essentially Sykes meant that the guard has to permit some behaviour, normatively defined as criminal, to occur in the prison, in return for some general compliance on the part of the prisoners. This does not suggest that all guards actively participate in this

activity, smuggle in contraband, and so on, although many do. Rather it is informal license for some prisoners to exercise internal control over others.

Thomas Murton has exaggerated this into what he terms the "fiction of prison control": the amount of power exercised by the guards, ultimately, is equal to that granted by the prisoners. The "community" would not tolerate open prisoner control, so the fiction of staff power is maintained as being advantageous to both groups.<sup>21</sup> Here Murton translates the response of an oppressed group to try to manipulate its circumstances to ameliorate some of its conditions into actual power, but the two must not be confused, And both are distinct from the potential power which prisoners have in the possibility of solidaristic opposition.

Relative to the coercive agencies of the state, however, this potential power is itself precious little unless linked with wider social movements. In his analysis of the riots which took place in the New Jersey prison in 1952, Sykes disputed the common "powder-keg" theory, which inferred that the prison was always on the verge of rebellion and, rather, concentrated on the informal structure of power. His analysis of the argot roles distinguished, in general, between those individuals who played "cohesive" roles, meaning those who supported the staff and had a vested interest in stability and those who played "alternative" roles. The former, he maintained, were kept in line by the informal rewards made possible by the definition of limits of permissible behaviour in violation of prison rules. The imposition of strict discipline, however, undermined the functioning of the informal reward structure, and created a situation in which "alienative role players will displace the cohesively oriented inmates as the foci of power and authority within the inmate group."<sup>22</sup>

The crucial question of social control, then, which could be addressed by sociologists, surrounded the types of roles in the prison social system and the question of leadership. Sykes' study opens up the possibility that rather than there being an inmate code which, in general, solidifies prisoners in opposition to the guards, and promotes "anti-social" elements to leadership positions, there are compliant prisoners as well who, with judicious distribution of informal privileges, can be counted on to maintain control. What might be more reasonable to assume, however, is that the process of turning a blind eye to activities defined as illicit, encourages the development of exploitative roles in the prison – it has the effect of dividing prisoners and allowing many matters of control to be handled by the prisoners themselves, not as an equal body, but as a group with informally defined leadership.

By approaching the study of the prison from the point of view of isolating it, as a social system in itself from the wider society of which it is a part, two distortions in particular are developed. As with decision theory, there is an implicit acceptance of the institution and the larger social structure of which it is a part. This leads to the negation of any fundamental questions concerning what the role of the prisoner is in the particular society. The prison is not a deserted island upon which Robinson Crusoe types have been cast who must

construct a new world (which in any event will still reflect the world from which they had come originally). Sykes denies that he is at all interested in these questions: you have a prison; the problem is to study it. The point is that this stance precludes understanding institutions at all.

The second distortion arises in the very concept of a "prison community," which is a contradiction in terms almost Orwellian in its implications. One must locate the prison in its place as a coercive instrument of social control within the larger context. It is not a society by itself but a means of punishment, and it is seen as such by the prisoners. Power is not something that merely is held in abeyance, to be used to put down disturbances - the position of being a prisoner is one of continuously and pervasively, being coerced by an external power. The prisoners are not there because they want to be, but because they are being punished. Being not only in a situation of being powerless, but of being actively punished (through confinement) by specified agents, the response of prisoners to their situation is based on this sense of oppression. You cannot separate what a prison is for from what goes on inside it.

The application of social science analysis to the prison was a response to the problems associated with the running of a coercive institution. The inmate social system had been seen as a consolidated anti-administration attitude and was therefore a block to the successful control of the prisoners. The interest of sociologists in the prison, however, was justified in terms of the prevailing notions of rehabilitation. The inmate code, as described by Sykes and Messinger,<sup>23</sup> was a means for prisoners, in a state of relatively severe deprivation, to develop some self-esteem. Essentially it was based on the dichotomy between prisoners and guards - the oppressed and their oppressors, and emphasized solidarity among the former, at least vis-a-vis their common plight, and the attempt to negate the influence of the prison staff. In this sense the inmate social system was viewed by penologists as a road-block to positive rehabilitation, and the focus on inmate leadership was an attempt to interfere in the process and undercut the general hostility to the regime.

Prisonization, or the acculturation to the social system of the prison, was assumed by penologists to be a bad thing rather than a realistic response to oppression. In their attitude to this "code" and the leadership which espoused it, the social scientists exposed the ideology behind their work. The conceptual leap is taken from defining that such a culture, with anti-administration attitudes exists within the prison, to the assumption that its nature is "criminalistic." As Clemmer explains: "The phases of prisonization which concern us most are the influences which breed or deepen criminality and anti-sociality and make the inmate characteristic of the criminalistic ideology in the prison community."<sup>24</sup> Here the irony of the whole concept of a "prison community" is fully exposed; inmate solidarity in the face of imprisonment is defined as anti-social, while overt manifestations of co-operation with the

prison regime become symbolic of an individual having a "fairly stable personality," an adequate socialized relationship prior to incarceration, and a character strong enough to reject dogmas.

Such a solitary man, who forms no social attachments of any commitment with prisoners, shows "a willingness, under certain situations, to aid officials, thus making for identification with the free community."<sup>25</sup> The structural viewpoint, which begins by isolating the prison, as a "community" in itself, from the larger community of which it is a part, in the end has to fall back on the assumption that, after all, the prison regime represents the "free community" and to be fully "social" the prisoner must identify with the outside, through its putative agents inside. Hence prisonization is defined as a process of becoming anti-social.

Clemmer finally spells out the implications of his research. If we identify co-operation with the regime with adherence to the values of the free community, and solidarity of inmates with anti-social, in fact criminalistic, attitudes, the granting of parole must be based significantly on "a man's role" in the prison community.<sup>26</sup> The point is, if you leave the analysis at the level of the institution, then prisoner solidarity is a reasonable response to conditions. From an administrative point of view, however, the degree of prisoner solidarity is seen as being in an inverse relationship with order in the prison. Placed in a formally powerless position, nevertheless the strength of prison rebellion rests on numbers, on the uniting of prisoners in anti-administration attitudes and actions. It is in the interest of prison administrators to attempt to interfere with the prison's social system, to the extent that it objectively exists, and leads in the direction of legitimizing and encouraging prisoner solidarity. The study of prison leadership serves explicitly to achieve this aim. It is justified, however, in terms of rehabilitation, since it is assumed that assimilation to the prison culture prevents identification with the regime (i.e. with free society) so therefore any intervention which disrupts the normative assimilation of prisoners is beneficial to them, to their reformation.

In sociological literature, the study of the social system of prisoners is not justified explicitly as an attempt to develop the means of social control, but rather according to the philosophy of rehabilitation. The existence of leaders who espouse values antithetical to the regime of the prison – including correctional programmes – is theorized to be one significant limiting feature which prevents actual rehabilitation from taking place. Empirical studies have found that those prisoners who most clearly articulate the code of ethics associated with the inmate system tend to be opposed to participating in a programme designed to resocialize values and attitudes.<sup>27</sup>

Clarence Schrag disputed the solidarity inmate thesis and categorized social types in prison. He suggested that the inmate code, as postulated by Clemmer, did exist, but only characterized one role among many taken by groups of inmates. There were some roles in the prison which were anti-social,

as well as prisoners who preyed on others, and prisoners who adopted the codes presented by the prison administration. This description not only was more realistic in its depiction of the effects of the prison regime, with its hierarchy of inducements and punishments, but provided a theoretical base for intervening to support the distinctions. This means, first, encouraging compliant prisoners by a reward structure within the bounds of prison practice defined as legitimate, second justifying segregation of troublesome prisoners who are interfering with the "best interests" of the majority of prisoners, and third, ignoring disruptive elements within the prison itself which, however, leads to the "natural" development of a hierarchy of oppression and exploitation within the prison population.

Schrag emphasized, as a causal element to explain the failure of the prison regime to be sufficiently effective, that more attention should be paid to these relations among prisoners, given that leadership seemed to be exercised by those he described as "criminally mature" and "least improvable" whose status was enhanced by "psychoneurotic or psychopathic behaviour."<sup>28</sup> His research efforts were directed towards the identification of leadership types "so as to promote the eventual prediction and control of leadership phenomena."<sup>29</sup> As Schrag puts the case:

Detailed knowledge of the general characteristics of leaders and of the variations in leadership preferences among different groups of inmates should facilitate the prediction and regulation of interpersonal contacts and influences within the prison community. Such information should simplify the control of the prisoner population by means of segregation or special assignments.<sup>30</sup>

Schrag's data tended to show that prisoners tended to choose as leaders those with similar characteristics to their own, regarding length of sentence, and so on. The finding that, in general, inmate leaders are the most opposed to the prison regime, is explained by the predominance of multi-timers with more consolidated anti-administration views. The conclusion drawn from the study is "the utility of segregation as a device for regulating inmate interaction" and neutralizing the ability of the criminally mature to corrupt. This argument was designed to oppose the existence of large prisons with diverse populations, proposing that more specialized institutions be constructed. The effect of studies of the social structure, however, are theoretically applicable for prison management. The attempt to manipulate the influence of the "social climate and the leaders" would lead to breaking up of the "gangs" and "enhance positive groupings."<sup>31</sup> The role of the professional staff becomes the studied observation of the prison population for the purpose of intervening in the functioning of the inmate system ostensibly to counteract negative aspects which detract from the treatment being provided. Of more

practical value to the administrators is the need to keep close tabs on the prisoners' interaction in the attempt to maximize the probability of compliance. Thus, when T.P. Morris agrees that prisons can be made more effective social systems but then argues that "it is yet to be recognized that more efficient prisons in which staff morale is high and staff-inmate conflict minimal can prevent men's returning to crime,"<sup>32</sup> he argues essentially as a criminologist who, at least formally, takes the goal of rehabilitation seriously. However, the key to efficiency is peaceful co-operation, and the policy of intervening in the social system of the prison achieves the purpose of maintaining control, and is rationalized on the assumption that a "happy prison" is a reformatory prison.

What in fact occurs is that the necessity to maintain social control is formally justified as crucial to rehabilitation, and ultimately, rehabilitation. The view that prison at least puts prisoners in a position to be positively influenced is taken one step further and it is asserted that compliance with the prison regime is rehabilitation. The offender presumably had failed to develop the proper respect for legitimate social authority, and consequently committed criminal acts. In the setting of the prison he was to learn to comply to externally imposed power, and this compliance would then generalize to conditions external to the prison.

The administration in whose interests it is to maintain an orderly prison, legitimizes its attempt at control according to a crude behaviourism which does not distinguish between power and authority, but rather assumes that the disciplined meeting of externally imposed demands will, in some fashion, generalize to following orders upon release. The transparency of this view is readily apparent - its importance is the recognition that, at a certain time when the model of rehabilitation was prevalent and on the rise, actions even contrary to the philosophy had to be justified by coming under its general rubric.

### **Maximum, Medium, Minimum**

In Canada, the Fauteux Report had criticized the situation in the prisons and indicated that the reforms which had been talked about had in fact not been implemented. The crucial question is to recognize the dual nature of the programmes and the contradiction between control and treatment. Despite the subjective wishes of some of the social science reformers, the changes in prison administration frequently were not implemented in a way which maximized the potential for treatment, but rather in a way which increased the power of control. The twin responses of coercion and inducement, which became institutionalized with the distinction between "treatment" and "custodial" staffs, gave the appearance of being two separate interests, one of which was supportive of the prisoners and the other of the prison

administration. It was in this sense that some prisoners had demonstrated a degree of trust in the rehabilitator in 1950.

This distinction provides some basis for the view of prison policy as a power struggle between separate interest groups, a pluralistic view which ignores the fact that the struggle over the means of social control is relative to the response of those to be controlled, and in the crunch the liberal reforms are shelved. In 1959 a Correctional Planning Committee was established to look at the recommendations of the Fauteux Report and propose a programme stemming from these. This programme, as it was developed by the Penitentiary Service, subsequently consisted of three main goals: to institute a programme of training directed towards the goal of rehabilitation, to develop competent staff, and to establish suitable institutions for training.<sup>33</sup>

The Penitentiary Service embarked upon an experimental program of medium and minimum security institutions which were viewed not only as necessary means for carrying out treatment but also as a means of relieving the state of overcrowding in the maximums at that time, a situation caused by a sharp increase in the prison population in the 1950s. The year 1959 saw the occupation of Canada's first medium security penitentiary at Joyceville, with a second under construction in Quebec. The operation of two open-type minimum security work camps for public work projects commenced that year, these being only a small part of a major plan for the expansion of this type of installation. This type of facility was highly praised for its treatment value but was also a method of quickly accommodating hundreds of inmates. In the following years two maximums were converted into mediums, new mediums and minimums were constructed, together with minimum security farms at each of the maximums. A specialized institution for drug addicts was added to the variety of facilities of the Penitentiary Service in 1962. By 1963, seven maximums, four mediums and fifteen minimums existed across Canada.<sup>34</sup> A Ten Year Plan (1963-73) of institutional development was set forth. It proposed that each region have a regional reception centre, a medical and psychiatric centre, maximum, medium, and minimum penitentiaries, a special detention unit and a community release center.

With increased emphasis on treatment, the size and quality of penitentiary staff needed to be changed. In 1961 less than one half of penitentiary officers had received basic training at the Staff College in Kingston.<sup>35</sup> The college offered seven courses, of which three were custodial, one on penitentiary administration, one clerical and two conferences. No more than twenty-one penitentiary officers could attend at one time. According to Fornataro,<sup>36</sup> those activities formally described as classification consisted of allotting inmates to housing and work, with only a few institutions having anything approximating classification. He viewed the prevailing conditions in prisons, such as the high ratio of inmate population to classification staff as well as the lack of qualified staff, as making it impossible to implement a proper classification. Classification officers with backgrounds in the military,

police or security forces, or with a fresh B.A. were being hired. Segregation of inmates, that is, the practice of allocating different categories of prisoners to separate areas of the institutions or to separate institutions, seemed to serve administrative and custodial expediency rather than rehabilitative goals. In Fortanaro's view, systems of segregation appeared to be based on age, length of sentence and criminal history, producing a heterogeneous population requiring differing treatment programmes.

The introduction of a penitentiary program directed towards rehabilitation was given much praise by the Penitentiary Service. The industrial programme was intended to have more of an emphasis on training in industry than small work shop production for institutional goods and services, as new industrial buildings were built and new machinery and equipment installed. However, a look inside prisons in 1960 shows only 38 per cent of inmates were employed in penitentiary shops.<sup>37</sup> Fortanaro viewed the deadly idleness and make-work projects of inmates as the most acute problem inside the prison. In his words, "prisons have developed a limited range of occupational activities that have become almost a stereotype of prison programs."<sup>38</sup> Vocational training was supposed to be a part of the work activities. The image projected by prison officials seemed not to coincide with reality. The vocational training opportunities in institutions, although lauded as an important reform, were limited. The Commissioner of Penitentiaries reported 333 inmates enrolled in training-courses, out of a total prison population of 6,344.<sup>39</sup> The same kind of misinformation seemed also to apply to academic opportunities available to offenders. Fortanaro's assessment was that offenders may be offered a good course of study in one half the provinces of Canada at that time and if they were committed to an institution with sound programs and qualified instructors. Correspondence courses in many cases made up the whole of the educational program, since most institutions did not hire full-time instructors.

A large proportion of changes introduced in prisons since 1947 occurred in recreation. Fortanaro argues that competitive sports had come to represent the "new penology."<sup>40</sup> An increase in professional services such as counselling, chaplaincy services and psychiatric and medical services became part of the prison program of treatment. The total number of professional staff, however, was still very small, so that special services were provided for a small number of individuals with special problems.

While official government reports sought to give the most favourable interpretation of prison programmes, more talk about penal reforms rather than actual implementation occurred in this period. The implementation which was carried out was frequently sacrificed to administrative convenience and punitive goals. There is a basis in reality for the complaint of the liberal reformer that, in fact, reforms had not been implemented as reforms – that they had never been given an adequate opportunity. This expression of concern at the failure of implementation, despite the promises, as well as the

demand that the promised reforms be pursued, underlies Fortanaro's criticism: "In Canada, prison is a way of life in defiance of the basic principles of humanitarianism, of reason and indeed of civilization itself."<sup>41</sup> He called for more systematic research into criteria for classification, the development of special resources in institutions and more self-determination of inmates in treatment programs. Other Canadian criminologists, such as Kirkpatrick<sup>42</sup> were urging the acceptance of the concept of rehabilitation in the middle 1960s.

If we look at the mood of prisoners during this period, we find reportedly peaceful years marred by no disturbances from 1956-61. A major riot broke out in 1962 at St. Vincent de Paul, where 50 inmates were reported to have gone on a rampage, setting fires and breaking machinery. Ninety per cent of shops were damaged as well as 200 cells, twenty-six inmates were wounded and one killed.<sup>43</sup> In 1963, hostage-taking incidents occurred at B.C. Penitentiary as well as at St. Vincent de Paul, the prisoners involved demanding transfers to other institutions. Charges were laid against the inmates once the uprising was quelled.<sup>44</sup> The climate in the maximum prisons was particularly tense at the time because of the over-crowding, and the delay in transferring prisoners from the maximum to the medium prisons. There had been increases in the prison population between 1958 and 1959, and from 1961 to 1964.<sup>45</sup> The medium prisons served the function of relieving the overcrowded and volatile conditions in the maximums, However, there were some indications that changes were to take place; in 1963 death sentences in Canada were commuted, and a moratorium placed on capital punishment. It seemed that the rehabilitation model was about to be taken seriously in Canada at about the time its efficacy was coming under more sustained criticism elsewhere.

Prior to 1959 the penitentiary at Dorchester, New Brunswick, built in 1880 to house prisoners in Atlantic Canada, was the only federal institution in the region for all prisoners sentenced to two years or more. Not until the late 1950s were additional Institutions built in accordance with the Correctional Planning Committee. The Dorchester Farm Annex was built about this time as a minimum security prison for those with a relatively short time remaining on a long sentence. It was described as a pre-release centre.

The security classification of prisoners distinguished broadly between three types, to correspond with the major types of prisons envisaged by the Committee. Maximum security risks were thought to be dangerous and/or incorrigible; medium security prisoners were not considered security risks in the sense that they could be expected not to attempt actively to escape; their detention was described as "warehousing, a term with custodial and punitive connotations which, while it negates the supposed rehabilitative functions of the medium, more precisely describes the state of affairs; and the minimum security risks, who were usually near the time of their release. Dorchester was technically a maximum security prison, but it was considered by the

administration to contain a large proportion of prisoners who were merely medium security risks, those serving two or more years, but did not meet the criteria for the farm annex had there been sufficient places.

The medium security prison at Springhill was the first of its type to be built in Atlantic Canada. It was originally intended as a prison with an explicit emphasis on rehabilitation, and was expected to take young prisoners who were undergoing their first sentence over two years in duration, or those who were incarcerated following a second conviction and were considered by the classification staff as susceptible to the motivations devised in a medium security prison to induce participation in programmes thought to be reformative. The intention of the classification as a reform measure had several justifications. The security arrangements in the maximum prisons had to be directed towards that type of prisoner conceived to be most dangerous, which meant that the possibility of rehabilitation was severely curtailed because of the maintenance of strict control. This condition applied to those classified as medium risks who, presumably, were capable of rehabilitation, but had not reformed in the past because the options had never been available to them. Secondly it was thought that not only was there the failure to provide positive options for those prisoners regarded as amenable to change, but that the mixture of prisoners with varying security classifications placed relatively inexperienced criminals in a social environment dominated by "hardened criminals." The learning process in the prison was one of acculturation to the criminalistic sub-culture which would negate any rehabilitation efforts; the prison would merely serve as a crucible for crime.

The original conception of a medium prison was to identify those criminals who were amenable to change, those who had not learned the ins and outs of the inmate social system with its anti-administration stance) and place them in a prison which had as its primary focus not simply ware-housing but genuine rehabilitation. The content of the provision of quantitatively better facilities: more vocational training options and expanded recreation programme, more inmate/staff contact, and so on. Having supplied the necessary physical plant for the successful rehabilitation of prisoners, the two other necessary pre-requisites for success were deemed to be: (1) the selection of suitable prisoners, amenable to positive change – largely those with a history of only one long-term conviction, and (2) the restriction of numbers so that the treatment philosophy could be administered adequately.

In the case of Springhill, the pre-requisites of success were subsequently violated. The high rate of recidivism at Dorchester and the overcrowding of the cell blocks in the maximum prison, led to the transfer of increasing numbers of prisoners to Springhill who fulfilled neither of the pre-requisites above. Springhill was changed in practice from a prison meant specifically for youth and first offenders, and became a stronger medium with a larger population to which multiple repeaters would be sent no longer on rehabilitative grounds – the "most amenable" – but purely on security

grounds: they were expected to be more resigned to the prison regime and less likely to attempt actively to escape. While separated from those thought to be most dangerous, the problems which had been associated with Dorchester, such as tighter control and the criminalistic influence of those with multiple convictions, were reproduced in Springhill. (It was acknowledged by senior staff in Springhill that there really wasn't much difference between minimum and maximum prisons anymore, with the exception that the ratio of staff to inmates was smaller in the mediums, which were therefore less expensive to run, on this count.)

If, from the point of view of Dorchester, the policy of more generally defining the eligibility for Springhill may have (temporarily) helped the situation of over-crowding, it had the effect of removing from the population those individuals for whom some rehabilitation programmes might have been expected to succeed. It had the effect of defining the remaining population of Dorchester as dangerous thereby increasing the legitimacy of tighter control. It is not clear, however, whether the separation of prisoners into amenable, and then providing separate incarceration, provides the most effective means of social control. The retention of the "mixture" may, on the one hand, sacrifice some of the principles of rehabilitation, but provide for internal control among the prisoners themselves, not so much in the sense that the inexperienced exercise a moderating effect on the more prison-wary, but that the experienced prisoners pacify the younger, more impulsive and rebellious youngsters through direct inculcation of the limits practically possible in the prison.

If every new group of prisoners, with no previous prison experience, came to Springhill as a new situation, then the staff would have to perform the task of continually drawing the lines in a more frequent and overt form, involving an increase in staff/prisoner conflict. The presence of experienced prisoners, who have learned the ropes, serves to deflect this function to the prison population itself. This contradiction is reflected in the actual practice of the Therapeutic Community in Springhill.

There are two formal criteria for eligibility to the medium security prison, corresponding to the two basic functions which co-exist in the rehabilitative model. The first arises directly from the definition of the prison itself, and prisoners are eligible who are considered 'medium security risks': those who will not be liable to actively attempt to escape, and would not be considered dangerous to the public should they escape custody. They are locked up, then, not for the protection of society, but as punishment for criminal acts. The second criterion is related to the ideology of reform: an inmate is supposed to have made some commitment to change himself by taking advantage of the active training programme that is provided in the prison. The prisoner was to have demonstrated to the staff that he was prepared to take a look at himself, since criminality was an individual question. The prevailing view among the organizers of treatment asserted that the medium security risk prisoner

required a certain degree of freedom of choice, and it was explicitly stated that the manner in which this relative freedom was exercised by the prisoner would be a partially determining factor in his eligibility for parole.

The prisoners are in the main property offenders, frequently incarcerated for two years or more for the first time (hence, the first time in a federal prison), and are generally young. The Parole Service determines some allocations from the courts directly to either the medium or maximum security prison. In addition, prisoners can come to the medium from the local maximum, either by applying or through staff initiation.

The decision is made by a two-man Selection Board, representations being heard from the classification officer or the head of the living unit. Springhill was opened in 1967, and housed between 150 and 200 prisoners in two "living units." Architecturally, the living units are designed on more or less the plan outlined schematically in Figure 3.1 [not shown] and contain two stories. There are six separate blocks of cells (A), two on each floor. The lights and door locks are controlled from a central booth (B), and the blocks (called ranges) can be shut off either by bars or by heavy sliding solid panels (riot doors) reaching from the ceiling to the floor, all controlled from the central command post. (C) represents both the staff area and, on the top floor, a large common room in which the staff/prisoner meetings are held and which is used for recreation.

There are four living units at Springhill, all separate buildings. The prison itself is laid out like a campus, with the living unit as a core, buildings housing facilities for physical exercise, a building for occupational training with a number of trade rooms, or dining hall/kitchen facility and administrative buildings designed specifically for counsellors. There is a separate administration building outside the perimeter, which is secured by a high metal fence. As distinct from the massive Victorian stone fortress, perched on a hill, that is Dorchester Penitentiary, the prison in Springhill is less conspicuous, set off the road and, with the exception of the towers and wire fence, which gives it a concentration camp atmosphere, it might be an industrial park.

There are about four hundred prisoners at Springhill, in contrast to smaller numbers previously, giving rise to an overcrowding of facilities. The ratio of prisoners to staff is about four to three, one-third of the staff employed as security, about one-third as a maintenance staff and a final third as correctional staff who have security functions as well. There are 12 living unit (LU) development officers and 60 LU officers for the Living Unit and Therapeutic Community) as well as about a dozen vocational instructors, and half that number employed in the educational sector.

Springhill is a relatively small Nova Scotian town which has received most recognition for its coal mines and its recent history of mine disasters. With the decline of the traditional industry, the prison is an important source of local employment, and much of the professional staff, both the security and

living unit officers, is drawn from the local region. The people in the town refer to the prison as "the Institution."

## **Therapeutic Community**

The fullest expression of the rehabilitative ideology is represented by the development of what were known as "therapeutic communities." One such unit was established in the Springhill medium security prison. The Therapeutic Community (TC) was inaugurated in the middle of 1969, with the initiative coming from the parole and prison services in Ottawa. The idea was brought up at a conference of wardens about the end of 1968 by the Warden of Springhill, and the interest which the project received at the time is now attributed to the existence of an "unorthodox" official who was serious about implementing reform proposals.

The origin of the TC has been traced back to England in the 1940s, but the concept was directly borrowed from the United States where it had been implemented in California.<sup>46</sup> In Canada the programme had been shaped during the year prior to its opening and involved negotiations between officials in Ottawa and senior staff in Springhill: the Director, Supervisor of Classification, Chaplains, the official responsible for inmate programmes, a psychologist, psychiatrist and social worker. Prior to the initiation of the project, the staff of the prison were given staff training which included inter-personal relations sessions in small groups. The TC was part of the "sensitivity training" trend operative at the time in many institutional settings, although particularly in education.

The Director allocated 50 prisoners from the two LUs to the TC by taking those in one work area and putting them in the new third unit. During the first week (described by staff as "chaotic" and "rough") meetings were held to explain the programme to the prisoners who had not been involved in the planning process. The prisoners demonstrated the greatest degree of interest in the "privileges" they expected to have relative to the other living units, that is, in the concrete benefits they would have. To the staff this was perceived as not entering into the proper rehabilitative spirit, and was described as the prisoners "wanting this and that." This is the crucial distinction upon which the rehabilitation ideal foundered: between prisoners' demands for reform of conditions and staff desires to "reform" individuals.

The idea of a Therapeutic Community is the clearest expression of the rehabilitative concept, based on the medical model, which wished to turn the prison into a hospital-like institution. If criminality was in part a mental trouble, then it followed that it was not merely a question of the prisoner being in need of treatment, but of his recognizing the need and then actively proceeding to rectify it. Hence the rationale for the admission criterion that the prisoner had to have demonstrated willingness to reform. There was built into this conception the view that rehabilitation was largely an individual

matter, and that the ultimate responsibility for using the facilities belonged to the prisoner.

Nevertheless, at the outset the rehabilitative ideal seemed to promise much more and its implementation, involving the consigning of public resources, was accompanied by expectations of success. The key notion in the TC, and the crucial issue in the prison as a whole, is power. The notion of the TC was that it was possible to break down the hierarchical chain of command (at least in the L. U., one part of the prison as a whole) and make it horizontal rather than vertical. The administration is aware of the compromised nature of the TC, even in its conceptual form, in Springhill. When the prisoner is outside the TC but within the remainder of the prison he is subject to the same authority structure as any other inmate reducing the formal potential of his decision-making to the level of petty regulations associated with getting along with the other prisoners in his unit. The idea was to have an idealized community in which power could be diffused, and respect and authority would rest with the group as a whole. There was to be a participatory democracy in the LU as a whole, institutionalized in daily meetings, at which the prisoners would make collective decisions regarding the running of the unit.

The philosophy of the TC asserts that each member of the group has to exercise some degree of decision-making and have some responsibility for the decisions that affect day-to-day living. It was postulated that if prisoners did not share in making the rules they could not learn responsibility. The key concepts in the TC lexicon were "self-determination" and "self-learning" – to learn through experience. In short, the idea of the TC centered on the development of self-regulation. The prisoners would themselves make the rules by which they would be regulated. To implement this self-actualization, the daily meetings were attended by staff and prisoners and decisions were to be made collectively.

The formal function of these meetings is, broadly speaking, two-fold: besides serving as the vehicle of decision-making, they were also to have a therapeutic purpose in a second sense. Personal matters relating to staff/prisoner relations, as well as inter-prisoner relations, were to be discussed openly and resolved through verbal conflict. In this way both trivial matters and such serious matters as fights in the unit were to be handled largely by the prisoners, and by discussing matters openly (and progressively in a more honest fashion as the "trust" between the staff and the inmates deepened) real learning was to take place. The prisoners would learn to solve their problems of getting along with others, an experience which would be generalized to life outside the prison. The principle of control in the TC centers around the concept of "dynamic security" which is to be achieved through the staff/prisoner relationship, and through the involvement of the prisoner in his own control. This concept is distinguished from the high walls, guard towers, guns and so on which constitute "static security."

The administration of the TC was described by staff as providing some "head-aches," and the LU is considered to be easier to manage. The inmates are expected to learn to communicate) which translates to mean learning to react to situations of stress without resorting to physical violence but to learning to solve problems by talking.

The basic contradiction in the TC is that between the interests of the staff and the interests of the prisoners. The philosophy of rehabilitation maintains a distinction between the punishment and the rehabilitation of the prisoners) and appoints separate staff to each function. The security staff strictly speaking has a custodial role and its contact with the prisoner is an instrumental one of "keeper." They are formally charged with maintaining order in the prison, a process which is not always "static" security. One of the persistent myths of the prison service is that the degree of freedom inside the prison is directly proportional to the strength of the perimeter. Presumably if prisoners cannot escape they can do what they like inside. This is hardly the case) however, and the actual direction of the relationship is the reverse. The security staff are directly in charge of inflicting punishment, this largely taking the form of maintaining the incarceration – imprisonment itself being a punishment.

In the rehabilitative philosophy the treatment staff is distinct from the guards and is supposed to have, objectively, the same interests as the prisoners. That is, the prisoner's main interest is to get out of prison and not come back, and the treatment staff is to provide the expertise to guide the subjective development of the prisoner to the point at which he will become law-abiding. One principle aspect of this contradiction is that between the actual subjective understanding of the prisoners and that imputed to them by the rehabilitator, who in order to be successful, had to assume that there was such an objective need, and that the prisoner could be brought to feel the need, whether real or not.

Inmates volunteer for the TC and have to make application to the staff. A Living Unit Development Officer, and some Range Officers interview the applicant, and depending upon his record and the interview, either admit him or not. Those prisoners with long sentences tend to be excluded, on the grounds that the literature shows the maximum benefit to be achieved within 12 to 18 months. Those who have longer to serve have little motivation for complying with staff demands, and after a longer stay, prisoners apparently get bored as the distinction between the TC and LUs wane. Criteria include the prisoner's motivation for coming into the unit - the verbal acknowledgement of rehabilitation. Those described by the staff as "paranoics" and "border-line psychotics" are excluded to avoid detrimental effects on both the programme and the prisoner himself. There were also what was described as unwritten criteria that are associated with person management. For example, they try to maintain a balance between talkers and non-talkers. They attempt to compensate for the over representation of one extreme. Of course the

prisoners would have to abide by the rules which were set by the prisoners themselves, such as not playing the guitar at night.

The Therapeutic Community has fewer prisoners and more staff than the other units, optimizing on the one hand the chances for rehabilitation, and on the other the possibilities of "dynamic" social control. The optimal number of inmates, given the design of the TC1 is 60, and above this figure it becomes increasingly difficult to manage. There are 16 Living Unit Officers, 3 more than in the LUs; however, these 16 are responsible for both day and night shift during which after 11 p.m. all doors are locked. This serves to maintain closer contact between the staff and prisoners in the TC, but also emphasizes the dual function of treatment and control.

A typical day was described as follows:

7:00 or 7:30 – breakfast ("feeding") 2 shifts; 2 units at a time in the dining hall

8:15 – to work location, e.g., maintenance work arising from the needs of the prison, or vocational training

11:30 - 1:00 – between these hours there is a meal break

1:00 or 1:15 – return to work

3:00 – Prisoners in the TC leave work for the daily meeting, starting at 3:15. (This amounts to one privilege of being in the TC.)

4:30 – Other prisoners leave work areas. Following the evening meal, the prisoners are at leisure.

During the first six months of its operation, the TC was in its initial phase of experimentation. There was a tendency on the part of staff to refer to decisions having been made up the vertical hierarchy, thereby tending to undercut the appearance of self-management in the therapeutic philosophy. For example, the decision to leave the cells open 24 hours every day had been made in the planning period with the consent of the Warden, and it was broached by the staff as having this higher support. The question became how much decision-making was to be within the province, first, of the TC itself (assumed to be a community of prisoners and staff, as equals), and secondly of the prisoners.

The experimental nature of the first half year took the form of the staff attempting to relinquish their direct power in favour of relying on their authority within the meeting) and relying on the prisoners to behave in a responsible way. What this amounts to is the staff holding their power in abeyance (latent power), and hoping to direct the meeting to achieve the aims of the prison. That is, as long as the prisoners stay within the bounds of the permissible, and take upon themselves their own sentence management in a responsible way, meaning to freely choose according to the best interests of the group (as these interests are defined by the definition of the TC within the

prison), then the process can proceed relatively harmoniously. If you start from the opposite premise – that the basic interests of the staff and prisoners are antagonistic – then, the evolution of prisoner autonomy will develop to the point at which the demands of the prisoners conflict with the desires of the staff. Ultimately, then, a point would be reached at which these prisoner demands challenged the amount of power held in abeyance, that is, threatened the order of the prison – went beyond the permissible. The period of experimentation involved a process of testing the limits of the new relationship to see how much autonomy prisoners could achieve as opposed to where the limits of autonomy would be drawn.

The staff could not at first simply impose order, but had to somehow get the consent of the prisoners. The inevitable clash occurred, with prisoners becoming increasingly bold and over-stepping the boundary of what was permissible. The prisoners tended to view the new structure as a means for achieving reform of their conditions, a process viewed by the staff as wanting to obtain privileges without earning them; that is, realizing individual rehabilitation, an expression of the fundamental clash of interests.

The treatment staff, despite the model of professional social science, essentially serves the prison in the capacity of person management rather than serving the prisoner as a rehabilitator. Within half a year in the TC the breaking point had been reached, at which, as described by the staff, the prisoners were suggesting things that were not therapeutic. It seems that the “open” meetings were becoming criticism sessions in which particular staff members were verbally castigated by the prisoners – a breach of prison discipline with important implications, but certainly within the theoretical concept of the therapeutic community as a small group sensitivity session. This process is quite predictable, for the first exercise of free expression by an oppressed group always concerns the conditions of its oppression which is directly linked with the actions of individuals functioning to maintain these conditions. At this junction the community could not be entrusted to manage itself and the latent power of the staff was activated.

Five or six of the prisoners deemed to be the leaders (in the vocabulary of the prison, this was a “power group” which points to the crucial issue at stake), were removed from the TC. The attempt to draw the lines in a non-authoritarian way had failed and the power of the staff had to be re-asserted. From the point of view of the rehabilitation ideology, this was a break in the system which had held out the prospects of increased autonomy. For the prisoners the re-assertion of the basic guard/prisoner relationship reinforced the perspective that the TC provided them with some privileges which were not granted to other units. The crucial power question had been decided. For the next period, in contrast to its ideals, the TC was run on a more or less autocratic basis. This was a period of consolidation in which the limits were reinforced. Once the relative sphere of prisoner autonomy was clear, in what areas they could make decisions, then the TC began to run more smoothly.

According to the staff, the law is laid down infrequently, and this is usually coached in an indirect way by following through the inevitable consequences of the continuation of a certain line of conduct. Drastic punitive measures are avoided by essentially threatening a withdrawal of privilege.

The staff was described as making use of its latent authority and set lines, which usually means responding punitively. This is infrequent (about once a year) and the usual procedure is to raise issues at meetings, explain the direction in which staff sees events going and the consequences which will follow if the direction is not changed. A resolution is then asked of the prisoners. The staff attempts to show concern, but there is always a threat behind it and the issue is then discussed and resolved. The use of the latent authority, in the words of the staff, requires skillful and subtle application. The process involves a degree of leniency with petty rules in the give and take of an unequal relationship. This is what is meant when the administration describes the TC as more relaxed than the other units – it is the sense of relative privilege deriving from a less strict application of the petty rules of harassment.

The philosophy of the TC in practice provides for the appearance of horizontal authority based on the threatened and actual use of degrees of vertical power to reinforce the limits imposed on the former. It is still asserted that the degree of autonomy – and more importantly the therapeutic personnel relations and close contact with staff – are rehabilitative, and the amount of autonomy granted to prisoners corresponds to the degree of freedom they can reasonably handle. This represents the process of excising the heart of a reform in the interests of maintaining control. The process of control within the TC, and to a lesser extent in the other LUs, is a complex one. In the crunch, rehabilitation is sacrificed for control. As one prisoner remarked: "I came into the Therapeutic Community expecting therapy, but there is no therapy here."

The meetings in the TC were originally scheduled to occur daily; this has been changed recently to three (from five – the weekends were free) on Monday, Wednesday and Friday. The reason for this was described as the outcome of a conflict between two rehabilitative schemes: the time spent in the meeting took away from the time spent on vocational training, and consequently the inmates were not getting sufficient hours for certification.

It also happened that the meetings (described as the "core" of the programme) tended to frequently degenerate into what the staff termed a "gimmie session" in which various grievances were put forward over such issues as pay, visiting rights, and so on. This type of meeting was described to be very typical of the meetings at the opening of the TC, during which prisoners mostly complained, and subjected the staff members to what was termed "scape-goating." The problems of administering such a large group – all inmates meet at once, although many drift away and some don't show – were partially resolved by the creation of some structure. The desire to speak

was to be signified by the raising of a hand, and a chairman and secretary appointed. No agenda is drawn up before-hand, although items left over from the previous meeting are raised again. A member of the staff fulfilled the role of chairman for the first time but since then it has been held by a prisoner. The areas in which prisoners have some control include such things as determining the hour which the unit canteen is open, and whether it should be open to prisoners from other units. The limited supply of items for sale pressures the prisoners to exclude other units, although some arguments are raised which are based on a perception of prisoner solidarity.

The success of the TC in its management of the prisoners was reflected during a disturbance in Springhill. One living unit broke up its cells, prisoners refused to go to work, and a disturbance disrupted the kitchen area. The prisoners in the TC not only refused to participate in the incident (thereby, according to the staff, breaking the inmate code) but volunteered to go and clean up as well as serve food. When it was first opened the TC was attacked both by some of the administrators, who resented any degree of prisoner autonomy – even the appearance of such – and predicted the consequences, and the excluded prisoners who viewed the TC as a divisive element which provided another means of differentially treating prisoners by creating new disparities and distributing selective rewards. As the TC evolved away from its original intent and authority was reasserted, the remaining units were brought into the modified Living Unit scheme which generalized some of the administrative benefits of the TC to the other units. According to the administration this has served to lessen the jealousy of the other prisoners and cut down on the number of “headaches.” It is presented as the application of the TC principle to the other units, in a modified form suitable to meet the conditions. In fact, the implementation of the philosophy behind the TC was virtually abandoned in its therapeutic content, and the involvement of the prisoners in the LUs in the internal order serves the function of increasing staff knowledge of the state of the units, and of enrolling representatives of the prisoners in compromise situations.

The key to the TC is the “latent authority” of the staff, which frequently is not latent. It is symbolized most effectively by the electronically controlled riot door, but more directly by the selection procedure. The staff has the power to decide who comes into the unit or who is to be removed, and determine the appropriate mix of prisoners. In regard to the question of decision-making, as one prisoner expressed it, “we have 90 per cent of the say, and no power.” The prisoners must fulfill the normal expectations of prison routine and should they refrain from going to work could be subject to such punitive measures as “dissociation.”

On the one hand the TC creates relative privileges for a small group who are elected to responsible jobs and carry on the work of the staff among the other prisoners. They fulfill such jobs as chairman or secretary of the meeting in the TC, and this would impress a parole board favourably. On the other

hand, in the staff attempts to mix the prisoners the decision is not only based on choosing manageable or passive inmates who presumably would be easy to control. Rather a few prisoners with some prestige and authority in the prison (known as "orangutans" by the staff) are accepted. This reproduces a hierarchy among the prisoners who, to a degree, police themselves. Matters such as stealing are expected to be handled by the prisoners themselves, and the staff will recount stories of violence perpetrated by prisoners on others for these internal crimes which express encouragement for these acts.

The basis of any prisoner/staff relationship which develops in the TC relates, to some degree, to the class composition of the officers. In general, they are not trained college types but more often people who come from essentially similar class backgrounds as the prisoners. Nevertheless, the question of power separates them ultimately, but allows a degree of informality to develop in the social situation. The CPS decided to introduce the Living Unit Program in all medium security institutions rather than expand the TC. The spirit of the Living Unit Program is defined by the CPS as "getting to know, understanding, coupled with interaction between individuals and groups" through better interpersonal relationships between staff and inmates, which would lead to the inmate's acquisition of social skills necessary for coping in the community. Communication is supposed to be the key concept. It is considered a framework within which each institution can experiment with their own program. The program is a modification of the therapeutic community, intending an emphasis on democratic discussion and problem-solving through group discussion. It was first introduced at Warkworth in 1969 and gradually introduced into other institutions so that by 1971, the living unit concept was established as the fundamental rehabilitative program in all medium security institutions, with minimums intended as the next type of institution to be changed over by 1973, Even maximums are being considered, although there seem to be few signs that this is happening. Program development is the responsibility of a psychologist who is assisted by other social science specialists. The new staff image created is supposed to lessen inmate hostility toward authority and promote a manageable relationship. The Living Unit officer remains in the same living unit in order to create a close inmate/staff relationship, and is supposed to result in greater staff involvement.

Staff help inmates "manage their restrictions." The CPS compares a living unit to "a home in a village." The whole team of living unit staff are backed by security who are seen as equally important by providing the support of constant vigilance. The community is brought into the Living Unit Program in the form of community groups and individuals and inmates are taken out into the community. The CPS views this change as the most ambitious one it has ever undertaken. The Living Unit Program has yet to be evaluated. In the Living Units in Springhill there are range meetings once every two weeks, which involve 17 prisoners for one hour.

The functions of these is not identical with the therapeutic meetings in the TC (in theory) but evolved from the idea, and aim to fulfill that aspect which involves concrete issues in the management of the range. When decisions have to be made as a unit then a representative is elected from each range. They attend another meeting with staff at which decisions are made. This procedure provides an avenue for prisoner input into the decision-making process, but more importantly for the functioning of the unit it provides for the communication of official decisions through the prisoners' representatives) thereby attempting to provide some legitimation for the process and involving prisoners in its implementation.

The range officers in the LU handle a case load of about six or seven prisoners which provides an opportunity for what is described as personal contact and assists the handling of personal problems. The range officer is usually on top of what is happening in the unit) which follows from his close contact, a point with important implications for control. There are also a couple of chaplains and a couple of counselling psychologists) which does not allow for long-term individual counselling. The LU concept was brought to Springhill in October 1972, and was described as similar to the TC with the major distinction being that the cells were locked at eleven p.m. rather than being left open continuously. (As indicated, the meetings in the LUs are less frequent.)

The staff in the LUs by and large is not composed of professionals, with the exception of the social scientists and clergy. The range officers, largely drawn from the surrounding area, are trained on the job, and the officer learns by experience. He is socialized into the norms governing staff behaviour by his superior and other range officers (and by the prisoners). There is also a weekly one-hour staff meeting with the consulting psychiatrist. The purpose of these general meetings has moved away from the type of sensitivity training encouraged earlier, and is oriented towards the implementation of policy decisions.

The LU is cheaper to run than the TC because of the smaller number of professional and trained staff per prisoner. Whereas the TC concept has not spread to other parts of Canada (being implemented at Springhill as an experiment), the medium security institutions are generally run on the LU principle, and the new maximums that are planned are being designed to have a variation of the LU.

A basic component of the rehabilitative programme in Springhill is the vocational workshop in which various skills can be learned. It seems that few prisoners maintain a serious interest in the programme over the length of the course, which is relatively short, a fact which may be related to the lack of market opportunities outside the prison. It gives the appearance of providing a means to keep the inmates busy in order to keep the staff supplied with furniture, gun-racks, smoothly-running motor-bikes or cars, and other services.

Out of this continued flow of innovation and experimentation in treatment programs comes the call for more research, planning and program evaluation. The Solicitor General's statement on corrections in 1973 stresses the need for strengthening the co-ordination of corrections. It reports that the development and application of statistical data is badly needed. It asks for a closer look at some of the 'innovative' programmes. Were they working? Did they prevent offenders from recidivating? It was not until later that correctional officials thought seriously about this question. By the time the rehabilitation philosophy was receiving concrete implementation social processes were developing elsewhere which were bringing the concept into question.

### **Endnotes, Chapter Three**

<sup>1</sup> Robert K. Merton, "Social Structure and Anomie," *ASR* (1938); Richard Cloward and Lloyd Ohlin, *Delinquency and Opportunity*, (New York: Free Press, 1961).

<sup>2</sup> Walter C. Reckless, *Criminal Behaviour*, (New York: McGraw, Hill 1910), quoted in Tadeusz-Grygrer, "The Concept of Social Progression." pp. 15 3-19 3 in *Criminology in Transition: Essays in Honour of Hermann Mannheim*, (ed.) Tadeusz Grygrer, Howard Jones and John C. Spencer, (London: Tavistock, 1965), p. 1.

<sup>3</sup> Grygier, "The Concept of 'Social Progression,'" p. 155. Decision theory has its ideological parallel in the industrial world in scientific management.

<sup>4</sup> *Ibid.*, p. 155. A model for "decision theory" is regarded to be Hermann Mannheim and Leslie T. Wilkins, *Prediction Methods in Relation of Borstal Training*, (London: Her Majesty's Stationery Office, 1955).

<sup>5</sup> For a useful discussion on the assessment of the effectiveness of penal measures, see Roger Hood and Richard Sparks, *Key Issues in Criminology*, (London: Weidenfeld and Nicolsen, 1970), pp.171-185.

<sup>6</sup> *Ibid.*, p. 177.

<sup>7</sup> See, for example, Wilkins, "A Small Comparative Study of the Results of Probation," *British Journal of Delinquency*, (1958); pp. 201-209.

<sup>8</sup> Mannheim and Wilkins, *Prediction Methods in Relation to Borstal Training*.

<sup>9</sup> See, for example, T.C.N. Gibbons, *Psychiatric Studies of Borstal Lads*, (London: Oxford University Press, 1963) and P. MacNaughton-Smith, *Some Statistical and Other Numerical Method for Classifying Individuals*, Home Office Research Unit Report No. 6, (London: Her Majesty's Stationery Office, 1966).

<sup>10</sup> Donald Clemmer, *The Prison Community*, (Boston: Christopher, 1940).

<sup>11</sup> T.P. Morris, "The Sociology of the Prison," pp. 69-87 in Grygier et al., (eds.) *Criminology in Transition*, p. 70.

<sup>12</sup> Stanton Wheeler, "Socialization in Correctional Institutions," pp.97-116 in Radzinowicz and Wolfgang (eds.), *Criminal in Treatment*, p. 98.

<sup>13</sup> Morris, "Sociology of the Prison," pp. 73-74.

<sup>14</sup> Richard A. McGee, Preface, pp. ix-xviii to Carter et al. (eds.), *Correctional Institutions*, p. xv.

<sup>15</sup> American Correctional Association, American Prison Association's Committee on Riots, Washington D.C.: 1972, p. 30.

<sup>16</sup> Gresham Sykes, *The Society of Captives*, (Princeton, N.J.: Princeton University Press, 1958).

<sup>17</sup> *Ibid.*, p. 17.

<sup>18</sup> *Ibid.*, p. 46.

<sup>19</sup> *Ibid.*, p. 47.

<sup>20</sup> *Ibid.*, p. 49.

<sup>21</sup> Murton, *The Dilemma of Prison Reform*, p. 6S.

<sup>22</sup> Morris, *Sociology of the Prison*, pp. 75-76.

<sup>23</sup> Gresham M. Sykes and Sheldon L. Messinger, "Inmate Social System," pp. 77-85 in Radzinowicz and Wolfgang (eds.) *Criminal in Treatment*.

<sup>24</sup> Donald Clemmer, "The Process of Prisonization," pp. 92-97 in Radzinowicz and Wolfgang (eds.) *Criminal in Treatment*, p. 94.

<sup>25</sup> *Ibid.*, pp. 94-95.

<sup>26</sup> *Ibid.*, p. 97.

<sup>27</sup> Richard Quinney, *The Social Reality of Crime*, (Boston: Little, Brown, 1970), p. 179.

<sup>28</sup> Clarence Schrag, "Leadership Among Prison Inmates," pp. 85-90 in Radzinowicz and Wolfgang, *Criminal in Treatment*, p. 90.

<sup>29</sup> *Ibid.*, p.85.

<sup>30</sup> *Ibid.*, p. 86.

<sup>31</sup> Grygier, "Concept of Social Progression," pp. 153-193 in Grygier, et al., (eds.) *Criminology in Transition*, p. 173.

<sup>32</sup> Morris, "The Sociology of the Prison" pp.69-87 in Grygier, et al., (eds.) *Criminology in Transition*, p. 86.

<sup>33</sup> Commissioner of Penitentiaries, *Annual Report*, March 31, 1965. (Ottawa: Queen's Printer, 1965).

<sup>34</sup> *Ibid.*, 1963.

<sup>35</sup> *Ibid.*, 1961.

<sup>36</sup> John V. Fortanaro, "Canadian Prisons Today," in McGrath (ed.) *Crime and its Treatment in Canada*, pp. 309-310.

<sup>37</sup> Commissioner of Penitentiaries, *Annual Report*, 1960, p. 40.

<sup>38</sup> Fortanaro, "Canadian Prisons Today," p. 312.

<sup>39</sup> Commissioner of Penitentiaries, *Annual Report*, 1960, p. 43.

<sup>40</sup> Fortanaro, "Canadian Prisons Today," p. 313.

<sup>41</sup> *Ibid.*, p. 322.

<sup>42</sup> A. M. Kirkpatrick, "Penal Reform and Corrections," in McGrath (ed.), *Crime and its Treatment in Canada*.

<sup>43</sup> Commissioner of Penitentiaries, *Annual Report*, 1963, pp. 4-6.

<sup>44</sup> *Time*, 10 May, 1963.

<sup>45</sup> Commissioner of Penitentiaries, *Annual Report*, 1959-1964.

<sup>46</sup> J.C. Spencer "Problems in Transition: From Prison to Therapeutic Community," pp. 14-15.

## **CHAPTER FOUR**

### **LIBERAL AND RADICAL RESPONSES**

#### **Liberal Responses**

The prison system has never been without its critics; the question has always been the theoretical basis and ideological implications of the criticisms. During the 1950s and early 1960s, while the rehabilitation philosophy was receiving much attention and some concrete application, the predominant orientation of the critiques involved a debate within a narrow consensus, which accepted the legitimacy of existing social institutions, and focused on the question of how best to achieve the goal of the reforming prison. Things have noticeably changed, and since the late 1960s, as Hawkins has pointed out, there has been a tendency to question the underlying theoretical assumptions of rehabilitation rather than merely the best means to attain the ends.<sup>1</sup> This tendency does not imply that most criminologists ceased to argue in favour of rehabilitation and dispute appropriate means; rather it is to underscore the significant development of a new orientation adopted by representation of the latest generation of criminologists which was critical not only of the implementation of the rehabilitative philosophy but of its ideological foundation.

The intellectual basis of the change in criminological theory can be found in the apparent failure of rehabilitation. Numerous studies undertaken at the time served to indicate that the programmes themselves, despite varied interpretations, different locations and separate times, were not as successful as had been anticipated. The general conclusion was drawn that, despite a few positive indications, the type of programme which prisoners underwent did not have a significant effect on the outcome. The recidivism rate was generally no better than expected for any group of prisoners and those programmes with relatively high levels of success tended to choose prisoners with a higher probability of not being reconvicted.<sup>2</sup>

Since most convicts in federal prisons had connections in varying degrees with the "street" it was postulated that they enter the period of incarceration with sub-cultural values, which might tend to militate against reform.<sup>3</sup> Furthermore, operating parallel to and undermining the treatment programme, the process of re-socialization within the prison shaped attitudes and behaviours which were assumed to be inimical to the achievement of the desired treatment goals.<sup>4</sup> Anti-administrative behaviour (defined ideologically as "anti-social" by penologists) was rewarded in the prison "culture" in which the successful circumvention of prison rules enhances prestige among prisoners.<sup>5</sup>

The treatment process does not operate in a vacuum but on the contrary competes with other influences which are seen by many prisoners as more significant and which tend to undercut the effectiveness potential of a programme. Participation may be defined as a necessary short-term compromise, as a learned response to a coercive situation, but having no significance beyond that context and therefore ultimately of no rehabilitative value whatsoever.

A prisoner's probability of success, as generally defined, has been found to be frequently more important than the characteristics of any specific rehabilitation programme.<sup>6</sup> Numerous studies with fairly consistent results have identified the factors in a prisoner's background which are most clearly associated with the aggregate potential for reform, such as social class, education, prior delinquency, employment experience, drug use, criminal record, type of offense, and so on.<sup>7</sup> Prior selection of programme participants significantly shapes the ultimate outcome but the type of treatment does not have a significant independent effect.

Specific programmes may even have unintended negative consequences which relate to such factors as the re-socialization process of the prison itself, the particular characteristics of the experimental sub-sample, and to widely generalizable (as opposed to specific) treatment goals. While evaluations that find negative correlations between treatment and success are much less frequently reported than those that report findings of a positive direction,<sup>8</sup> one study in the field of addiction found a negative correlation between success of treatment (defined as the per cent of prisoners "quite certain" or "reasonably certain" to be drug free) and the number of periods of clinical treatment.<sup>9</sup> In a well-known Canadian study, following the completion of a pilot treatment programme, subjects were reported to have an average monthly opiate use frequently three times higher when compared with a control group with the increased amount being obtained illegally. They also reported earnings which compared with the control. Inadvertently, it was concluded, the experimental programme promoted more successful criminals.<sup>10</sup>

Findings such as this have the effect of sensitizing the researcher to the social meaning of the enterprise external to the premises upon which it is undertaken. The response to these findings, of course influenced by other factors which will be mentioned below, varied among criminologists. The conservative response was simply a reiteration of the goal of punishment and the rejection of both the philosophy of rehabilitation as well as the possibility of reformation. The findings of the critics could be used as an ammunition against any attempt, either individual or institutional, at reform in the prison. At the opposite end of the scale, the more or less radical response similarly rejected rehabilitation and reformation not disputing its possibility but rather its necessity or desirability. Both of these otherwise diverse viewpoints are relatively specific about the ideology they uphold, and the connection of the

prison to the wider community. The varieties of radical response will be touched or below.

Liberal criminologists reacted to the failure of rehabilitation in a number of ways. Some continued to accept the philosophy as it had been enunciated and took the position that what was widely regarded as its failure was, on the contrary, the failure to implement the ideal correctly. It was a matter of insufficient resources, inadequate numbers of staff, or lack of motivation. As David Stang expressed this viewpoint, "there is no reason other than lack of will why rehabilitation and incarceration must continue to be two mutually exclusive goals."<sup>11</sup> His programme suggestions amount to a reorganization of the vocational and academic training facilities which, while useful as far as they go, do not address the question of the failure to rehabilitate. A popular image of prison reform is the tread-mill: even the greater energy put into programmes has all come to nought because of the overwhelming magnitude of the negative force that is the prison.

Thomas Murton distinguished between a "real reformer" who entered the realm of prison administration following a critical period with notions of restructuring it and the "official reformer." Various reform proposals would be implemented which would have a progressive character. However, the real reformer would not be granted an opportunity to implement his projects fully, "because the free society does not really want reform but merely an abatement of brutality and inhuman conditions."<sup>12</sup> At a certain point an "official reformer" is appointed and the context of the reform proposal is undermined. Prison reforms, then, are cyclical in nature, and the end of the process is to end up virtually in the same position prior to the intervention of the "real reformer"; the prison returns to the status quo ante. His description of the process of reform is relatively accurate; but its failure must be traced to more directly intervening causes than the putative wishes of society as a whole.

A second liberal response rejected the concept of rehabilitation while maintaining both the possibility and necessity of reforming criminals. Hawkins discusses the work of Sir Rupert Cross as representative of the tendency to question not only the means to achieve rehabilitation, but the goal itself.<sup>13</sup> Cross's work is a denunciation of the medical model in criminology, and a critique of the prison as a "cold storage depot." He is sceptical about the extent to which rehabilitation is achievable by educational and vocational training, declares "deterioration" in the prison to be as likely as reform and argues that real reformation occurs only in the most exceptional cases. The myth of rehabilitation produced only more suffering as prison sentences were lengthened to allow the changes to take place; prison sentences should be shortened to meet only the ends already legitimately set: denunciation, deterrence, and the protection of the public.<sup>14</sup>

Cross, then, does not actually dispute the goal of rehabilitation; the argument merely declares that the prison, per se, is an inappropriate

institution in which to carry out rehabilitation of individual prisoners. In this way he merely extends further the arguments of the critics from the previous decade who disputed the means to achieve the goal, but assumed that the end was achievable within the prison. He does not question the goal, but only the philosophy of rehabilitation to achieve the goal. Cross' critique also runs the risk of re-emphasizing the punitive aspects of prison and hence provides support for conservative positions which stress denunciation, deterrence and public protection and negate reform of either type.<sup>15</sup>

The acknowledgement that the prison system had failed to reform those in its custody had led liberal criminologists to the point of abandoning the prison as a viable strategy. Attempts to develop institutional structures embodying the medical model – in particular the concept of the “therapeutic prison” – were declared to be unworkable. This entailed abandoning the philosophy of rehabilitation as it had been founded upon the medical model (although not the goal of reformation). Robert Martinson, who has done probably the most systematic general study which reflected the rehabilitative ideal in prisons, called for prisons to be “gradually torn down.” For the liberal however, there was a need for “remaining facilities,” small and presumably “humane prisons, for those considered dangerous to society. But, he concludes, “let us give up the comforting myth” that prisons “can be changed into hospitals.”<sup>16</sup>

Not all, or even most, criminologists were content with dismissing the prison as an instrument of reform. It has been pointed out that recidivism is not as serious as had usually been assumed – that the success rate, if one wished to call it that – of prison as a punishment was at least as good as its failure rate.<sup>17</sup> The main point of these criticisms which was new was that the type of rehabilitation programmes did not make a significant difference. This did not necessarily mean that other programmes, instituted within a prison or involving some liaison with the community, might not be successful. In this view the goal of rehabilitation was reaffirmed although some aspects of the philosophy were abandoned. The view that it was still possible to reform prisons or prisoners led to the development of modified versions of the medical model of corrections. Gill, for example, declares the “progressive prison” (as distinct from the “custodial prison” which dominated prior to the adoption of rehabilitation) to have failed. A prison is not, he asserts, a composite clinic, school, factory or social club. These have nothing to do with the fundamental reason for failure, which is criminality itself. In his call for a “professional prison” for the “tractable” prisoner he merely redefined rehabilitation to purge it of these frills, and adopts a behaviouristic position.<sup>18</sup>

Regarding the use of social scientists in the prison, Morris distinguishes between the rehabilitative ideal, which is good, and its totalitarian implications. He argues that, “The jailer in a white coat and with a doctorate remains a jailer but with larger powers over his fellows.”<sup>19</sup> The totalitarian implications of rehabilitation had violated the “human rights” of the prisoners:

"our benevolence," he wrote, had been "untrammelled by any sense of injustice."<sup>20</sup>

Within liberal criminology the studies of the social structure of the prison were re-evaluated as part of the general trend to widen the horizons and consider some of the implications of the society of which the prison was a part. While criticizing the structuralists for failing to situate the prison contextually and regarding it as an autonomous institution, the relationship between the prison and the society was still handled within the ideological framework of trying to understand individual criminality. In his criticism of the functionalist perspective which isolated the prison and studied it as a social system in its own right, Wheeler's concern continued to be the functioning of the inmate system.<sup>21</sup> He singled out two explanations of the inmate culture. The first, social anthropological in origin, argued that prisoners bring with them into the prison criminogenic attitudes which reject "conventional norms and values." This disproportionate representation reinforces these values and hence prisonization is a general trend increasing in degree as imprisonment proceeds.<sup>22</sup>

Alternately, Sykes and Messinger<sup>23</sup> argued that the prison culture was a response to the conditions of deprivation. This was a functional theory explaining the normative order and the differentiation of roles as distinct responses to the deprivations. This theory explains the characteristic 'U' shape curves of prisonization.

Wheeler's cross cultural study in Scandinavia indicated that a prison with significant deprivations need not produce inmate solidarity, and he concluded that deprivations themselves were not sufficient "for the emergence of a strong and resistive inmate value system."<sup>24</sup> His conclusion goes beyond the characteristics of the prison itself and argues that the crucial component in producing a response is the characteristics of the nation or community. The lack of violence and a "we/they" perspective "would seem to reflect the relatively narrow range of the stratification system, the virtual absence of American style norms, and the greater homogeneity of Norwegian society", as well as the supposed individualist Nordic isolated outlook.<sup>25</sup> He concludes that the major variables related to anti-staff values in 15 Norwegian prisons relate to the characteristics of the inmate population (age, previous sentence for example). He notes, however, that the degree of social deprivation (extent of enforced isolation) is inversely related to opposition towards the staff.<sup>26</sup> One wonders what kind of "inmate culture" could be formed by isolated prisoners. Obviously prison culture is a social phenomenon – a collective response to conditions, and requires a degree of social life in which attitudes to the conditions of deprivation can be consciously shared and in which a collective response can be reinforced. The importance of this study rests in the view that prison need not, by virtue of the characteristic deprivations of the system, led by some general social rule to an institutionalized hostility which results in some degree of inmate solidarity against the staff. However,

social conditions in American history (and the social character of American prisons) make the development of this perspective probable on the part of many disadvantaged individuals. The conditions by no means determine a response totally, for evidence is provided that prisons with "a fairly rich and complex set of treatment goals and programmes" do not demonstrate solidary opposition on the part of inmates.<sup>27</sup>

This highlights the recognition that institutional structures can be developed for purposes of sub-cultural management. But the studies are restricted to those institutions with a "rich" programme, that is, in which the development of positive alternatives in corrections has proceeded and supplemented the strictly punitive orientation. The point is to recognize the central function of the treatment staff in the maintenance of social control in those institutions where such intervention is likely to be successful, if not in rehabilitating, then in controlling. The conclusions drawn about the failure of rehabilitation address only the putative goal of individual reformation but do not question the role played by the "jailors in white coats" in minimizing internal control problems. It could be argued that the failure of rehabilitation became significant at the point at which it ceased to play a pacifying role in the prison; that is, that its social control role was paramount for the prison administration.

The studies selected for review by Wheeler which take the "external world" into consideration still have their focus on the characteristics of inmates which are associated with the social roles they play in prison - in particular with those who adopt anti-staff attitudes. Since "inmate life generally reflects broader cultural conditions" then it becomes more difficult to restructure the prison to eliminate the social system.<sup>28</sup> As noted in the last chapter, the key point, and the key bias, in the studies of the inmate social system has to do with the negative view of "solidary opposition" as a problem in rehabilitation. Hence the implications of the finding that complex treatment goals are associated with the absence of a culture of solidaristic opposition in the prison. In his critique of the functionalist, Wheeler is concerned with the relationship between the prison and the outside world not with regard to the function of the prison as an institution, but with a concern for the effects of the characteristics of individual prisoners arising from their experiences outside on the social control in the prison. In the end, Wheeler acknowledges the new orthodoxy by declaring that more staff or better programmes would make little difference, and that a much more radical reorientation of prison organization is necessary in order to produce a prison that would make a difference. What was required was something innovative and new to achieve the same goals.

## Critical Theory

The rise of the rehabilitative model in penology was an expression of a consensus view of the social system which postulated an essentially metaphysical separation of criminality from the grand consensus of social values. If the material foundation of this view in the United States rested on cold war prosperity, the breakdown of the structural functionalist school resulted from the concrete march of historical events. In the middle and late 1960s, with an increasingly unpopular imperialist war, with an accompanying mass anti-war sentiment the magnitude of which is especially impressive given the failure of what passed for its leadership, with minority group struggles, and an approaching economic crisis which was to strike the predominantly Anglo-Saxon countries particularly hard, it became more obvious that a consensus model of society was unrealistic. The fact of pervasive, deeply rooted conflict, to which the structuralists had been blinkered, exposed the particular ideological, interest-bound basis of the theory.

The radical response to these developments in the realm of academia, produced a plethora of competing schools, theorists and cultivated eccentrics, all of which to a greater or lesser degree, articulated conflict as a central theme. A few representatives of radical criminology will be mentioned below, but prior to considering some of these manifestations, some implications of the supersession of the consensus theory by conflict perspectives are worth discussing.

The philosophy of rehabilitation was entirely compatible with the consensus framework. It was the legitimate socialization of deviant individuals into the general, law-abiding social norms of the majority, a universal goal of any social structure. The notion that the deviant was sick reinforced this perspective and justified intervention into the life, attitudes and psyche of the deviant as being in his own best interests – the “untrammelled benevolence.” Consensus theory did not recognize any fundamental conflict in the sense that there were groups in society with interests which could not be reconciled; to the extent it took itself seriously, there was always the understanding that pragmatic compromises could be worked out to satisfy everyone.

The social conflict which erupted in the 1960s led radical academics to expose the consensus thesis; like the conservatives they were eager to dispose of the corpse of rehabilitation. The radical theories tended to be based on a thesis that, contrary to consensus views, there were fundamental discrepancies in society; that different groups had different interests, and all were engaged in the struggle for power in order that their ideas would be represented in law. The old pluralism had asserted that law was the outcome of a compromise in which all social groups had influence; the radical pluralism asserted that law was the outcome of the dominance of one particular interest group, and expressed these interests against those of other groups. It can be

seen that the conflict perspective undermines the theoretical basis of rehabilitation, the basis of the liberal stance, and leads to an increasing polarization which centers the debate on punishment. If there was no general social consensus, but only powerful and powerless groups, then the social scientist was forced to grant the dominant values validity on other grounds, or to reject the concept of reformation altogether. The liberals who had demanded that the reforms devised over the last quarter century should be implemented seriously had to abandon the notion that criminality represented a treatable illness and advance instead more sophisticated theories of objective deficiency, such as learning disabilities, and failure to develop appropriate life skills – all still predicted on the assumption that criminals were somehow lacking something which non-criminals possessed. This implied imposing treatment under some other name; but the realization that prisoners required some dignity and some rights meant that they had to partake of the programme of their own free will.

The response within penology to the new social turmoil, took three forms: there was an increase in the law and order rhetoric as conservatives declared the rehabilitation philosophy mistaken and demanded a return to the primitive prison system which at least, they claimed, knew how to maintain order. Radical criminologists by-passed the study of the prison in favour of analysing the process by which criminality was created by the dominant groups, an enterprise that led them from the critical to the absurd. And the liberal reformers who, in the still comparatively stable social climate could not countenance a return to punishment, devised a new series of reforms which took into account the importance of the wider society. This new penology made promises which were no less sweeping than the championed of the old rehabilitation model, and it appeared that real prison reform was on the horizon – the prison system really could do something about crime, given the opportunity. This led to the development of community corrections which will be examined in the next chapter.

Perhaps the fundamental empirical finding: which undermines one of the pillars of the classical law and order approach was the realization that the essentially metaphysical distinction which is drawn between criminals and non-criminals, and the resulting conception that the object of reformation is to transform the former into the latter, was mistaken. This usually took the form of showing that the vast majority of the population had, at one time or another, acted in an illegal way for which, if apprehended, they could have been subject to legal sanctions.<sup>29</sup> Criminality, then, was pervasive and any study which confined itself to those in penal institutions was biased if they were regarded as representative of “criminals” distinct from the rest. There may be some significant differences between those in and out of jails, but this could be explained with reference to other characteristics – in particular social class and race – making them for socially determinable reasons more subject to conviction.

But there were no significant differences between "criminals" and "non-criminals"; by and large, this was a false distinction. This position has a very progressive side in that it took the spotlight off those who were jailed and opened up the possibility of studying the material basis of criminality in different sectors of society. But this of necessity had to depend on recognizing crime as an empirically existing phenomenon; to say that there were no essential distinctions between criminals and non-criminals does not state that there is no distinction between law-abiding and law-breaking behaviour. It is not correct to deduce from the first position that, in fact, there is no such thing as crime. The position that criminal definitions are relative to the social structure does not make crime irrelevant to the study of a social structure.

The recent historical period during which the respectability of the rehabilitative mode in corrections was enhanced, was equally marked by the development, both in Europe and North America, of a new "critical criminology." Basing itself on a fairly well established tradition of middle class radicalism, the new criminology adopted a third perspective different from that dominant in official circles, whether conservative or liberal. While not denying that those defined as criminals were unrepresentative of the social spectrum, this radical approach asserted that this fact had less to do with the character of criminals but rather reflected either differential access to legal counsel or a socially acquired acquiescence to a situation of unequal power. As new legislation extends the realm of potentially criminal social action, the focus in criminology became centered on the criminal justice system itself rather than on the criminal. Studies demonstrated that judges sentenced criminals and parole boards released prisoners not on the basis of rational and demonstrable reason but rather according to criteria which were not fully substantiated by the investigation of social scientists. Radical criminology ultimately arrives at a perspective on social change which emphasized the acceptance of a democratic diversity in the place of rigid social control.<sup>30</sup>

One manifestation of the rise of radical criminology in the middle and late 1960s was "labelling theory." This theory explicitly attempted to reject the value-free approach of sociology as represented by Merton, Sutherland, Cressey and others in the liberal framework, and openly proclaimed support for the "powerless." There was nothing intrinsically deviant about any behaviour – deviance was socially defined. This viewpoint was taken a step further by rejecting any notion of a social consensus and recognising that deviant definitions were imposed by those in superordinate positions with the power to create such definitions. Hence it was merely a case of powerful individuals or groups defining as criminal those deviant acts of other individuals or groups which in some way infringed upon the position of the superordinate. Therefore, they concluded crime had no ontological reality; it was simply a social definition subject to change with a change of the superordinate group. And furthermore, to agree that certain actions were criminal, meant accepting the dominant definitions and therefore being on the side of

the powerful. The only way to be on the side of the powerless was to assert that crimes did not exist – they were merely dominant group fictions. The jump is made from the assertion that what is defined as a crime is relative to the specific social structure, to the absolutist position that, therefore, crimes do not exist.

Alex Thio argues that this perspective does not escape from the class bias of the prior models (social pathology, which implied that the powerless were deviant; value free behaviourism, which sought the cause of deviance in the individual or his immediate milieu.<sup>31</sup> By defining as criminal those who are in fact caught, he claims, this approach continues to place its focus of attention on the powerless, since they are most frequently labelled. By concentrating on the powerless in their studies, radical criminologists presumably neglected to study the power structure which it is claimed, not only labels 'criminality' but causes it. These criticisms remain within the framework of critical theory by assuming that criminality is caused by differentials in power. The value-engaged labelling approach opens up the possibility of questioning why certain acts are labelled as criminal while others are not. Its progressive side questions the genesis of criminal definitions, and could lead to the concrete examination of the social structure in; order to understand how specific social groups use legal definitions to protect their position from other groups with whom they have contradictory interests. The negation of the consensus framework opens up the possibility of a materially based social critique. It becomes possible to ask why some actions are criminal while others are not. The question is on what basis are criminal laws made? By focusing attention on power as the crucial component, however, critical theory abandons any opportunity to understand crime or, more significantly, considering its avowed object as value-engaged, to provide any evaluative basis for social action.

Different societies produce different laws, but labelling theory provides no basis for distinguishing between them, for all criminal definitions are mere labels. The basic problem with labelling theory is its circularity. It provides an idealistic critique but does not give any basis for social intervention. It wants to take the side of the powerless but has no objective basis for determining any position other than "power." Consequently, by falling over into a pure value perspective it suffers the fate of all fully-blown social relativism – it cannot offer an alternative and buries itself in its own contradictions. Its foundation is "power" but it has no basis at all for assessing in any scientific way a distinct social basis of power. In fact, it does not rest on any social theory at all; it is a thesis of permanent opposition: the powerless are being suppressed, therefore justice entails the assumption to power of the powerless - which in turn is oppressive of the previously powerful.

New criminal definitions – more "labelling" – will occur again. Labelling in the end drowns in the pessimism of its own relativism. Without social theory the labelling perspective represents permanent cynicism, and for all its sound and fury achieves no more than to assuage the conscience of its adherents.

One of the strengths of the labelling viewpoint is to focus attention on the groups upon whom criminal definitions are applied, The argument that to use the term "crime" automatically defines an action as absolutely criminal and therefore accepts prevailing definitions, and that the only way to be on the side of the powerless is to assume "crime" is a fiction, precludes the basis for any social critique which must be concerned with which groups are being suppressed and why.

The concrete reality is that the most severe negative sanctions are applied systematically against those John Conrad calls "losers": those in casual labour, on welfare, in mental institutions, in ghettos and slums who have not been successful because of racism, class discrimination and so on. This is the universe from which many criminals are drawn, and the conclusion is that crime cannot be dealt with as a separate problem, but rather: "In the long run ... our hope for the prevention of crime must depend on the inroads we can make on the structure of contemporary poverty."<sup>32</sup>

Conrad's position ignores the pervasiveness of criminal activity in the population, and does not suggest that there are criminals, within the standard definition, among the winners. But in seeing criminality as a response of the powerless to concrete social conditions, the "problems" perspective opens up the possibility of restructuring social relationships in some fashion, and provides the basis for a social theory which could deduce appropriate action. Furthermore, to focus on those who, above all, are deemed to be criminal and have sanctions imposed on them is necessary in order to understand the function of law as an instrument of control in the hands of powerful groups. By its desire to escape from what is considered to be the "reformist illusion" of the social problems perspective, the labelling theorist opens up criticism of the process of defining criminals but provides no theory with which to understand why specific groups or classes should be so defined more than others, other than that they lack power.

Perhaps the most significant attempt to develop a theoretical basis for "critical criminology" can be found in the writings of Richard Quinney. In 1970 he proposed to develop a theoretical perspective which would "provide a reorientation to the study of crime."<sup>33</sup> Quinney's theory of crime begins with the assumption, common to much European "critical theory," that power is the most basic characteristic of any social structure. You begin your social analysis, then, from the point of view of the discrepancy between those with and those without power. Social stability is ensured primarily by coercion and constraint. Conflict arises from, is produced by, the differential distribution of power, and conflict, which is essentially competition for this power, is endemic to all societies. Coercion is not merely physical: Quinney recognizes the interaction between power and the distribution of values, such that "institutional means are used to officially establish and enforce sets of values for the entire population."<sup>34</sup> It is not surprising, then, that empirical studies discover that there is a certain level of agreement among the population about

the application of criminal sanctions, a finding that does not, contrary to the belief of most liberal sociologists, constitute a refutation of critical theory.

Now while the conflict perspective is appropriate for the society as a whole, the social structure is composed of specific interest groups for which the consensus model applies.<sup>35</sup> (Why there is not, equally, a struggle for power in each sub-group, which has a leadership, is not explained.) One of these groups will hold the position of power in society, and it will use this position to protect itself; in particular, it will declare illegal those values or actions of subordinate groups whose interests are most in conflict with its own. Thus, legal policies and penal sanctions are merely definitions applied by the powerful to certain actions of the powerless – they have no foundation other than this. Crime, then is socially constructed.

Consensus theory had argued that the increase in definitions of crime and the expansion of the application of these definitions occurred as a result of an increase of such activities in society. It has been regarded that conflict theory took the opposite approach, that the increase in crime was a result of the expansion of the labels, which is Quinney's "nominalist" view.

What are these "interests" in Quinney's view? Society consists of a number of "segments" which are "broad statistical aggregates containing persons of similar age, sex, class, status, occupation, race, ethnicity, religion, or the like." An interest is not necessarily an aggregate of all of these characteristics, but one or any combination of them.<sup>36</sup> Segments have both objective as well as organized interests; as such they form "interest groups." It follows that an individual could belong to any number of segments and interest groups. It is not the discrepancies in "interests" which is the basis of conflict between interest groups however, but rather "power" itself produces conflict since they compete for influence to shape public policy. Unlike Galbraith's, Quinney's pluralism asserts that the various interest groups are "grossly unequal in power." The "public policy" is not the outcome of a power struggle between equal and competing giants, but is dominated by some interests.

The public policy is either the result of a dominant influence (the private government behind the public) or is the government itself organized as an interest group – a developing tendency underway in the U.S. currently, Quinney suggests, that will give rise in a "new age" to a new oppressive interest. That is, it will begin by bowing to the "commonweal" but in the end consolidate itself as a distinct oppressive interest. Here Quinney encounters theoretical problems, for what is the commonweal, what is "public policy" in conflict theory? Presumably it is in theory possible to balance the separate interests – but the crucial aspect is the competition for power, an absolute antagonism brooking no degree of compromise, for to the extent that an interest consolidates and defines as criminal those interests opposed to it, institutional mechanisms are put into play to diffuse the definition. The

absolute antagonism founded on the struggle for power makes the concept of a commonweal unthinkable.

Having arrived at this point Quinney reaches an insoluble contradiction when he tries to propound a solution. Contrary, it would seem, to any remote possibility consistent with conflict theory, Quinney asserts law must be made "neutral"; it must "necessarily be removed from the control of either the interests of private groups or public government."<sup>37</sup> The government to a degree can still be seen as a neutral instrument upon which competing interest groups should maintain pressure in order to establish the public policy in the interests of the commonweal. This solution becomes unadulterated pluralism with government (and therefore law) representing the best compromise between competing interest groups. His radical new theory at this stage of its development begins to look like old theory in mod clothes.

The conception of power itself as the ultimate characteristic distinguishes the critical theorist from the pluralist. If the crucial question is competition for power, then it follows that it is in this arena that criminal definitions will most likely be created. Those groups with the greatest amount of power underneath the ruling group itself therefore posit the greatest threat in the competition for power and therefore ought to be most liable to have their values and actions defined as criminal. This does not happen, of course, for it is the powerless who most frequently are labelled criminals. Power itself does not provide an adequate theory to explain this.

The question has to come back to the basis of the differences between the competing interest groups, with power being chiefly the result rather than the basis of the distinction. To understand social conflict, we have to examine the social basis of the groups in competition – the struggle for "power" is only one expression of the antagonism between certain groups which has an objective basis in the social structure connected to, but conceptually distinct from, the official organs of power, and from which conflict springs. The wielders of power do so in accordance with their objective position within a determinate social structure. Quinney has presented us with a description but hardly a "theory" of any consequence. But to approach the question of criminality from objective processes in society which generate contradictory interests involves the acceptance that there is a real world and not merely "our own subjective, multiple social worlds."<sup>38</sup>

It is in his concrete applications of his critical theory to the prison that Quinney shows in practice that his model differs little from standard pluralism. There are numerous interest groups impinging on the prison: custodial staff, correctional staff, administrators, prisoners, external reformers, politicians, etc. "The unique organization that is the prison is a result of the convergence of competing groups that define their interests according to the ways in which prisons are operated."<sup>39</sup> Quinney attempts to avoid vulgar pluralism by the slight twist at the end; but the point is that the operation of the prison is an

outcome of competing interests – this outcome then influences the very definitions.

Since there is no necessary correspondence between perception and objective reality, then the question arises: on what basis will individuals be able to choose between competing claims? Positivism asserted, on the contrary, that there was a connection between the two and that, while not able in practice to grasp reality absolutely the process of science, the scientific method would permit a means by which it would be possible to develop generalization about objective processes (not necessarily static ones, nor ones that are not affected by both the process of investigation and the application of knowledge). This new "humanist" perspective rejects the possibility of social science altogether and thereby any possible process by which correct action is determined. The critique of positivism as being naive in epistemology is absolutely correct of gross Comtism but does not address more sophisticated versions of positivism nor, more importantly, other materialist approaches which have developed their own critique of positivist methods.

For Quinney, there is no reason to believe in the objective existence of anything; concepts are not the end result of a process of perception, however modified by experience, based on an objective reality, but are mental constructions. Since there will be as many mental constructions as minds to perceive, then how is one to assess which is correct? If the concern is "between observation and the utility of such observations in understanding our own subjective multiple worlds,"<sup>40</sup> on what basis is this utility determined? It becomes a pure intellectual exercise by which one reasons through the various competing ideologies and then selects the one that makes the most sense. Quinney's rejection of positivism has led him back to the 18th Century Enlightenment which, if it was progressive in its time, is hardly so in the present.

The basis of the rejection of positivism is a realization that conservative and liberal criminology had implicitly, and frequently explicitly, been supportive of the status quo, that is, of the dominant social group. This critique, however, fails to separate the wheat from the chaff. It lumps together separate attributes: positivism maintains a metaphysical separation between the knower and the known; it supposes order to exist independently and hence believes in objective causation. It can only deal in conditions that are given and therefore of necessity supports the status quo, despite its proclamation of value neutrality,<sup>41</sup> and so on.

The problems with positivism are assured to be equally based on their uncritical transposition of the natural science model to the study of social phenomena, and the inherent impossibility of the application of the scientific method itself a material analysis of social reality to social phenomena. A science of society is declared to be impossible, and materialism, as the foundation of social science is discarded. Consequently, when Quinney turns to competing theories of society he begins by asserting: "Social constructionist

thought begins with a recognition of philosophical idealism."<sup>42</sup> Here however, Quinney does not want to deny the actual existence of things merely because they are independent of consciousness – since the social constructions of individuals are shaped by dominant interests, which impose a certain kind of idealistic order. Only certain "realities," then – those conducive to social order – are given validity by the dominant interests and dispersed throughout society.

Ethnomethodology, argues Quinney, sticks too close to this constructed reality by focusing on the images normally developed by social actors in society. It fails "to provide a yardstick for judging the goodness of one reality over another."<sup>43</sup> He declares labelling theory to be progressive because of its libertarian critique of the control of some individuals by others; but social constructionism as a whole does not offer an "image of an authentic existence"; hence it cannot transcend the existing order.

Phenomenology, for Quinney, comes much closer to fulfilling his criteria of an adequate theory. Essentially he argues that, rather than studying merely the externals, the mind (following Kant) can grasp, idealistically the essence of matters – this is achievable by a transcendent philosophy which goes beyond the present through a process of understanding which arises from the postulation of possible experiences. This is crucial to the creation of concepts of a new "existence"; but, argues Quinney, it still does not lead to the active transcendence of the oppressive reality.<sup>44</sup>

Based on a phenomenologically determined possible being, the final step is to criticize the "is" in these new terms, that is, develop "radical criticism." Essentially this involves liberating yourself from the imposed and false consciousness dominant in society, and then through the realm of ideas, transform the consciousness of others. An intellectual movement, a consciousness raising process, is then set underway which has its expression in an "active life in which we transcend the established existence. There is no reality apart from consciousness;<sup>45</sup> consciousness creates reality; therefore, cannot a new consciousness create a new reality?

Quinney's theory of social change, then, is based on his idealistic philosophy; it is entirely intellectualist in its origin. From his earlier book, *The Social Reality of Crime*, Quinney has escaped further into idealism which makes him increasingly incapable of analysing the concrete, materially existing social institutions upon which the structure is based. By negating social science he negates the form of the instrument by which the society can be apprehended and changed. His liberation is purely a personal one well within the liberal tradition. Without coming back to the material foundation of ideology, Quinney's critical theory will be nothing but academics shouting in the wilderness, with an imaginary sense of superiority for having transcended the "is" all by himself. Quinney's faddishness, which makes him adopt the newest in-vogue thinking in the academic world, makes him increasingly irrelevant. To the extent that critical theory rises to the clouds

and removes itself further from the social structure, it becomes nothing but the intellectual play-thing of the sixties generation whose middle class radicalism was diverted into innocent channels of self-improvement. The irony behind critical theory and the wildest forms of individual libertarianism is that they both appear to be ultra-radical and as threatening the very fabric of the social structure. Both, however, arise from the same class forces and divert radical response into individual posturing. In this sense they have an element in common with terrorism, and all are ultimately supportive of the oppressive reality they are in such bombastic rebellion against.<sup>46</sup>

The above critiques of critical criminology have usually stressed the point that, the assertion that modern law in its entirety is a tool by which a handful of powerful persons manage to oppress the rest of us, is oversimplified. First there exists some social consensus regarding the punishment of acts defined as crimes, and secondly rather than oppress us some laws serve to protect us. The first objection misses the point that social definitions, while developed by dominant groups, are diffused throughout society. A social constructionist, for example, would argue that those with differential resources can imprint their ideologies to a greater or lesser extent depending on objective conditions, on the population as a whole. This ideological hegemony would be likely to produce any consensus that exists. It is also true that deviant perspectives are more likely to be found in specific sub-groups whose objective position increases the probability that they would adopt ideas contrary or at least distinct from those in dominant positions.

The second objection is more serious; but here the problem with critical theory is a too great emphasis on the coercive aspects of social control and not enough attention to the other strategies. Reformism is precisely such a strategy, that is specific reforms are instituted that have their origin and *raison d'être* in social processes arising from the disadvantaged, but are appropriated by the official institution and implemented from the top down. Such laws operate in the interests of the dominant group no less – and frequently more than – coercive laws, providing that the social structure is able to absorb the changes.

In times when this is possible institutions are developed to create “changes” thereby embedding reformism in the social fabric. To the extent that social conflict theory fails to understand the interaction of the strategies for control, it becomes one-sided and open to the critique of inadequately comprehending the social process.

Quinney can also be criticized for falling back on notions of “natural law” since he cannot envisage a society with no law. He demands a decentralized law “consistent with ‘natural law’ which endeavours to maximize the individual's efforts to develop his own human potentialities.”<sup>48</sup> Critical theory thereby asserts its other fundamental postulate: an abstract humanism.

Having discovered that the state is controlled by dominant private interests who will criminalize dissent and who have developed an enormously

powerful coercive apparatus) the critical theory blames everything on science, and engages in dreams in which it all vanishes. The response to this situation does not escape from the confines of critical theory and merely pretends revolt and gesticulates about oppression as an absolute entity. Thus, for Gibbons and Garabedian, Quinney's humanism will be undermined since the laws developed by the people themselves might be equally tyrannical.<sup>49</sup> This exposes a key weakness in critical theory: it really lacks social theory. It uses concepts such as "oppression" in a moral sense without any basis for analysing the basis for relations between groups. It assumes that the content of all oppression is the same and that all ruling classes utilize the state as a self-serving system to maintain their own privileges. It is easy to recognize this easy position in liberal cynicism; but why should it exist in critical theory for which anything is possible if it is conceivable?

McDonald's attempt to assess the empirical validity of the conflict and consensus theories is worthy of attention. She sums up that 19th century conflict theories stressed the economic and social discrepancies in society in opposition to bio-social theorists, while in the 20th century, the emphasis on socio-economic problems as the causative basis of criminality has been appropriated by modern social science in a consensus framework while critical theory has abandoned the study of structure in favour of power processes.<sup>50</sup>

She first asserts that, for consensus theory, there ought to be a correlation between social problems, (which give rise to criminal behaviour) and the imposed sanctions. For critical theory (which in its modern form has dropped the question of real behaviour, and ultimately of real social inequalities), the extent of sanctions was merely a result of the resources available to the holder of power.<sup>51</sup> In general, with the exception of unemployment, she finds that it is the resources available for social control which expand and are positively related to the increase in the application of negative sanctions.<sup>52</sup>

McDonald argues that since consensus theory rests on the assumption that social problems create crimes, then it follows that they should argue that an increase in the infrastructure of control (welfare, police, education, etc.) will (a) lead to a decline in social problems and therefore, (b) to a lower crime rate. Alternatively, she argues that conflict theory asserts that the greater the means of control the more frequent the application of criminal definitions. She finds that there is an increase in criminal sanctions corresponding with an increasing crime rate, a finding she asserts, supports conflict theory.<sup>53</sup>

But the causal chain cannot be ignored. Why does the infrastructure of control expand? A consensus position would argue that criminal actions had increased (owing to certain social processes, such as unemployment) and therefore the state provisions – based on a twin strategy of reformism and repression – had been deployed (which should have some relation to that amount of GNP spent for the purposes of control) to counteract the criminality. Social problems may even have been relatively reduced in the sense that state

expenditure had prevented even deeper disparities from developing. In both cases an explanation for a correlation between the control infrastructure and the rate of criminality can support either hypothesis.

The evidence of a relationship between police expenditure and crime is interesting; especially since the increase preceded the increase in convictions.<sup>54</sup> This finding is significant, but it may support the view that more cops catch more crooks (the amount of undiscovered crimes drops, a hypothesis that is rather difficult to measure. The rising crime rate, however, becomes a function of official action rather than any social process. The question of why there is an increase in the size of the police. If it is not because of an increase in criminal convictions it may result from a perceived social threat based on social processes (e.g., peaceful demonstration, rising unemployment), which becomes translated into more conviction. The question is still the social basis for an expansion of the apparatuses of social control.

One of the difficulties in McDonald's operationalization of hypotheses deriving from consensus and conflict positions is her connection between consensus theories and policies of repression.<sup>55</sup> Unquestionably, relative to conflict theories, which tended to be critical of the status quo (even if ultimately supportive of it), consensus theorists tend to sanction repression. This, of course, rests on the belief that the social consensus is really only the position of the "silent majority" and that it is necessary to protect it. But the fundamental question is not repression, per se, but repression as one means of social control, and the dominant groups have at their disposal peaceful and reformatory options, depending on the circumstances. Hence we have seen that the rehabilitative philosophy was connected, both logically and temporally, with the dominance of consensus theory. This control aspect, with alternative strategies, is absent in critical theory which asserts that "the holders of power ... have the most to gain by a high level of sanctions and a low level of civil liberties."<sup>56</sup> Consensus theory would argue that a high level of sanctions would threaten the consensus. The dominance of a conflict model tends towards polarization and ought to be associated with a recourse to punishment rather than the extension of civil liberties. In fact, we find that the development of radical criminology occurs in a period of heightened repression and when the emphasis on punishment is pushing rehabilitation to the wall.

## **Radical Responses**

The liberal-radical critique of rehabilitation usually rests in part on the view that in practice the activities of the prison regime are authoritarian in content and therefore socialize individuals to function in this type of setting. The experiences in prison are therefore "dysfunctional to democracy."<sup>57</sup> The individual conforms to the rules and regulations to avoid punishment or curry favour within a coercive situation. The prison trains for social conformity and

not for democracy which is assumed to be synonymous with political activism. The prison is attempting, in a totalitarian fashion, to diminish disrespect for authority and make prisoners into strict conformists to coercive agencies.<sup>58</sup>

While the "critical school" ends up ultimately supportive of the very forces it criticized, a much more interesting radical response, from an "insider" demonstrates that a more materialist approach makes certain phenomena understandable which are obscured by the idealist critiques. The effectiveness of policing, and the success of the prison as a deterrent makes robbery from the rich a high risk activity. This has the effect of directing the main criminal activity against the poor and disadvantaged making them the victim of these acts. This, first, forces the poor more into the hands of the police who are there to "protect them" and on the other hand robs "crime ... of much of its latent political content" as a direct expression of the inequality produced and reproduced in Western society. This dependence on the police provides the basis for a law and order mentality among the working class.<sup>59</sup>

In his radical critique Wright adopts a "problem-opportunity" model of crime. This is based on the view that "most crime is associated with the economic difficulties people face in their lives." Most crime is economic: "the illegal appropriation of the property of others." In this sense crime is "a natural, adaptive solution to problems" and is uniform in nature within but not between working, middle and business class crimes. The determining difference in the character of crime is that "the available criminal options of the poor and the rich are very different."<sup>60</sup>

From Wright's viewpoint it follows that the wealthy individual has more options which are socially defined as legal to obtain his goals. Criminal activity therefore would be less likely to characterize the activity of the rich, and criminals would be more likely to come from the working class or "underclass." The critical criminologist would rebuke Wright for adopting as his definition of crime that which derives from the legal apparatus itself and which fails to distinguish between the illegal appropriation of property and the legally sanctioned crimes of the business class. This viewpoint goes beyond such business crimes as evading pollution standards or safety regulations and argues that just as it is now defined as criminal to own another human being, it would be possible to extend this criminal definition to the act of private employment, which has some historical precedence. The idealist viewpoint is able to stand apart from the social process and argue that criminal definitions are socially constructed. At this point critical criminology has not overstepped the boundary from the sublime to the ridiculous, and it becomes possible to analyse the social structure according to those actions which are criminal and non-criminal, and at whom criminal definitions are directed. In fact, the importance of the critical exercise is understanding exactly which social classes do act in ways defined as criminal. As Wright pointed out, in such a situation to break the law becomes a political act, which is actually negated by the idealists who deny that there is such a thing as an illegal act.

From a correctional standpoint the strength of Wright's approach is that the stress on the rationality inherent in definite criminal activity (problem-opportunity model) rejects any notion of the offender being psychologically sick and therefore in need of treatment. The "treatment philosophy" emerges as a major legitimization with which to justify the social control of the disadvantaged. If there is nothing wrong with criminals except a lack of opportunity to solve socially created problems, then the suppression of criminals is merely a response which blames individuals for social inequalities. Criminality becomes, in this materialistic view, an implicit indictment of the social order. The use of social control can only be justified if the development of society is such as to progressively and fundamentally eliminate these social inequalities. The failure of Western nations to achieve a major redistribution of wealth during this century is an indictment which exposes the ideological content of law and order rhetoric.

The prison, according to Wright, is "liberal-totalitarian" in form, the liberalism implying the philosophy of rehabilitation and the totalitarianism meaning the attempt to induce strict conformity to authority. He argues that, on the one hand, liberal means further totalitarian ends. The liberal programmes implemented become devices for furthering the values of the prison: obedience and compliance to authoritarian rule. In practice they become the antithesis of the reform philosophy in which terms they were implemented. And totalitarian means – the fact of imprisonment with all that entails – are expected to produce liberal ends, which is a logical absurdity. In rejecting the philosophy of rehabilitation, however, one must not also abandon prison institutional reform. From the point of view of social change, the prison is recognized in the present by the dominant group as a necessary institution for-social control which will continue to house the disadvantaged despite the critical critics. The question of change becomes the internal mobilization of the prison population to demand concrete reforms of conditions, with the crucial aspect being the process rather than the achievement. Ultimately the internal reform movement would have to be linked to wider social forces in order to achieve both concrete ends and correct theory. When Wright argues that one strategy of rehabilitation in practice is to alter the prisoner' attitudes, "to destroy the rebellious spirit of prisoners, to break them into conformity,"<sup>61</sup> he is operating with a solidary opposition model which is only a potential rather than an actuality. The crucial point, however, is that many prisoners do fulfill this criterion of being angry and rebellious. They are generally considered most in need of rehabilitation, of staying the longest in prison. They are the candidates for the new maximums planned in the future.

There have always been "rebellious" prisoners – given the nature of the social system, such has been inevitable – however the content and interconnections of this rebelliousness has changed over time, In contrast to the spontaneous uprisings associated with the civil-rights consciousness in the 1950s, in the United States, beginning about in the middle 1960s prison riots

had a distinctly different character in that they were linked with movements and social contradictions having their locus outside the prison. The internal disorder expressed a greater social content and had a degree of revolutionary potential. The basic conjunctural features were the Vietnam War and the uprisings in the black ghettos, both of which affected the consciousness of primarily non-white prisoners who formed the leadership of the new prison movements.<sup>62</sup>

Two inter-related factors are important in this perspective. One is the growing influence of the "community," that is, the increasing impinging of social contradictions external to the prison on the prisoners (contradictions which in turn reflect on the prison itself), Secondly was the changing consciousness linking the internal and external aspects. In the classical position of the prison administrator, the influence of the family from the community was expected to help change the prisoners' ideas to those favourable to the prison staff who were there to help him. In the turmoil of the 1960s a series of generalizations arose which asserted that the prison played a specifically oppressive role in class society. Within this new ideology of rebellion, the rejection by the prisoners of the prison, the security staff, and the rehabilitators was given some articulation. At its most fully developed this new ideology went beyond the civil libertarian view that prisons were wrong because they oppressed people and did not allow them to "be themselves." In the new spirit of rebellion, the "selves" of many prisoners were transformed by the adoption of a new ideological position. Although based on the normal conflict consciousness which prison reproduces, the widening of this consciousness did not originate in the prison but came from the outside. Of course the development of the solidary opposition element during this period was countered by a series of official measures both repressive and divisive.

The opportunity exists in prison for easily isolating key individuals and dividing the rest into seemingly antagonistic groupings. Racism serves this primary function extremely effectively, and the danger perceived at Attica, for example, had its source in the multi-racial leadership. The new consciousness was still expressed in concrete demands for improved conditions which could have been met by the prisons. The efficacy of reformism as an ideology, however, arises from the direction of change as much as from the content. The use of armed force suppresses the original movement, and divisive tactics introduced as reforms shows up the legitimate channels.

The 'new' penologist was liberal and sophisticated enough to understand the oppressiveness of the prison and the potential for rebellion. His response was to give recognition to the cultural symbols of this striving and accept the principle of some delegation of decision-making to "responsible" prisoners.<sup>63</sup> He was prepared to encourage seemingly radical programmes which would lessen the frustration and boredom of the prison regime and channel the rebellious impulses into related but "rehabilitative" activities.

Crucial to an understanding of prison reform from below is that the demands were collective in nature and if implemented would have been collective in content and could have reinforced solidary opposition. The nature of the conflict consciousness of the prison, however, need not induce a collective response. The oppression of the prison could be the basis for the reinforcement of individual rebelliousness which separates prisoners from each other and, despite its appearance, acts to channel the potential for solidary opposition into a generalized solitary rebelliousness characteristic of libertarianism.

## **Libertarian Response**

The libertarian view is based on the most extreme form of individualism and has long intellectual roots in individual rebellion back to the enlightenment. While in general a literary and artistic response which negated standard social conventions, libertarian ideals have spread to large sectors of middle class youth. This rebellious spirit was idealized by Edgar Friedenberg in *The Vanishing Adolescent* as a creative spirit which modern society was doing its best to suppress.

Counterposed to the individual is the social system which by definition is repressive and limiting. This philosophy has been given articulation recently in Robert Pirzig's book, *Zen and the Art of Motorcycle Maintenance*: "He felt that institutions ... of every sort all tended to direct thought for ends other than truth, for the perpetuation of their own functions and for the control of individuals in the service of these functions."<sup>64</sup>

It is a thesis of permanent opposition in which the individual attempts to assert his own creativity and achieve his own reality while social forces are constantly impinging, attempting to pervert the natural impulses and force the individual to conform to rigid standards which deny his humanity. This decrees a constant social war in which the world is dichotomized into two kinds of people: those who are completely accepting and make no demands, who allow people to "be themselves," and all the rest. These latter have ulterior motives, and personal integrity demands that no compromises be made with them. The free individuals can commune together while rejecting all others, a position which leads to general isolation. The philosophy permits maximum acceptance of in-group behaviours and maximum rejection of all others, who comprise an undifferentiated out-group.

This viewpoint, while it is diffused more or less widely throughout the structure, has its sociological roots in those types of work which are performed in isolation from other workers and in which individual interests are given full scope at the expense of collective ones. It is the ideological expression of the petty entrepreneur, the isolated artist, the university intellectual. It is through such social types that the world view of untrammelled individualism spreads to other social settings.

The alienation of the intellectual in contemporary western society, founded on a basic individualism and given conscious expression in modern art forms, is magnified to enormous dimensions in a prison setting. The individualistic view which sees the individual in conflict with society per se rather than certain social forms receives substantial reinforcement under conditions of imprisonment. Prisons are the most obvious expression of the coercion on which the social order is ultimately based.

More crucially to the libertarian are the obvious facts of degradation and dehumanization which are the common fare of the prison. It is this kind of impassioned understanding of what the maximum security prison actually does to people – prisoners, guards, immediate families, the public in general – which underlies the liberal and radical critique of the prison: Prisons teach crime, instill it, inure men to it, trap men in it as a way of life. How could they do otherwise? The criminal is sequestered with other criminals, in conditions exacerbating the lowest drives of lonely and stranded men, men deprived of loved ones, of dignifying work, of pacifying amenities. (Those in Attica lacked proper psychiatric care, religious exercises, and a drug program; and they were nagged at by petty indignities like having to get along on one roll of toilet paper per month.) Smuggling, bullying, theft, drug traffic, homosexual menace are ways of life. Guards, themselves brutalized by the experience of prison, have to ignore most of the crimes inflicted on inmates, even when they do not connive at them, or incite them. Breaking up smuggling is probably futile; better look the other way and live to collect one's pension. The less contact with all but the most exploitable inmates, the better.<sup>65</sup>

The radical libertarian response is for an end to all prisons. The progressive nature of this kind of literary work is that it exposes conditions in the prisons and undermines the conservative view that prisons are "too soft." But the question has to be asked: where does this moral criticism eventually lead? The point is that the conditions are not explained, they are not linked to any coherent social theory that can make sense of them. To the extent they are explained in a libertarian analysis they are merely the extreme form of the general oppressiveness of society in general. In such an isolated and extreme context, the radical-sounding demand for an end to prisons is unrealistic because it will lead nowhere unless connected with an adequate world view, which is grasped by those with the actual potential to bring about social change. Ultimately the prison is a crucial institution for preserving the social order – the degree of its use depending on social conditions which wax and wane over time – and as such it will not be abandoned. This highlights the importance of the struggle and organization of a reform movement which must not be isolated but intricately linked with a wider social movement. The libertarian position, in its most extreme, is unable to support concrete reform measures which are merely viewed one-sidedly as potential pacifiers.

Libertarianism, as well, actually acts to undermine the development of such a reform movement which, almost by definition, seeks intermediate gains

and is based on an alliance with all groups and individuals who will support these concrete measures. Despite the persuasive and honest depiction of prison conditions, the delegitimation of the prison administration, staff and officialdom in general, the solution envisaged by the libertarian is individual in scope and is concerned with the "selves" of the prisoners. Rebellion is advocated, but it is rebellion against all. The depiction of the culture of degradation forced on the prisoners by the prison itself and the acts of the brutalized staff within it leads to the conclusion that the prisoner must escape from it, that is, must pull himself out and humanize himself. The social life of the prison is seen in purely negative terms and the potential for solidary opposition is not recognized. It is in this sense that the promotion of such individual rebellion in the prison serves the short-term interests of specific prisoners, but to the extent that it diverts the response to the oppressive conditions into channels of introspective self-indulgence it inhibits to some degree the development of genuine reform sentiments in the prison.

#### **Endnotes, Chapter Four**

<sup>1</sup> Gordon Hawkins, "The Ideology of Imprisonment," in Blom Cooper (ed.) *Progress in Penal Reform*, pp. 101-102.

<sup>2</sup> There is an enormous literature evaluating prison programmes. Of course not all types of intervention have a negligible effect) and there is a basis for further attempts to assess the relative success of various measures. See, for example, A.E. Bottoms and F.H. McClintock, *Criminals Coming of Age* (London: Heinemann Educational Books, 1973); R. Hood, "Research into the Effectiveness of Punishments and Treatments," in D. Barlow (ed.) *A Review of Selected Criminological Research on the Effectiveness of Punishments and Treatments*, (Toronto: University of Toronto Centre of Criminology, 1971), pp.5-19; R.W. England, "A Study of Post-Probation Recidivism Among Five Hundred Federal Offenders," *Federal Probation*, 1955 (Vol, 19) pp.10-16; Roger Hood and Richard Sparks, *Key Issues in Criminology* (London: Weidenfeld and Nicolson,1970); Robert Martinson, "Planning for Public Safety," *The New Republic*, 29 (April) pp. 21-23; Walter C. Bailey, "Correctional Outcome: An Evaluation of 100 Reports," *Journal of Criminal Law, Criminology and Police Science*, Vol. 57, No. 2 pp. 153-160; J. D. Grant "The Treatment of Non-Conformists in the Navy," *Annals of the American Academy of Political Science*, (March, 1960); Marshall B. Clinard, *Sociology of Deviant Behaviour*, 3rd ed. (New York: Holt, Rinehart and Winston, 1968); Edwin H. Sutherland and Donald R. Cressey, *Principles of Criminology* 7<sup>th</sup> ed, (Philadelphia: J, B Lippinath, 1967; George B. Vold, "Does the Prison Reform?" *Annals of the American Academy of Political and Social Science*, 293 (May 1954), pp. 42-50.

<sup>3</sup> J. Irwin and D.R. Cressey "Thieves, convicts, and the inmate culture," *Social Problems*, 1962, 10: 142-155. Cf. Also H.F. Cline, "The determinants

of normative patterns of correctional institutions," in N. Christie (ed.) *Scandinavian Studies in Criminology* (London: Tavistock, 1968) pp. 173-184.

<sup>4</sup> P. G. Garabedian) "Social roles and processes of socialization in the prison community," *Social Problems*, 1963, 11: 139-152.

<sup>5</sup> C. Schrag, "Leadership among prison inmates," *American Sociological Review*, 1954, 19: 39-42.

<sup>6</sup> R. W. England, "A Study of post-probation recidivism among five hundred federal offenders," *Federal Probation*, 1955, 19: 10-16.

<sup>7</sup> Cf. D. Glaser, *The Effectiveness of a Prison and Parole System* (New York: Bobbs-Merrill, 1964); R. Hood and R. Sparks, *Key Issues in Criminology* (New York: McGraw-Hill, 1970); L.T. Wilkins, *Evaluation of Penal Measures*, (New York: Random House, 1969), and others.

<sup>8</sup> Cf. Walter C. Bailey, "Correctional Outcome: An Evaluation of 100 Reports," *The Journal of Criminal Law, Criminology and Police Science*, Vol 57, No.2, (1966), pp. 153-160.

<sup>9</sup> Cf. Beech and A.J. Gregerson, "Three-year follow-up study – Drug addiction clinic," *Canadian Journal of Corrections* 1964, 6 (2): 211-224.

<sup>10</sup> B. Murphy, "A quantitative test of the effectiveness of an experimental treatment programme for delinquent drug users," Unpublished manuscript, Canadian Penitentiary Services, 1970.

<sup>11</sup> David P. Stang, "Problems of the Corrections System," in Reason (ed.) *The Criminologist*, pp.382-383.

<sup>12</sup> Thomas Murton, *The Dilemma of Prison Reform*, (New York: Holt, Rinehart and Winston, 1976), pp. 163-165.

<sup>13</sup> Rupert Cross, *Prisons, Punishment and the Public*, (London: Stevens and Sons, 1971).

<sup>14</sup> Hawkins, "Ideology of Imprisonment," pp.103-104.

<sup>15</sup> A similar conclusion results from a reading of Philip Bean, *Rehabilitation and Deviance*, (London: Routledge and Kegan Paul, 1976)

<sup>16</sup> Robert Martinson, "Planning for Public safety," *The New Republic*, (April 29, 1972), pp. 21-23.

<sup>17</sup> This point is made by *Wright in Politics of Punishment*, and had been made much earlier by Daniel Glaser in *The Effectiveness of a Prison and Parole System*, (Indianapolis: Bobbs-Merrill, 1964).

<sup>18</sup> Howard B. Gill, "Correctional Philosophy and Architecture," pp.110-127 in Carter, et al., (eds.) *Correctional Institutions*, pp. 115-116.

<sup>19</sup> Norwal Morris, "Impediments to Penal Reform," pp. 461-487 in *Ibid.*, p. 470.

<sup>20</sup> *Ibid.*, p. 472.

<sup>21</sup> Stanton Wheeler, "Socialization in Correctional Institution," in Radzinowicz and Wolfgang (eds.) *Criminal in Treatment*, pp. 97-116.

<sup>22</sup> Cf. C. Schrag, "Leadership among Prison Inmates," *ASR* 19: 37-42 (1954); Stanton Wheeler, "Socialization in Correctional Communities," *ASR* (1961) 26, S: 697-712.

<sup>24</sup> Gesham M. Sykes and Sheldon L. Messinger, "Inmate Social System," in Radzinowicz and Wolfgang (eds.) *Criminal in Treatment* (pp. 77-85).

<sup>24</sup> Wheeler, "Socialization in Correctional Institutions," p. 104.

<sup>25</sup> *Ibid.*, p. 106.

<sup>26</sup> *Ibid.*, p. 112.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> See, for example, Leon Radzinowicz, "The Criminal in Society," *Journal of the Royal Society of the Arts*, 112 (1964): 916-929; and especially Hood and Sparks, *Key Issues in Criminology*, pp.15ff. Austin Turk, in his *Criminality and Legal Order* (Chicago: Rand McNally, 1969), asserts that there is no serious evidence to show that, apart from the consequences of a criminal definition, there is no distinction between the behaviour or needs of those who are criminals and those who are not.

<sup>30</sup> Ian Taylor, Paul Walton and Jack Young, *Critical Criminology*, (London: Routledge and Kegan Paul, 1975). At this end of the spectrum radical criminology ends up in a "Marxist" perspective of the social democracy variety.

<sup>31</sup> Alex Thio, "Class Bias in the Sociology of Deviance," pp. 272-291 in Traub and Little, *Theories of Deviance*, pp. 279, 273.

<sup>32</sup> John P. Conrad, "Winners and Loser: A Perspective on Penal Change," in Blom-Cooper (ed). *Progress in Penal Reform*, p. 205.

<sup>33</sup> Richard P. Quinney, *The Social Reality of Crime*, (Boston: Little, Brown, 1970), p. v.

<sup>34</sup> *Ibid.*, p. 11.

<sup>35</sup> *Ibid.*, p. 9.

<sup>36</sup> *Ibid.*, p. 39.

<sup>37</sup> *Ibid.*, p. 42.

<sup>38</sup> *Ibid.*, p. 4.

<sup>39</sup> *Ibid.*, p. 177.

<sup>40</sup> *Ibid.*, p. 4.

<sup>41</sup> Richard Quinney, *Critique of Legal Order: Crime Control in Capitalist Society*, (Boston: Little, Brown, 1973), pp. 2-4.

<sup>42</sup> *Ibid.*, p. 5, emphasis ours.

<sup>43</sup> *Ibid.*, p .7.

<sup>44</sup> *Ibid.*, pp. 8-10.

<sup>45</sup> "A critical philosophy ... is one that destroys the illusion of objectivism (of a reality apart from consciousness)." Jurgen Habermas, *Knowledge and Human Interests*, (Boston: Brown Press, 1971).

<sup>46</sup> Given his band-wagoning, it comes as little surprise that Quinney should proclaim himself a Marxist (*Critique of Legal Order*, p.vi), albeit a phenomenological-Marxist. The fact that Marxism was founded upon, and has been based since that time philosophically upon a powerful and sustained critique of idealism in all its forms is hardly sufficient to taunt Quinney, since Marxism is whatever he wishes to perceive or imagine it. Yet one wonders why

Marxism, with its philosophy being nothing if not the negation of phenomenology, should be the theory with the greatest "utility" for understanding? This, of course, should come as no surprise after Quinney's use of the major findings of positivist sociology to support his arguments in *The Social Reality of Crime*.

<sup>47</sup> Gibbons and Garabedian, "Conservative, Liberal, and Radical Criminology," pp.51-65 in Reasons (ed) *The Criminologist*.

<sup>48</sup> Richard Quinney, "The Ideology of Law: Notes for a Radical Alternative to Legal Repression," *Issues in Criminology* 7 (Winter, 1972): pp. 1-3.

<sup>49</sup> Gibbons and Garabedian, "Conservative, Liberal and Radical Criminology," p. 61.

<sup>50</sup> McDonald, *Sociology of Law and Order*, p. 25.

<sup>51</sup> *Ibid.*, pp. 142-143.

<sup>52</sup> *Ibid.*, pp. 154-155.

<sup>53</sup> *Ibid.*, pp. 188-189.

<sup>54</sup> *Ibid.*, p. 194.

<sup>55</sup> *Ibid.*, p. 25.

<sup>56</sup> *Ibid.*, p. 238.

<sup>57</sup> Murton, *The Dilemma of Prison Reform*, pp. 73-74.

<sup>58</sup> *Ibid.*, p. 166, see also Wright, *The Politics of Punishment*, pp. 152-157.

<sup>59</sup> The working class took a harder line on the need to increase the strength of police, the need to use police to put down riots, and the acceptability of violence used by the police. *Ibid.*, p. 316.

<sup>60</sup> *Ibid.*, p. 7.

<sup>62</sup> *Ibid.*, p. 325.

<sup>62</sup> Pallas and Barber, "From Riot to Revolution" in *Ibid.*

<sup>63</sup> Wright, *Politics of Punishment*, p. 260.

<sup>64</sup> Robert Pirzig, *Zen and the Art of Motorcycle Maintenance*, p. 121, quoted in Brief, prepared by Con-Act, 23 April 1975, p.4.

<sup>65</sup> Garry Wills, "The Human Sewer," *New York Review*, 3 April, 1975

## **CHAPTER FIVE**

### **THE DEVELOPMENT OF "COMMUNITY CORRECTIONS"**

#### **The Trend to Community Involvement**

Despite the sociological and political studies which had declared the failure of the rehabilitation model, as it had been implemented up to the mid-1960s, the response to this situation had proceeded along various lines. But the one element which almost all studies of the prison had in common during the next decade was the rejection of the view that the prison could be studied in isolation from the society of which it was a part. The actual historical situation had broken through the barriers which had hitherto separated the prison from any connections with events in the community.

For the radical theorists the most frequent response had been to abandon the study of the prison and look instead at the process of the creation of criminal definitions. The liberal penologists had discovered that the relationships between the prison and the community were complex and problematic. In the first place the overt conflict of the 1960s and the economic crises of the 1970s forced upon the consciousness of social theorists the realization that a sociological study of criminality involves the question of objective process which is connected to criminality. Not being able to escape from their consensus viewpoint, the liberals asserted that the 'community' – meaning the aggregate of social relationships as a whole – was at least partly responsible for the crime that was committed. The community, then, bore a responsibility to see that the criminal was reformed. Everyone within the society as a whole bore some portion of this collective guilt.

Secondly the logic of banishment came into question. It had been assumed that the appropriate response to the criminal subculture had been to isolate the criminal from deleterious social influences. The representatives of the society – the guardians of the public trust – were responsible, in theory, for resocializing the criminal into the norms of the outside world. The studies of the prison structure, however, had suggested that prisons deepened criminality and were schools of crime. In particular, it was realized by some that the crucial independent variable in 'success' had nothing to do with the prison experience (and even the stigma of having done time was considered less serious in practice than had been thought hitherto), but related to the opportunities and options available to the ex-prisoner subsequent to his release. The ability to find a steady job was particularly important to the success of the ex-prisoner. Studies of decarceration have demonstrated that the crucial source of re-entry difficulties has little to do with personal limitations, emotional problems or attitude, but is a question of the opportunity structure of the ex-prisoner's life situation. In this regard, for

example, a return to heroin use has been described as a functional and rational short-term response to decarceration in an American city.<sup>1</sup>

In general, the problem of employment remained in the hands of the free market, although some attempts at liaison with government employment policies were devised, and programs actually involving employment in the community implemented. In their treatment of the problem the liberal social scientist emphasized the objective skills of the ex-prisoner, and more importantly, his attitude and motivations, to which the individual perspective had led naturally. It was a case of inadequate socialization to the norms of the free community. The logic of imprisonment, as practised, was assailed. It was not possible to socialize an individual into a social environment while at the same time separating him from that setting. The conservative argument that conformity to the prison regimen was a process of re-socialization which was generalizable to the society outside the prison was condemned as both mistaken and ideological in that it justified the oppression of the prison. The prisoner, it was suggested, had to learn responsibility and this was only possible by the actual exercising of actions with a progressive degree of autonomy, a stipulation which was thought contrary to the prison's classical emphasis on strict control. This was an extension of the rehabilitative component of classification – a further reform. Above all, despite the turmoil, there was a renewed belief in the efficacy of reformism to solve social ills, providing that it was analyzed appropriately. In the particular setting, the assumption that the community was responsible to a degree for crime was followed through to the implication that rehabilitation must take place in the community. The inherent contradiction in this view would be overcome depending on which experiences and guiding influences the prisoners-at-large would have in the community.

With the addition of a moral critique of the prison based on theories of self-actualization from a libertarian point of view (a stance which underlay much of the critical writing on the prison from middle class humanitarians), these changes portended what, in the early 1970s, Richard McGee was extolling as a “new revolution in corrections.”<sup>2</sup> The new revolution promised what the past revolutions had consistently failed to deliver: the ideal of rehabilitation, dressed in a community guise. In the United States, the involvement of the Ford Foundation, Congress appropriations, Johnson’s National Crime Commission, and the American Bar Association, all of which amounted to a massive social science research effort to uncover and remedy the malaise of the prison. Not only were improvements studied, “but also active attention [was paid] to new alternatives. Innovation is the magic word in applications for experimental and demonstration funds.” The changes envisioned for the correctional field involved such things as fewer offenders incarcerated, greater emphasis on reintegration, more “work and training furloughs, weekend sentences, halfway houses, and similar community-based programs.” Changes were also predicted in probation and parole, the

integration with public and private community resources and computerized information systems "so that decision-makers throughout the justice system can operate on a basis of facts instead of opinion and guesswork."

Finally, it was predicted that for the criminal who wishes "to escape the consequences of his behavior, the 'New Correction' will be far more difficult to evade than is the case under our present system."<sup>3</sup> In other words, the goal of rehabilitation, essentially bringing deviants to conform to the consensus, was re-affirmed and optimistically broadcast in the new wave of reform occurring at the end of the decade of the sixties.

In 1976 Murton argued that, while past attempts at treatment "have had as their goal protection of society, punishment of the deviant, or retribution," only recently has there been a sincere effort at treatment or, as Fox would say, training. He suggests that education of prisoners is a worthwhile objective if it is addressed (1) to changing the attitudes of prisoners, and (2) to help them "survive in the free society." Education and training are "useful only after the offender has changed his view of himself, his peers, his society, and his relation to that society." He must be willing "to accept and demonstrate self-responsibility"; otherwise "the acquisition of knowledge or skills will only enhance his competence as a criminal offender."<sup>4</sup> If the liberal reformer no longer wished to consider prisoners 'sick,' they were nevertheless still very much in need of the help professionals could offer.

This trend to look outside the prison as well as inside, was given official recognition in the U. S. in 1967 by the Commission on Law Enforcement and Administration of Justice. The theoretical basis for a trend to community corrections was founded on the conclusion which had linked criminality to the social structure.<sup>5</sup> The Commission concluded that the crucial problem was the malintegration of the offender into the community: "Crime and delinquency are symptoms of failures and organization of the community as well as of individual offenders.... The task of corrections therefore includes building or rebuilding solid ties between offender and community, integrating or reintegrating the offender into community life".<sup>6</sup> In addition to changing the offender, community institutions also needed reform. Despite this rhetoric of "change of the community", the focus was on "integrating" into, and "mobilizing" the community—and by the "community" was meant other social agencies, whether state sponsored or middle class service organizations. The twin social work policies of "thorough management, and control of crises and programs designed to overcome handicapping deficiencies" were the suggested reformative measures.<sup>7</sup>

## **The Ouimet Report**

At about the same time the Canadian Government was summing up the previous failures and adopting a rehabilitation model based on the increased involvement of the community in corrections. In 1965, the Canadian

Committee on Corrections was commissioned to study the criminal justice system. This followed on the heels of the criticisms being made of prison programmes and concern over the state of unrest in the penitentiaries.

One of the main propositions of the Committee was that the basic purpose of criminal justice was to protect all members of society, including the offender himself, from harmful conduct.<sup>7</sup> In their view, "rehabilitation of the individual offender is the best long term protection for society, since that ends the risk of a continuing criminal career."<sup>8</sup>

The Ouimet Report, as this inquiry became known, outlined the trends to be followed in Canadian corrections in the late sixties as being those directed towards more citizen participation in corrections in the form of assistance from employers, labour organizations, educational institutions and volunteers, staff development via training courses in universities and community colleges, the increased use of group counselling, probation and parole. The latter two developments in corrections were seen by the Committee as particularly significant changes. Amendments in the Criminal Code in 1961 had allowed for the practice of probation, and by 1966, in some provinces, more adults were on probation than in prisons at any given time.<sup>9</sup>

With the establishment of the parole system in 1958, different kinds of parole programs were being developed, namely temporary leaves of absence (TLA), day parole and work releases. The system of gradual release was gaining acceptance and projects were underway for the development of standards of operation for community release centres in each of the regions. These would provide shelter counselling while inmates sought employment. Financial assistance was being granted to privately operated community release centres. Substantial resources were diverted into implementing the new concept of rehabilitation.

The major recommendations made in the Ouimet Report gave legitimacy and support to the new movement for 'Community Corrections.' The Report stated that:

Unless there are reasons to the contrary, the correction of an offender should take place in the community, where the acceptance of a treatment relationship is more natural, where family and social relationships can be maintained, where resources can be most effectively marshalled, and where the offender can productively discharge his responsibilities as a citizen.<sup>10</sup>

The report described the necessity of the public participating in corrections, and the offender participating himself in the development of a treatment plan. However, the Committee also accepted a need for prison sentences. For the majority of offenders this meant "small, specialized, community-centered, appropriately-staffed institutions resembling hostels or camps." For those

offenders requiring incarceration, the definitions of a prison must be changed so that they were viewed as an integral part of a broad system of services within the overall correctional process and also as part of the community. The purpose of the prison would be to hold inmates in custody for the required period and to prepare him for return to the community, i.e., 'rehabilitate' him. In order to rehabilitate an adequate treatment program would have to be developed inside the prisons. The Ouimet Report suggested that top priority be given to the provision of adequate classification facilities, which included staff development. Also the development of the principle of "control through involvement rather than containment,"<sup>11</sup> as in the concept of the therapeutic community, was given a great deal of credence. This would involve more self-determination of the inmate in treatment program planning. The Report also encouraged the increased use of work releases for offenders to attend school, work, obtain trade training in the community, and the continuance of citizen participation within the institution. It recommended changes in sentencing to allow for the greater use of alternatives to imprisonment, such as probation and parole. Citizen advisory committees, connected to each institution, were to be developed in order to institute the liaison and participate in the planning of programs. The report underlined the role of the Federal government in developing unity in the correctional field, and in the criminal justice system generally.

Another development in the 'Community Corrections' trend, flowing from one of the recommendations in the Ouimet Report, was the creation of a Consultation Centre in 1968 within the Solicitor General's Department. The Ouimet Report called for greater federal-provincial cooperation in the area of criminal justice and for the Federal government to take on a leadership and coordinating role. The Consultation Centre constitutes a move towards the development of programs alternative to incarceration, toward crime prevention and community-based treatment and away from corrections inside prisons. The main priority groups are young people and special groups such as Native peoples. A second objective of the Centre is to continue public participation in corrections in the form of voluntary organizations working with offenders and ex-offenders, private sector input into policy-making and the promotion of experimentation within community programs. Projects are funded which help to provide diversion and preventive services. For a while, CRCs were granted money by the Centre but it has moved away from funding that type of alternative.

The tendency seems to be to support a project for a limited time and then to drop support and look elsewhere. The CRC in Sydney, Nova Scotia (Howard House), was supported for one year. Con-Employ was funded for two or three years; the Coalition of Support for Services received its money from Manpower. The sense is that the continuation of funding creates a 'permanent need.' The question of financing is aggravated in a period of austerity – not only is there a debate about the role of the Consultation Centre, but it must

develop the rationale and concrete proposals for programs on its budget allotment. Money spent to finance programs tends to go into the promotion of the organization.

One of the areas which has not been a priority has been the period following incarceration and parole. In Halifax an organization called Coalition and Support Service (CSS) was developed to employ ex-prisoners in projects which assisted the disadvantaged in the Community. Called "the most effective and best directed" project in Canada by a senior civil servant in the Solicitor General's Department, the program had been funded by Government sponsored make-work projects such as LIP and LEAP. Despite its excellent record, however, it fell victim to the cutbacks and the policy of avoiding long-term commitments. The Solicitor General's Department offered an amount of money representing about eight per cent of the budget, but declined to become seriously involved in a project which focused on the decarceration period.

During the 1960s and 1970s the tendency towards a rehabilitative approach in the areas of drug use and alcohol problems was developing. In the United States the responsibility for drug control was shifted from the Treasury Department (which had for years maintained the 'drug fiend' ideology) to the Federal Drug Administration. An attempt was made during the Nixon regime to return to a punitive model, indicating the specific sensitivity of this area as indicative of specific social interests. The Bureau of Dangerous Drugs (FDA) and Bureau of Narcotics of the Department of the Treasury were unified under the Department of Justice and it appeared that the legal model was about to be re-asserted in place of the medical viewpoint. It seems that provisions were provided for imprisonment but not for treatment. Opposition to the Bill led to the provision for federal funding and the development of community treatment facilities. National Institutes of Drug Abuse, and Alcohol Abuse and Alcoholism were formed under the Health, Education and Welfare Department and the National Commission on Marihuana and Drug Use was commissioned, to give its first report in 1972.<sup>12</sup> A parallel development occurred in Canada with the LeDain Commission on drug use and the formation of the Non-Medical Use of Drugs Directorate under Health and Welfare Canada. In both countries the first steps towards decriminalization were undertaken in the case of the 'soft drugs,' particularly marihuana, with recommendations making possession not grounds for a prison sentence.

In contrast to the early 1960s and earlier, when the punitive approach to drug use was paramount (the proportion of drug offenders in U.S. prisons, for example, doubled, and average sentence length increased four times from 1950) and no treatment facilities for addicts existed,<sup>13</sup> some provisions were subsequently made. The three most common attempts at devising treatment programs in the U.S. involved methadone clinics, the 'civil commitment' program and therapeutic communities. Methadone treatment is a

controversial program which dispenses an alternative drug to addicts in legal clinics - the American adaptation of the British drug clinics.<sup>14</sup> These have been attacked from both conservative and liberal critics; from the former for 'pandering' to addicts, and from the latter for sanctioning the drugging of the population.

The Civil Commitment program is a covert alternative to imprisonment, a process of bartering in which the addict agrees to treatment in return for having charges dropped. It has been argued that these turn into merely a new name for imprisonment. Similarly, the therapeutic communities have been attacked for being 'authoritarian' - in contrast to their ideology which claims the opposite - and for becoming 'permanent homes' for institutionally dependent addicts.<sup>15</sup>

### **Community Residential and Correctional Centres**

The recognition by criminologists that if the goal of treatment was successful in re-integrating the ex-offender then banishment was inappropriate led to the establishment of intermediate prisons, or halfway houses. The prison staff counsellors and guards were no longer seen as acceptable surrogates for the inculcation of middle class norms and values, at least as they were ideally pictured to be: autonomy, decision-making power, etc. They were more appropriate for the inculcation of blind obedience and deference to authority. We can question how realistic these assumptions of middle class reformers are, and the ii· practices of trying to set up 'therapeutic communities' in which people openly discuss their problems and ideas and arrive at collective decisions. Despite the rhetoric this model never has been an accurate reflection of decision-making in Western society. Nevertheless, the view that you cannot isolate an individual from a social environment and simultaneously socialize him to that environment was accorded some theoretical recognition. Coupled with the empirical finding that a crucial determinant of reconviction was employment record following release, this stressed the need to develop a 'conventional' role in the 'free society.' The prison had been expected to train the prisoner in marketable skills; the halfway house was to assist the individual in testing the new role and supposedly initiating "rewarding experiences which will tie them to the new role."<sup>16</sup>

As instituted, halfway houses meet only a small percentage of the demand. The recognition of a problem and its posited solution within the framework of reform becomes mere tokenism by failure to widely implement. This is not to imply that the reforms themselves are not fundamentally problematic; the implementation of policies which are thought to be positive is directly related to appropriation of funds, and ultimately to the aggregate of economic surplus available to the state for reformative purposes.

The development of community corrections involved, essentially, the provision of alternative medium security prisons, increased supervision in the

community, and the revision of programs in the standard prison system. A great deal more attention was focused on the first aspect, which led to the expansion of institutions of both a pre-release and a post-release nature, with the explicit aim of attempting to provide a more controlled re-integration into the community in the hope that this would lead to increased success. Mere supervision was deemed insufficient; there was an attempt to intervene in the process of re-integration more positively. The implementation of this aspect of the 'new revolution' in corrections was examined by a Task Force commissioned for the purpose of evaluation and chaired by Outerbridge. The Outerbridge Report<sup>17</sup> defines the movement for community corrections as based on the post-release Community Residential Centres.

The Outerbridge Report came out in full support of the idea of community responsibility for crime and 'Community Corrections.' The Report declared that:

most criminal conduct is spawned in the community, contributed to by the social, economic and political circumstances of the community. Thus, criminal behavior is a function both of the offender and of the community, and the solutions must be sought in both.<sup>18</sup>

It agreed with the prevailing view in corrections at that time that prisons had failed.<sup>19</sup> It argued that prisons did not protect society, except in the short-term sense. For the "majority of offenders, community-based alternatives to conventional forms of imprisonment should be maximized."<sup>20</sup> Community Corrections were seen as only part of a broad social movement to change policies in the administration of criminal justice. Decriminalization of certain acts, detoxification centres, bail hostels, increased use of probation and fines, payment of restitution and partial prison sentences were some of the reforms measures advocated. Where imprisonment was deemed necessary, the task force stressed the use of minimum institutions and the maximum use of parole and other forms of early release.

This concept entailed developing alternatives to imprisonment which would divert persons from the criminal justice system, shorten the length of incarceration or bring relief from incarceration through temporary leaves of absences, day paroles, weekend sentences and work releases. Most community residential centres (CRCs) accepting ex-offenders opened in the early years of the trend. At the time of the Report, 156 centres were available.<sup>21</sup> There are a variety of different kinds of CRCs, ranging from residences which provide purely overnight accommodation to those providing long-term residence with special programmes of varying intensities. These included long-standing halfway houses for alcoholics and drug addicts as well as for transients. There seems to be a great deal of experimentation in organization and treatment styles. However, most centres attempt to provide a 'home' atmosphere which would include a meal programme. Some involve

inmates in the determination and implementation of programmes, while others have compulsory treatment and counselling. The rules and principles in most CRCs are established by the director. Most are understaffed because of the demanding hours. Staff training consists of weekly staff meetings to discuss problems. Many ex-offenders are entering the CRC movement and creating self-help groups. One major complaint from administrators is a lack of communication between CRCs. There are few formal mechanisms for coordination of activities and for information exchange between institutions. Most of the available beds exist in the accommodation-only centres. Halfway houses which serve as post-release centres are all operated by the private sector. The government grants subsidies to these centres but is not involved in operating them. Most of them are old homes and tend to have low-key programmes which place few demands on the residents.

The second main type of CRC is the alcohol and drug treatment centres. The drug treatment programmes are usually of a communal and intense nature, requiring total involvement and a lengthy stay. Various techniques are used such as traditional psychotherapy, both on an individual and group basis, and newer methods such as psychodrama, marathon encounter groups and Gestalt therapy. The alcohol treatment programmes generally are less intense, requiring a shorter stay and follow the Alcoholics Anonymous philosophy.

The Task Force was asked to investigate CRCs in Canada and lay down some guiding principles and standards for them, as well as recommend the nature of the role of the Federal government in relation to the centres. The task force found that there were no commonly accepted standards for CRCs and that all empirical studies to date on the subject were insufficient for the development of standards of evaluation to be created. The Report argued that the effectiveness of CRCs in comparison with other alternatives could not yet be measured.<sup>22</sup> In its view, the criteria of recidivism alone in evaluative work should not be used. Social and economic costs to society should also be included. The task force discovered that most CRCs were not filled to capacity due to the fact that inmates did not know of CRCs in the area in which they were to be released. Their usual source of information was ex-offenders on the street. It also found that most CRCs were unhappy with the contractual agreements with the Solicitor General's Department according to which \$10 per day per referral was paid to selected CRCs. If a bed was not filled no payment would be made. CRCs did receive funding through other government sources, and the task force estimated that 38.5 per cent of CRCs funds come from Federal funds. Consequent to perennial funding problems, a number of CRCs of ex-offenders began to accept non-offenders in order to widen potential funding sources. The cost of operating CCCs in 1972 was about twice as much as post-release centres, \$21.29 per diem as opposed to \$10.39.<sup>23</sup>

The Outerbridge Report recommends the expansion of CRCs, while keeping in mind the protection of the public, viewing CRCs as viable

alternatives to incarceration. It states that CRCs should be small, autonomous, innovative and creative, with informal and personal orientation for inmates and a high degree of resident participation, Arguments are made that an increased number of CRCs would lessen overcrowding in penitentiaries, where the population had been rising since the mid-sixties, and would lessen the need for construction of new institutions. Probation and parole served this purpose in the sixties but, according to the task force, seemed to have reached a peak at this time. CRCs are recommended to offer varied programs in services and intensity to meet differing needs. Staff development would be a big priority.

The Canadian Penitentiary Service (CPS) began to provide CCCs in the late sixties, stemming from a recommendation of the Ouimet Report which focused on the post-release problem. The first three CCCs were set up in Toronto, Winnipeg and Vancouver. It was expected at the time that the CCCs would spread across the country. They have multiple roles, and may house inmates prior to expiry of their sentence, suspended parolees as an alternative to imprisonment, inmates on TAs and day parole or as preparation for parole, Inmates must apply for this program, although the ultimate decision is made by the NPB as inmates need some form of parole to leave the institution; however, directors do make recommendations. Programs at CCCs consist mainly of weekly compulsory meetings of residents and staff which air complaints and provide group counselling. Individual counselling is available on request. Stress is placed on obtaining a job and assistance is given in seeking employment. Rules are laid down regarding conduct, hours, drugs, and alcohol. The ultimate sanction is return to the institution.

The Carleton Centre in Halifax began operation in September 1972, and is one of 12 Community Correctional Centres (CCCs) in Canada. At the time of its establishment in the city there was not a great deal of concern voiced by the local community, a response which may have been different a few years later when the publicity given law and order began to mount (in fact a CCC in Vancouver was closed down). Few crimes have been committed by residents of the Centre. Most of such offenses are being 'unlawfully at large'; the rest have been minor property thefts usually in parts of the city away from the CCC.

In the Carleton Centre the staff consists of a director, a senior counsellor, five counsellors and a clerk, and has a maximum of 16 parolees, for a staff/parolee ratio of about 1:2. The counsellors work shifts between the hours of 8 a.m. and 12.30 on week nights, and 8 a.m. to 1 a.m. during the weekend. A security guard is hired to work on the back shift. Frequently the counsellors are employed at the CCC for a time before being transferred to Springhill or Dorchester, their period of time in the Centre being to some extent a trial. They learn the operations of the job and the administrative tasks which are the equivalent of those in other institutions. The shift work tends to interfere with the teamwork principle under which the staff is expected to operate. No

staff training is especially geared to training CCC counsellors. The staff receives in-service training and last year an outside consultant was brought in. The training concerned communications and group dynamics, and consisted in sessions lasting four hours each week and two weekends. A second period of training, connected to the administrative aspect of their work, saw the counsellors taking a course in Memramcook on management and supervision.

The 12 CCCs in Canada are each different from the other, the variation of physical plant depending on the actual architecture of the building, and the types of programs vary according to these restraints as well as according to the philosophy of corrections held by the director and staff. In Saint John, the CCC is on the top floor of the YMCA and is quite limited in its facilities; the CCC in Edmonton was described as more like a medium security prison. The characteristics of the community in which the Centre is located has an important influence in shaping both the style of the CCC as well as its program, since it functions as a facility for parolees who by definition spend their time in the community. The building of CCCs has not been made a Government priority. Its potential for forming an alternative to the regular prisons by having convicted offenders sent directly to the CCC has not been realized, consistent with the view which places responsibility on the parolees. The Centre is explicitly not for everyone, but only for those who apply for it and are accepted. There is an element of choice in this process which makes it similar to the therapeutic community, although more intense. The Carleton Centre is more realistic and does not place an emphasis on taking authority away. The counsellors attempt to break down some of the barriers between themselves and the staff, and overcome some of the negative experiences of the parolees in their prison history, but do not assume that it is impossible to establish this relationship between those with and those without authority. Ideologically, the exercise involves the attempt to convince the parolee that his own best interests are served by cooperation with the staff. Little time is provided for the development of this rapport, however, since the average length of stay in the Centre is about four to six months.

The attitude of some prisoners is based on the concept of being left alone for the duration of the sentence, and this is deemed to be "systematically negative"; the CCC is described as a "valuable bed" and is not for isolated non-involvement. The Centre is for parolees who recognize that they have problems and are willing to try to work on them. The CCC provides a voluntary program of academic up-grading, life skills and work, and the parolee is expected to have chosen rehabilitation rather than 'marking time.' The typical response involved in gaining insights into one's behavior may be represented by a prisoner from Upper Canada who asked for release in a different community because if he went back to his old city the same things would happen to him. He expressed a fatalism associated with environmental influences.

The principle underlying the handling of parolees in the Centre currently is an individual program planning model. The parolee enters the Centre and together with counsellors and senior staff, a program of activity is worked out for him. The first two weeks are used for orientation during which needs and potential resources are identified. This is defined as a "structured period" during which supervision is a relative priority and privileges are few. Depending on a 'progress' evaluation by the Centre and the Parole Service, either the orientation will continue or the parolee can transfer to a regular program. It is expected that during the initial meeting a clear outline of expectations will be laid out in a contractual-type of process, in which objectives are outlined according to the Carleton Centre:

These objectives are set out in a formal agreement and may consist of areas related to job search, personal habits, cleaning duties, or any other that you or your counsellor feel necessary. Such agreements are viewed as being binding and while the terms may be reconsidered by mutual consent, failure to work towards the goals that are outlined may result in termination of day parole. The usual objective is release, or full parole, through a CRC, and the time in the CCC can help in two ways: just by participating in the programs the parolee actively attempts to change himself; second, by appearing to participate in the program he enhances his probability of success with the parole board.

The program worked out is based on some correspondence between what are identified as the needs of the parolee and what the resources of the community are which can go some way to meeting these needs. The Centre itself does not attempt to provide programs. It provides counselling, some leisure facilities, and some organization which attempts to make for a collective responsibility among the prisoners for day-to-day activities which are shared. There is generally no effort to provide group events, such as an outing<sup>1</sup> or a collective visit to a theatrical performance. Rather than providing services itself, the Centre attempts to assist the parolee's use of as many community services as possible. These include the forensic clinics at the Nova Scotia Hospital, Manpower, Welfare, YMCA, religious organizations, John Howard Society, employers, the Nova Scotia Commission on Drug Dependency, and whatever other government or private community agencies are available and useful in the individual case.

A weekly meeting is organized in the Carleton Centre, and this usually deals with those matters which relate to the problems of 16 people living together in a coercive environment. The principle applied is that they are here according to their free choice (the CCC has this element of choice in contrast to the prison generally) and that they had better act appropriately in order to make their stay as comfortable as possible. Of course, the element of 'free choice' has to be looked at according to the options available, and when the other choice is Springhill, the apparent 'freedom' is rather constrained. This element also provides the ultimate sanction: being sent back to Springhill at

a time when the eligibility date for full parole is approaching. The meeting itself is conducted as formally as possible, with a rotating chairman. The Director has the power of deciding whether a matter is within the province of the prisoners/staff to decide or otherwise) by declaring the result of a vote to be either a statement of opinion or a ruling.

The 'meal program' is developed because of the lack of a full-time cook, but this is thought to be beneficial. The Parole Service pays \$6 per day to the parolees until such time as they get their first regular pay cheque. Thereafter the parole money ceases and the parolee is expected to pay \$2 per day for rent. This money was not sufficient for adequate meals, either in trained in the imparting of Life Skills, which would also form part of the two-week orientation program to the Centre. Originally set up as a demonstration project, there was some initial difficulty getting parolees' commitment to the concept. By placing it during the trial period its success becomes dependent on the desire of the parolee to gain the privileges which are withheld during this period.

As is the case in Springhill, alcohol in the Carleton Centre is more of a problem than other drug use. There were a few incidents of parolees taking an overdose when the Centre was just opened. No treatment facilities exist for the treatment of parolees on 'hard drugs.' There is some use of soft drugs, but again facilities for such people are meager at best. The Nova Scotia Commission on Drug Dependency is concerned primarily with alcohol use, and consequently the only place for those suffering severe reactions to drug use – particularly amphetamines – is the emergency clinic at the local hospital, for immediate problems. Chronic users of such drugs as amphetamines would have recourse only to voluntarily committing himself to the Nova Scotia Hospital, a course a parolee is not going to take. In one recent case an amphetamine user had to be sent back to the prison because there were no community resources which could assist him. Glue sniffing was declared to be prevalent both at the Centre as well as at the medium security prison. Drugs are not permitted on the premises of the CCC and the staff attempts to do some counselling, but in general actual policing is impractical, so the involvement of the staff is by and large confined to some preventive work at the beginning, and crisis intervention. In the latter case the options available to the staff are narrow: either allow the parolee to remain or send him back to the higher security prison.

The relative freedom of the parolees in the community vastly expands the potential for the use of alcohol and drugs, and therefore it is logically a greater problem for the CCC. (In contrast the administration at the medium security prison stated that he did not regard the use of drugs as serious, and a senior official in the maximum prison denied that there was any use whatsoever.)

The Carleton Centre has had some communication with the Nova Scotia Commission on Drug Dependency, and an effort was made to involve the

parolees more with their services. A counsellor was made available for two nights per week, and the parolees had recourse to the clinic and could go over for sessions. This amounted to a duplication of the type of counseling available at the CCC, and did not work out. The staff at the Carleton Centre consult the Commission, and several enrolled in educational programs on alcoholism offered by the Commission.

The question of drug and alcohol use is a difficult one for parolees. At one level this use is absolutely normative in the social structure and re-integration into the community of the parolee) from the staff point of view) entails 'learning how to handle' the substances. It is assumed that substance abuse arises from inadequate socialization into the appropriate norms of moderation. The experience of imprisonment in most cases enhances the use of drugs. This is not solely in response to the deprivations of prison life, which are real and very significant; nor is it solely the result of the development of an internal black market controlled by prison-wise convicts, although both are important. It is also the case that the traffic is illicit and therefore represents a certain pattern of rebellion and defiance which is heightened by the experience of imprisonment but is related to similar processes in the wider society.

What happens both in the institution and in the case of those on parole is that a certain amount of drug use is deemed permissible by those in authority, not in the sense that they explicitly legitimize contraband and parole violation, but from the pragmatic point of view consider intervention in every manifestation to be impractical and undesirable. In practice, for example, although no drugs or alcohol are permitted in the Carleton Centre, and such contraband would result in being returned to prison, the staff uses discretion in its handling of situations. The possession of drugs in the Centre itself is sanctioned by penalties which could amount to termination of the day parole and the laying of criminal charges. "Decision on such action will be the joint responsibility of the Director of the Centre and the District Director, National Parole Service." It could, then, be settled as a house affair or as a criminal matter. To maintain a hard and fast line would, practically, be difficult and would actually undermine the work that the Centre tries to do. The question involves accepting certain behavior of the parolee as a condition for the parolee's compliance with the staff in their attempt to conduct counselling. The antagonism is there, not only in the rules which the staff are expected to police, but in the power of the ultimate sanction of the Centre – return to the prison, coupled with a negative report making the attainment of similar privileges more difficult. In order to achieve some cooperation, then, such a pragmatic view of (some) violations is essential. The greater seriousness of the matter in the CCC, however, is related to the actual conditions facing the parolees. Within maximum or medium prisons it has been argued that the use the prisoners make themselves of contraband drugs serves what is termed the latent function of providing the prisoners with leisure activities, sensory

experiences, and an acceptable way to handle situations of intense stress: that is, it serves to enhance social control along the classical lines of literary fiction.

From this perspective we can see that the maintenance of control within the prison does not necessitate the strict adherence to formal rules. Here we encounter what Sykes called the "corruption of the guard," a corruption which often takes more active forms than merely turning a blind eye on contraband, but may directly involve staff in the chain of supply. The key general point, however, is that we can distinguish between those prison regulations which can be ignored in the interests of control, but also those regulations which will not be ignored. The recognition that, at certain levels, there is a compromise operating between guards and prisoners has led to the speculation that the prisoners have real power - in fact run the prison. This is a complete misreading of the literature and does not at all comply with the actual situation. Not only do formal sanctions remain within the provinces of the guards, but the crucially important power of the illegitimate means of violence is also in their hands (although not exclusively). Furthermore, the argument has been advanced that the security staff provokes riots by reacting with harsh and unjustified measures to justify the use of direct coercion and bring back the status quo ante.

It is also true that the use and distribution of drugs within a prison creates divisions between users and suppliers, between suppliers and between users which leads to violence in the prison, i.e., by definition a failure of social control to function, and disorder to prevail. However, from the point of view that isolated incidents of violence directed by prisoners at each other maintain divisions and restrain any tendencies to solitary opposition, they serve as control measures protecting those important aspects of the prison which focus on the contradiction between the staff and prisoners.

In the middle of this 'Community Corrections' fever, a study came out in 1971 which evaluated the effects of penitentiary sentences and parole experience upon a representative sample of inmates released from Ontario penitentiaries in 1968.<sup>24</sup> The sample of inmates included dischargees and parolees. Conclusions of the study point to the fact that parole is not effective in reducing the likelihood of future criminal behavior. It found that, within two years of release, two out of every three men not on parole were re-arrested and convicted. The figures for men released on parole were less than one out of two but proportions were expected to increase after three years following release. It also concluded that the threat of revocation of parole had marginal effects. It found that high recidivism rates exist regardless of type of sentence or parole and that the same basic group of individuals is being recycled at high costs. Waller found that parole did not tackle the real problems of employment, family, and alcoholism. Interviews with inmates inside prison showed that most inmates would prefer not to be released on parole because of the strict conditions on release.

The NPB claims a failure rate of 10 per cent, but has not really evaluated parole. Not much attention was paid to the Waller study. A task force<sup>25</sup> and a Senate subcommittee<sup>26</sup> were created to investigate parole procedures; however, they dealt only with the lack of efficiency in the NFS.

## Endnotes for Chapter Five

<sup>1</sup> A. Verne McArthur, *Coming Out Cold: Community Re-entry from a State Reformatory*, (London: Lexington Books, 1974).

<sup>2</sup> Richard A. McGee, "Preface" to Carter et al. (eds.), *Correctional Institutions* (1972).

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, pp. xvi-xvii.

<sup>5</sup> Cf. Fitzgerald and Sim 1979, p. 140.

<sup>6</sup> Quoted in Richmond and Aderhold, 1972, p. 385.

<sup>7</sup> Richmond and Aderhold 197, p. 385.

<sup>8</sup> Report of the Canadian Committee on Corrections, *Toward Unity: Criminal Justice and Corrections* (Ottawa, 1969), pp. 11, 15.

<sup>9</sup> *Ibid.*, p. 36.

<sup>10</sup> *Ibid.*, p. 277.

<sup>11</sup> *Ibid.*, pp. 308, 314.

<sup>12</sup> John A. Clausen, "Drug Use." in Robert K. Merton and Robert Nisbet (eds.), *Contemporary Social Problems*, 4th ed. (New York: Harcourt, Brace, Jovanovich, 1976), pp. 168-169.

<sup>13</sup> *Ibid.*, pp. 169-170.

<sup>14</sup> *Ibid.*, p. 175.

<sup>15</sup> *Ibid.*

<sup>16</sup> Richmond and Aderhold, "New Roles for Jails," p. 388.

<sup>17</sup> Report of the Task Force on Community-based Residential Centres (Ottawa, 1972).

<sup>18</sup> *Ibid.*, p. 12.

<sup>19</sup> *Ibid.*, p. 24.

<sup>20</sup> *Ibid.*, p. 28.

<sup>21</sup> *Ibid.*, p. 30.

<sup>22</sup> *Ibid.*, p. 31.

<sup>23</sup> *Ibid.*, p. 10.

<sup>24</sup> J. Waller, *Men Released from Prison: A means towards understanding the correctional effectiveness of parole* (Toronto: Centre of Criminology, 1971).

<sup>25</sup> Report of the Senate Standing Committee on Legal and Constitutional Affairs, *Parole in Canada* (Ottawa: 1974).

<sup>26</sup> Report of the Task Force on Release of Inmates (Ottawa: 1972).

## **CHAPTER SIX**

### **COMMUNITY CORRECTIONS AND THE PRISON**

#### **Programs**

In the late 1960s Dorchester Penitentiary was described as having a relatively active program of rehabilitation. There was some limited participation in the community by some inmates with such things as sports teams and music groups going outside of the prison, although the major emphasis in this early community corrections was to bring groups or organizations from the community into the prison. But as Dorchester's role became more defined as a maximum and high security risks were sent for warehousing, the program in the prison declined.

The change at Springhill, from a prison designated primarily for youths and first convictions to a standard medium, had not been merely a case of conflicting objectives in Dorchester and Springhill but was also affected by plans at the national level. The severe problem of overcrowding, particularly in B.C., had precipitated the predictable disturbances, so the shift of medium security prisoners to Springhill was followed by the transfer of a large draft consisting of about 150 prisoners from the B.C. penitentiary system in 1971-1972. The total population of the prison was raised to between 450 and 480. There are nearly 200 security staff, 15 medical workers, seven in vocational training, 60 maintenance men responsible for the heating plant, as well as office staff, program staff and administrators. Staff ratio change in the Atlantic Provinces is only about 5 per cent, it was reported, which compares favourably with Ontario (40 per cent) and B.C. which has even been higher. Prison conditions and the characteristics of the population account partly for this, as does the local opportunity structure which in the east is dominated by perpetually high unemployment.

This change in the composition of the prison population at first reinforced the tendency in Dorchester to let fewer prisoners out into the community, and insofar as attempts were made to implement the new view on corrections, groups and individuals from the community were invited into the prison. Few of the prisoners remaining in Dorchester were able to meet the requirements for temporary leaves (TLAs).

The policy of cutting back on TLAs also resulted from more widespread political considerations. By 1973 the policy of granting such leaves was cut back as a result, it is now suggested, of the arousal of negative public opinion through a number of well publicized incidents in which crimes were committed by people temporarily released. The benefits of the program for those who did not create trouble was lost in the view that prisoners ought not be let out early since they were in prison to be punished for previous crimes. It was not a

question of them not yet being rehabilitated, but was presented as having managed to escape part of their rightful punishment - prison being regarded in the classical sense as punishment. The upshot of this adverse publicity was that TLAs became increasingly difficult to get. Prisoners were less able to go into the community in order to be resocialized. At best energies were to be directed into encouraging programs which could be brought into the prison.

In Dorchester, apart from the traditional vocational and labour expected that in these meetings the implementation of policies which came from higher administrative organs would be discussed, and such general issues as how the philosophy of Social Development differs in Dorchester from that implemented in Springhill, priorities and resources, and so on. Given the diversity of the programs, and despite their common objective, they proved ineffective and now there are departmental meetings in areas with a number of staff (such as recreation). These are primarily working meetings dealing with immediate issues.

Perhaps the showcase program in Dorchester is the music group. According to the administrator responsible for Social Development in the prison, a need was identified by the inmates in 1975 for a basic program of music appreciation and instruction. Six prisoners asked to be able to increase their knowledge of music and to learn the basic theory and practice of music instruction. The program was conceived within the prison and would be considered prisoner-sponsored. For the next nine months, January to September 1976, the group learned to sight-read music and to play the recorder, at first spending leisure time in the activity. One prisoner acted as instructor and coordinator.

Progress during this time was considered to be good and the group was reported to be interested. The program expanded and developed some community contacts. A musician began coming into the prison one day per week to assist since none of the prisoners had had much formalized training. The group began to branch out and to use other instruments, the number increasing from 6 to 12, and began to seek for more time and have the program regarded as a fulltime activity. An additional staff member was hired in order to facilitate this administratively, and the group was given legitimate status and deemed experimental in nature.

It was decided to allow the prisoners to have a degree of control over the group. The group together with the staff drew up basic rules and guidelines for the operation. Criteria for selecting members were set up which included prominently an agreement about the expected degree of commitment to the program. This was implemented as a strict policy by the group. Before anyone else could become a member they had to agree to the following:

- (1) to spend six months practice on the recorder prior to participating,
- (2) to pass an initial exam set by the instructor with at least a 70 per cent average,
- (3) devote 90 per cent of their time to the music program (this meant that they must agree to restrict activity in other prison programs, the

other 10 per cent being reserved to allow for visits), and (4) the group had the responsibility of selecting and disciplining its own members. The staff reserved the right to veto decisions; provided that they operated within the limits the staff chose to impose, the prisoners were given control of the program.

The music group was described as being "very successful." The original number is still there, with 12 others. There were a few who could not meet the requirements and had either left on their own or had been expelled by the group because they had not participated to the extent expected of them. The expulsions were carried out during meetings at which the individual's progress, enthusiasm, cooperation and participation were openly discussed and evaluated and it was decided whether he should or should not remain in the group.

In the past two years the music program has progressed to the point at which it is regarded as the equivalent of a first-year music course in a university. The musicians spend five days with their music and on weekends often coach other members or new members who require additional practice.

This account of the music program given by the Social Development Officer is interesting irrespective of the question whether in fact it operates as smoothly as is suggested. First it occupies a substantial amount of time in the prison and involves the group in activities which lessen the boredom. Secondly, the inmate control over the group establishes it as an elitist organization in alliance with staff and in control of prisoners within it.

The key to this process is selection and the rigid standards, but what makes it elitist is not these means but its object - it is an expression of the interests of the insiders which is not to the interest of those excluded. It serves as a divisive force at least potentially to the extent that it is not regarded as a plaything by other prisoners. In short, its progressive-sounding aspects, prisoner control of decision-making, is used as an instrument against other prisoners. In this regard it is a full expression of the rehabilitative philosophy of according responsible prisoners the amount of decision-making they can handle.

Another crucial point is its divorce from any other aspects of prison life. It is defined as a music group pure and simple and is not part of an integrated affair which is social in character and serves to explain the social situation and organize for collective action. Rehabilitative programs not only isolate some prisoners from others but define their aim narrowly relative to the specific activity at hand isolating it both from the prison as a whole, and from the wider social context of the prison. The philosophy of rehabilitation as implemented assumes that positive benefits will flow from the activity itself - not merely a possible marketable skill (which may not be realistic and the prisoner's presumed no such connection) - but the presumed social benefits which compensate for the problems associated with so-called cultural deprivation (the application of middle class standards to working class

families) are social in origin and widespread, and similar types of programs are offered by service groups, Manpower, and other organizations to citizens. But if these programs in prison do not address criminality, even in their own terms, then it is hardly surprising that recidivism remains a major problem.

In its accent on youth program in 1975 members of the Jay-Cees went out to schools, particularly high schools, and told the students their life stories. The basic line was: "I've been down the road; don't follow me." During one year the message was brought to 60,000 students. It was described as being a very rewarding experience for the prisoners, who had to articulate their understanding of how they had gotten where they were. This involved accepting the individual perspective according to which they were responsible and wrong and were justly receiving the social condemnation they deserved. These prisoners represent the philosophy of rehabilitation with its legitimation of the social structure and the prison within it. They are the successes who have been transformed from criminals to non-criminals who counsel others that the question of crime lies in individual hands and that there are always legitimate opportunities. Like the religious penitent, the fully rehabilitated man able to espouse the dominant ideology which reinforces the dichotomy between criminals and non-criminals is an unusual phenomenon.

The basic point to be made is that the most idealistic liberal view of rehabilitation equally involves an attempt at ideological transformation, only in this case it is less realistic in content. The prisoner, like the mental patient who must first admit to being 'ill,' must come to understand his individual inadequacies. The society is 'just' and the distribution of rewards is contingent upon hard work and 'good' behavior and it is by accepting these values that successful rehabilitation can occur. If in fact the vast majority of inmates fail to evolve a new perspective on their society, this is not because such a transformation is impossible but rather because this view is not an accurate reflection of experienced reality and cannot compete with the less formal ideology of prison life with its explicit subcultural jargon and rebellion against authority.

The phenomenon of minority rebellion in the 1960s brought about an awakening of specific minorities such as Native American and blacks who tend to be disproportionately imprisoned. The sophisticated prison is able to react to these social developments and give expression to their most conservative aspects.

The Native organization at Dorchester, comprised of status and non-status Native Americans, is designed to assist in the development and appreciation of the native heritage and culture. Its activities include film showings, guest speakers and training in traditional crafts. Guest speakers would come, for example, from the Department of Indian Affairs. In general the association is a cultural appreciation group and functions in a manner similar to such groups outside the prison.

The Black Inmate Association was formed at Dorchester at the request of black prisoners and the Black United Front (BUF). At one time it expanded into a network of several hundred people, friends of the black prisoners, connected to BUF. Its impetus came largely from the outside. Within the prison the Black Inmate Association functioned the same way as the Native organization and was primarily concerned with black culture. By mid-1977 the association was barely functioning at Dorchester, although a similar group was reported to be more active in Springhill.

One other example of community involvement is worth mentioning. Fifteen inmates originated the idea of playing chess and wanted to develop their skills. The staff in Social Development assisted the organization of the Fundy View Chess Club, a chairman was elected and play begun. Some people were brought into the prison to play and a professional tournament was held in the prison in which those prisoners who had achieved a certain seating could participate. After about a year the prisoners became bored with the activity and began to branch out to learn other games, including bridge. About 32 prisoners were involved and expressed an interest in branching out to the community. The locals, however, play duplicate bridge in contrast to the contract bridge played in the prison. Consequently the club closed down and during the summer of 1977 the prisoners learned duplicate so that they would subsequently be able to invite outsiders into the prison to join the club.

In most cases large scale program is initiated by either the Ottawa bureau or the administration of the prison. One program initiated in Springhill in one of the Living Units by the inmates and staff which subsequently led to the creation of a separate minimum security prison was the Scott Paper Project. The original planning of the project was conducted in the Living Unit from which the idea was taken to the administration. This idea, originated in 1973, was to incorporate a work program outside of the prison, and provide a source of income. Various possibilities were broached at first, and prisoners went blueberry picking, fixing up the homes of the aged, shovelling snow, or working on recreation facilities for the town. Finally, the project was picked up by the Scott Paper Company as a log-cutting operation. A training program was developed inside and the inmates learned to operate chain saws. During the day they went out to areas near the prison to cut logs, receiving safety instructions and other information connected with the work. The course lasts for six months, the first three spent in a classroom, and such skills as harvesting techniques, forest fire suppression, and operation of heavy equipment are taught. The CPS pays \$1.50 per day during this period, and the power saws, safety equipment, and expertise are provided by Scott Maritimes Ltd. The first camp was opened at Apple River, the prisoners receiving temporary day paroles from Monday to Friday and returning to Springhill on weekends. During the day they cut wood in the forests and received wages which equalled those of other employees in the woods.

The prisoners are able to save some of this money, giving them a financial benefit and motivation to work. They learn a marketable skill, and while few prisoners eventually choose to continue working in the woods, they are assured by the company that their employment would be continued should they so choose. They pay income tax, UIC, CPP, as well as \$33/week board.

At the beginning of 1976 the project was converted into a separate medium security prison camp, at Shulie Lake near Parrsboro, administered by the CPS. It contains 20 prisoners and will expand to about 26. The criteria for choosing inmates include: (a) those who wanted to do the work, (b) those who could meet the standards as a minimum security risk, (c) those who had undergone sufficient time of their sentence to be eligible for temporary day parole, and (d) those who completed successfully the training program. The project is deemed to demonstrate the kind of potential the Living Unit has for innovation resulting from the development of a sufficient relationship between staff and prisoners to allow them to come together.

The difficulty encountered by the project had to do with its relations with the community. By 1973-1974 public opinion had been moved away from a reformatory community-oriented position and lines of opposition hardened. There was negative community reaction at Apple River and even more at Shulie Lake where a permanent facility was proposed. This was in contrast to the receptiveness of Springhill where, after the mine disaster, a number of ex-miners had gone to Dorchester to find employment as guards. Residents of Apple River had circulated a petition against the facility, and were concerned that it would take employment away from the local forestry workers.

Drug abuse is not regarded by the administration of Springhill as a serious problem. Some of the inmates use amphetamines and soft drugs, but real heroin addicts would only number one or two. For these individuals there is no provision other than referring them to the Nova Scotia Commission on Drug Dependency.

More inmates (about 20%) are considered to have a "drinking problem." The population of Springhill still includes a majority of young alcoholics who have not been drinking for a considerable time. For these people there is the standard AA program in the prison, which is voluntary. Severe cases may be referred to the behavior therapy unit at the Universite de Moncton. Again, this is a strictly voluntary exercise, and consists of from 12 to 15 sessions of aversive therapy behavior modification. There is some consideration being given to a behavior therapy clinic which has not received much support from the prisoners. This kind of therapy, on a compulsory basis, can lead to the threat of lawsuits from the prisoner. The legal question of just what a prison is entitled to do to a prisoner is currently a controversial question. In the U.S. just what amounts to "cruel and unusual" punishment is connected to the debate on capital punishment. In Canada the organization of prisoners' rights groups brings attention to these matters. (In so-called mental hospitals, the controversy is paralleled by the argument that 'inmates' should have the right

to resist electro-shocks and drug prescriptions.) A fully fledged medical model for prisons could be expected to take this kind of direction, and the prisoner's response would be more vociferous.

Alcoholics Anonymous first came into prominence in the United States in the 1940s. Prior to this time, alcoholics had simply been locked up in the institution deemed appropriate. The war years witnessed the emergence of community clinics for psychological, medical and social counselling on an out-patient basis. The most prominent organization was A.A. which stresses mutual trust in its self-help philosophy and attempts to provide a reference group of mutually reinforcing ex-drinkers. It has been pointed out that prior to these developments the sociological generalizations made about alcoholics and problem drinkers had been based on atypical samples found in prisons and asylums.<sup>1</sup> The community centres and A.A. addressed themselves far more to the 'middle' class drinker and the problem became recognized as affecting diverse class positions. It is possible that the significance of 'middle' class drinking may have increased, leading to the attempts at treatment.<sup>2</sup> This point is only speculative, however, and it is conceivable that class patterns of drinking may have been unchanged. Many serious consequences of problem drinking are found frequently in disadvantaged social groups and that the age group with the most prevalent drinking problem is between 20 and 27.<sup>3</sup> Since the poor and the young are imprisoned out of proportion to their numbers, the potential for there to be serious drinking problems in prisons – and in Springhill in particular given its focus on first-time offenders and youth – is considerable.

Alcoholics Anonymous operates groups in both Springhill and Dorchester, in the latter case it does not come under Social Development. Both function generally in accordance with the usual precepts of the AA and are viewed as self-help groups. The individuals attend voluntarily and are expected to verbalize their problems, after the fashion of the Jay-Cee high-school speakers, and after having admitted their mutual failings and recognized their drinking problem, they are expected to help each other overcome their dependency. Theoretically in prison, of course, they do not have access to spirits, so the whole question is conducted in something of an artificial environment in which alcohol is made relatively more difficult to obtain. In Dorchester there is some degree of Counseling by two professional staff members, and connections are made between the alcohol and criminality. About 30 prisoners participate in the prison, which is not equivalent to the identified need.

Other programs in Springhill include the following: Living Unit marathon sessions, run by a university professor, which last 24 hours running from Friday into Saturday involving about 30 people of whom 20 are prisoners and 10 people from the community; a 'life skills' course deemed to have therapeutic value available to those in the school program; and the Pugwash Program. In this prisoners are taken to Sunset Homes, a mental institution;

where they engage in recreation with the inmates. In reciprocation, some people from the Home were brought to the prison for some recreation. The idea is to place the prisoner in a position of giving assistance to someone else which aids the prisoner as well. The view is that they at least have something to offer those more disadvantaged than themselves. The program is inmate-managed in consultation with a Citizen's Advisory Committee.

The initial rehabilitation case which sparked this study was the organization of a prison theatrical group called Con-Act; its original rationale promised transformatory results in the prisoners who would become attached to it. Analyzing this case led us to a broader conception of the problem of prison reform and to an attempt to classify the ideological substructure of a wide spectrum of prison reform programs.

In short, it was in the 1968-1971 period that the Canadian government began to take very seriously the philosophy of rehabilitation in its then community guise. This was reflected in alternatives to incarceration, pre-and post-release centres, and the development of in-prison programs which had a community orientation. In Nova Scotia one aspect of this new trend was manifest in official sponsorship of an experimental arts and dramatics program.

### **Art and Dramatics Program**

Having developed a broad classification of typical ideological responses to the requirements of criminal justice, it is still the case that they cannot be applied mechanically to individual programs. While at first glance we may be tempted to assert that the ideological underpinnings of art programs, like those of Con-Act, may best be subsumed under the 'radical' mode as this is outlined above, the actual situation is more complicated. First, in order for a radical program to survive in the present institutional setting, it is necessary to some extent to adopt the language of rehabilitation, even if the actual meaning of the language is perceived differently. In some of the literature which Con-Act has produced for institutions, sometimes in the context of requesting funding, the initiators of the program utilize the concept of rehabilitation in the sense that they refer to beneficial transformations which supposedly occur to individuals within the program. While there appears to be similarities between Con-Act and the liberal rehabilitative model both, for example, have as primary objectives the prevention of further incarceration – the basic differences rest on the premises, assumptions and world view which underlie these two approaches.

Con-Act is by no means a conventional program and cannot be evaluated without situating it within a broad context of ideological and theoretical assumptions. While the idea of individual therapy undergirds much contemporary rehabilitation, the rationale behind this program is essentially nontherapeutic and, in fact, rejects the assumptions which would be reflected

in such a view. It differs both from the traditional conservative approach to criminality which assumes that crime originates in individual evilness, as well as from the more common liberal view which denies inherent evilness and postulates instead a view that those who are socially defined as criminals are somehow unsocialized are lacking certain attributes for which appropriate therapy may compensate, or are exhibiting certain learned anti-social behaviors. Beginning with irreconcilable premises about human nature, the basic difference in practice between these two broadly conceived views is that for the prevailing liberal view, the possibility of transformation is entertained, that is, it is possible through a process of resocialization to 'rehabilitate' those defined as criminals supposedly making them capable of taking their 'rightful' place in society.

If Con-Act, as its coordinator claims, is very much responsible for what it is, it is primarily to the philosophy and rationale behind the program that this applies, although the institutional setting determines to some extent the form in which this rationale is presented. Nevertheless, the actual course of events is in some instances, significantly shaped by environmental factors. An interpretation of Con-Act must be presented against the backdrop of the history of the project. While Con-Act recognizes that difficulties arise, particularly over funding, between government agencies and community groups, the labelling effect and the commonly held view of criminality makes the acceptance of Con-Act by the correctional officials even more difficult. The presentation of the history of Con-Act will include analytic factors which will assist in comprehending the narrative and link the historical description to the analytic discussion.

The history of Con-Act Programs can be divided into five periods. In the first period Con-Act workshops were offered in Dorchester Maximum Security Prison for approximately eight months, to be discontinued by the prison administration. For the next year and a half, the director of Con-Act was barred from conducting programs in the prisons. During the latter months of this period negotiations were conducted with officials in Springhill to have Con-Act workshops offered in that institution. For about one year, from September 1971 to August 1975, the program operated in Springhill Institution. On the latter date the fourth period commenced when Con-Act moved from the prison to the community with eight ex-prisoners being granted day-parole (temporary) status to work with the workshop in Halifax, Nova Scotia. The fifth period which can be dated less precisely began towards the end of 1975. It is differentiated from the previous period by several factors, notably in the granting of full parole or mandatory supervision to most of the participants and the abandonment of theatrical productions.

## **Dorchester**

Operating in cooperation with parole service authorities, who were receptive both to innovative ideas in corrections as well as to community involvement in the prisons – concepts which became influential in Nova Scotia in 1970 – Con-Act initiated the idea of operating independent, community-based and supported, theatrical workshops in prison institutions. Second Stage, an experimental theatre group operated in Halifax by Neptune Theatre, had brought a production into the prison and was very well received. The director had talked to the prisoners about the play after it had been presented. From this experience, and within the context of the times, the prison was receptive to the suggestion that a theatre workshop for prisoners be conducted in Dorchester. Having no initial financial support, the program was able to obtain a grant from the Secretary of State Council for Development, and a director came fulltime into the prison. A staff officer in Dorchester was reportedly interested in Con-Act as an offshoot from the Drama Club and considered the program to be interesting and viable, providing a means for prisoner self-expression and having a therapeutic value within the institution.

Con-Act was established in Dorchester, in September 1972, the director having received previously a grant from the Non-Medical Use of Drugs Directorate under the student summer program. The program involved a writing workshop in the morning and an acting workshop in the afternoon, each involving 12 to 15 prisoners.<sup>4</sup> Other prisoners attended rehearsals, listened to music, watched movies, and participated discontinuously in the program. The director brought in a 'sound system,' tapes, books, plays and so on, setting up an alternative library which was used by more prisoners than merely the workshop participants. Prisoners were given passes to attend the workshops and some were assigned Con-Act as work detail. There was reportedly much turn-over in the workshops during the eight months. The rapport which the director of Con-Act established with some of the prisoners, as reported by some prison officials, was very good, a factor related to his independence from the institution and to what was represented as his hostile and arrogant attitude towards the authorities. His acceptance by the prisoners was facilitated by becoming acquainted at Dorchester with the individual who currently serves as the coordinator of Con-Act and who came to Springhill in the fall of 1971.

In November 1972, rehearsals began for the Christmas show, involving over 200 prisoners in various capacities for about one month. The director produced the show, helping with skits (although leaving the bulk of the creative writing to others) and arranging lighting and other technical details. The prisoners were upon occasion left unsupervised when the director made excursions into Moncton to purchase supplies and equipment. This served to establish his trust in the prisoners and demonstrate his disdain for prison discipline, heightening his prestige among prisoners and deepening. The

animosity of the staff, who reacted negatively to his life style and to the undermining of their authority that they felt his presence caused.

Following the Christmas show the director was informed by an institutional official that they no longer had need for his services. This action precipitated a defense of Con-Act, highlighted by a petition signed by over 200 prisoners to bring the director back to the institution. Through this petition, other publicity and the intervention from a member of the John Howard Society who supported the director in a meeting with the officials, Con-Act was permitted back into the institution. Strict guidelines, which included an official escort for the director while in the institution, were laid down for the continuance of the program. The director felt that an important victory had been won, re-entered the prison, but continued to maintain what was described as a relatively high profile.

In April the Director of the prison received a petition from the custody guards requesting a second expulsion of the Con-Act director. The Con-Act director was seen as undermining discipline and as "over identifying" with the prisoners. The normative custodial mentality assumes that the appropriate relationship to prisoners is to maintain coercive control and not relate to them on any other basis. This view accurately reflects the actual conditions for the guards in the prison. Against this backdrop, Con-Act was able to establish itself as acting in the interests of the prisoners which by definition is the opposite of the security guards. From the perspective of the Director of the prison, the program was viable in its conception but it was the individual that created the problem. Con-Act was terminated on these latter grounds but within the context of the particular conditions obtaining at the prison at the time.

According to the Director of Social Development, Con-Act acted as a very good social release for the convicts. They were able to express themselves among themselves, and give vent to their frustrations, spending some of their energy wrestling on the floor with other participants. The group became in practice less a theatre workshop and more a self-expression session.

It was during the period surrounding the time that Con-Act operated in Dorchester that the wave of prison rebellion in North America peaked. In Dorchester the black inmate population was increasing and some prisoners who had political experience elsewhere had been transferred to the institution. These inmates began to carry on political organizing among the blacks in the institution. In addition, the administration was receiving pressure from the security guards. It is unclear what effect, if any, Con-Act had on the political climate in Dorchester. The agreement to allow Con-Act into the institution the second time, following the petition, may have been an attempt to defuse the situation by giving in to the demands of the prisoners. The second expulsion, however, occurred when the security guards submitted their demands. In a situation of potential rebellion, the loyalty of the security forces is paramount

from the administrator's point of view and appropriate action was administered in April 1973. In May, according to newspaper reports, riots occurred in the institution, inmates were questioned and 'troublemakers' segregated. According to the Con-Act coordinator the workshops were perceived to have a 'political' character. Following the second expulsion the director launched a campaign for reinstatement, bringing much publicity to bear on the institution and the program, and Con-Act was incorporated as a non-profit organization. The expulsion of Con-Act was undertaken amidst rumours and insinuations of illegal activity, such as smuggling illicit drugs and appropriating equipment allegedly belonging to the prison. No charges were ever brought against the participants, however.

## **The Interim**

The director of Con-Act was barred from Canadian prisons for a year and a half. After the Dorchester experience the coordinator of Con-Act, who had been transferred to Springhill Medium Security Institution after serving time in Dorchester, attempted to arrange for Con-Act's reinstatement in Springhill. There was a new Director of Socialization at the institution at the time and the coordinator had spoken to him about Con-Act and had reportedly established a good rapport with this official.

On June 18, 1974, the idea of bringing the Con-Act director to Springhill was raised in a meeting with authorities in the institution, with inmates who knew the coordinator and a film-maker from the National Film Board who was interested in video-taping "All the Queen's Men" under the supervision of the Con-Act director. The NFB reacted to the growing concern about community involvement with prisoners by doing some shooting and social investigation. They were given permission to film an expose of how convicts in Springhill felt about their imprisonment and about the emotional, psychological and artistic deprivations which the prison produced. It was with this background and interest that some people in the NFB supported an acting-writing workshop in the prison. Interested in returning on a more long-term basis, proposals for Con-Act workshops were drawn up by the director for a July 8th meeting.

The proposal came forward at the time when the trend towards community involvement in rehabilitation was reportedly reaching an apex. Support for Con-Act came from professionals in the community as well as the inmates in Springhill. Dorchester was still negative on Con-Act but the program was implemented at Springhill, albeit with strict guidelines.

## **Springhill**

A liaison official appointed by the institution looked after the administrative concerns of Con-Act programming. The director of Con-Act had to follow regulations set down by the staff: he was to be involved only in the one project

and not in any other program; he was required to write monthly grading reports, and he was to make himself available to the range officers of the living units to discuss the progress of the inmates. The director had discussed strategy with the coordinator and had decided to compromise with the prison officials and act more consciously – he had become more 'prison wise.' The liaison official recommended that the director adopt a 'low profile.' The director and coordinator agreed not to discuss the rumours emanating from Dorchester and the activity surrounding the proposal to return to Springhill was carried out very consciously as the coordinator anticipated and therefore undermined objections. With allies among prison officials the details were worked out quickly, according to Con-Act, before those opposed to the program could substantiate their objections.

The prisoners again appeared to react positively to Con-Act and a respect seemed to develop for both the director and coordinator. An important legitimation for prisoners had been achieved by the program in its struggle with the institutional officials at Dorchester. According to the liaison official the rapport between the director and the prisoners was excellent. He was respected for his ability in his work, his discipline, his commitment and because he treated the participants as equals. The prisoners respected the coordinator, who developed an astute 'political' awareness, for his organizational ability and depth of experience which enabled him to help other prisoners.

Con-Act was provided with a 20' x 20' room, located next to the gymnasium, in which to conduct workshops. The director considered the room noisy, crowded and not adequately equipped with necessary facilities, such as lighting. The 30 prisoners who had agreed to participate in the workshops were auditioned and participants were personally selected by the director. The auditions involved improvisations, readings and writings and the director stressed the commitment that would be required on the part of the actors: it was a full-time workshop and all other activities would have to be carried on 'after hours,' a stipulation which applied equally to the coordinator. Prisoners were familiar with the program's history at Dorchester and approached the coordinator for information to aid their decision whether to become involved. Fifteen were selected for the workshops during these auditions, a number that was subsequently reduced to ten.

The participants in general were in their late teens and early twenties and had no formal acting experience in the community. The workshops began with improvisations which theoretically were designed at least in part to enable the actors to develop a trust in the group, thereby initiating the formal aspects of the group dynamics. The workshop experience included records, books, films, and other articles, as well as a sound system. A library was organized, bringing the participants in touch with 'the culture.' The director operated in an egalitarian way and allowed the group to learn by falling back on its own resources, a method described as lenient, free and loose.

At the same time, the director possessed clear authority in the sociological sense of being legitimate in the eyes of the participants – and served as a role model for the prisoners. The group did not discuss, in a therapeutic sense, personal problems that affected individuals and there was no moral condemnation of any activity, including drug use, in the institution. These problems were approached individually. Drug use was not condemned per se – only practically if it interfered with the activity of the workshop. That is, it is doubtful whether Con-Act is even interested in drug use, outside of this one stipulation, since the leaders do not perceive their role as telling people how to live, although they themselves are role models. When the question of drug use within the prison was raised to the official interviewed in Dorchester, it was denied that prisoners have access to any illegal substances. This contradicts the common research findings that indicate in some cases substance abuse actually increases in prison.<sup>5</sup> From the point of view of the official, it would be impossible to obtain any indication since the expressions of prisoners could not be trusted. One would anticipate an ambivalent attitude towards drug use on the part of the prison administrators. Officially they do not admit that the prisoners have access to drugs, while it is possible that one of the latent functions of drug use is to pacify the population. The use of tranquilizers is becoming an increasingly popular institutional mechanism to limit dissent.

A large quantity of material was produced in the workshops, some of which was subsequently collected together to be performed as a collage. The participants were able to receive temporary absences to attend plays in Halifax. In February 1975, the staff at Springhill, having seen a video-tape of the Con-Act workshops, were impressed by the hard work that the participants put into the production and by the discipline of the group. Besides the impressive quality of the work, institution officials took note of significant changes that were taking place in individuals – the liaison official reported that one participant had learned to read as a result of participation in Con-Act.

Following this preview, a more positive view of Con-Act, from a therapeutic perspective, became prevalent in the institution. Con-Act did not experience the same degree of difficulties in Springhill as it had at Dorchester, this being attributable to the lower profile and more modest objective of the director, the nature of Springhill as more of an experimental institution, and the greater interest in innovative programs, an interest which was indicated not only by their receptiveness to Con-Act but also by the inauguration of the living unit concept and the therapeutic community. The parole officials began to show a renewed interest in Con-Act and the socialization officials of the Solicitor General's Department reportedly became interested in the therapeutic value of the program.

Individuals within the institution acted as allies for the program, although according to Con-Act they did not receive the support to which they felt entitled. From their perspective the officials would support Con-Act

primarily because it kept some of the potential troublemakers busy in one spot where they could be found and thereby made their tasks easier. The administration, according to Con-Act, also welcomed the program because it would bring publicity. By interpreting the actions of others primarily at this level only, Con-Act imputes motives of egoism and self-aggrandisement to others while supporting itself by a view of its own moral integrity sociologically significant as a legitimating construction.

### **Group Parole - 1975**

The Parole Board was chiefly impressed by the institutional reports which commended the hard work and dedication that the participants had demonstrated and by the respect that Con-Act had earned from the institutional officials. The overall attitude remained one of ambivalence, however: Con-Act having some major official supporters, while other officials remained guarded and suspicious of the program.

The cohesiveness of the group and the internal discipline were seen as crucial aspects by the Parole Board and much reliance was placed on the coordinator, who was seen as the 'policeman' of the group. The concept of a group parole had evolved over a number of years and followed from the Community Residential Centres. It originated in discussions between Con-Act, the Parole Service and the institutional authorities. As originally defined, a group parole involved releasing a group of prisoners from an institution simultaneously and centering them in common around a specific task which was usually oriented around job training. There was little objection to the concept when it was first devised since it was readily in line with correctional trends.

In general, the participants in Con-Act were considered poor rehabilitative risks with only a minimal likelihood of successful parole, a prognosis based upon their history, their age of first offense, length of sentence, and other criteria with which probability scales are created. At the time of parole in August 1975, ten participants were considered, two of whom were declared ineligible. The eight remaining were granted day-parole (temporary) and assigned the specific task of working with Con-Act programs. The group parole concept did not technically demand the return of all parolees involved in the program should one of the number commit an offense. This general impression was created, nonetheless, and since parole was granted specifically to work in Con-Act, should the program cease the participants would be expected to return to the prison. Day-parole (temporary) was granted for a three-month period in August, with the option open to renew at the end of the year. Each participant was expected to report back to the prison once a month. It was the first time such a group parole had been attempted and the knowledge that it was possible for one member to scuttle not only the

project but the chances of such a project being considered again reinforced the group discipline.

The eight parolees were housed in the YMCA in Halifax, which serves as a Community Residential Centre. Each received living allowances of \$9 per day for room and \$6 per day for expenses, including meals – a figure which amounts to just under \$45,000 per year for the group. This proved insufficient to pay for monthly transportation to the prison and, through the intervention of the assigned parole officer, the requirement was changed and the participants reported to the Carleton Correctional Centre.

The parole official assigned to Con-Act had had previous contact with Con-Act beginning with the initiation of the program in Dorchester and had known some of the participants through previous paroles. The relationship of the parole official with the group was unique and significant. The parole officer shared the control of the group with the Con-Act coordinator who, in actuality, was on parole to this officer. A great deal of trust was granted the director and the coordinator and the parole officer would refer participants to them for discussion. Unlike the regular parole situation in which each 'case' meets separately with the parole officer, the Con-Act participants met with him as a group, these meetings being described as open and honest with a consensus being reached prior to the initiation of any action. The parole official met with the participants daily, went to rehearsals and eventually travelled with the troupe, helping with staging and managing. As a consequence, he was allowed to feel as though he were a member of the group, a development which was obvious to the leaders of Con-Act who found it useful to have an official identify with the program.

Between August and November, 1975, Con-Act rehearsed in Halifax using facilities provided by Neptune Theatre and the University of King's College. During the first half of November, Con-Act performed "The Cage" at various places in the province, including the Shelburne Reformatory for Boys, the Lower Sackville Correctional Centre, the University of King's College, and Mount St. Vincent University. They put on a performance at Neptune Theatre's rehearsal hall for Parole Board members and were invited by the Atlantic Provinces Correctional Association to their conference in Prince Edward Island. Following this, the group began rehearsals of Tennessee Williams' "In the Winter of Cities." Three musicians, two of whom were Con-Act participants, were commissioned to compose original music. The project was terminated, however, when Williams withdrew permission to perform the play. The group cohesion was apparently strongest during this period. Subsequently the internal organization of the group underwent some transformation.

Two of the most contentious items in this period concerned the question of funding and that of parole. The Parole Board declared that in their understanding financing had been arranged prior to the release of the eight ex-prisoners, whereas in fact nothing definite had actually occurred. According to Con-Act, an official at the Non-Medical Use of Drugs Directorate in Halifax

had verbally promised to supply Con-Act with three years funding at \$75,000 per year, besides a research component. For reasons which are not clear the money was never authorized, as Con-Act was informed on the day following their release from Springhill. As a result, Con-Act operated during the fall of 1975 on virtually no money beyond the allocation from the Parole Service.

After November and the tour of "The Cage," the day-parole (temporary) status of the participants come up for renewal. Seven of the eight parolees were eligible for either full parole or release on mandatory supervision. Of these only the coordinator had parole denied at that time, although the day-parole (temporary) status was extended as it was for the eighth member who is not eligible for full parole.

## **Fall and Winter**

Since the cancellation of "In the Winter of Cities," Con-Act has reduced its activity to individual projects. An on-going record is being kept by the group of their activities, including taped interviews with prisoners in Dorchester. In addition, two of the participants are writing or revising plays and the director and coordinator have given lectures at local universities for fees. Work is continuing on a photographic essay begun in October 1971 in Springhill under the Canada Council. Video-tapes of various aspects of prison life were filmed while in Springhill and these are being converted into a series of video programs. These videos are based on issues related to prison shot from inside the institution. A pilot program has been produced and some funding has come from Canada Council for test shooting and to finalize the script.

Since November, several of the participants have become employed. One member had a court case brought against him and was subsequently discontinued from the program, receiving full parole elsewhere. A second member accepted a full-time job with the National Film Board as a videographer. Since his work is not directly linked with Con-Act, formal association with the group has been discontinued. At least three of the six remaining participants who originally came from Springhill on a day-parole (temporary) status have found employment within the area.

The difficulties faced by Con-Act as regards parole status only slowly became less immediate. While seven of the original eight participants had received either full parole or have been released on mandatory supervision, the status of the eighth came up for review in June. Ineligible for full parole (which essentially requires serving one-third of the sentence), as well as for ordinary day-parole (which can be granted one year prior to the expiration of one-third of the sentence), the parole officials were considering sending the individual back to prison, despite ten months successful parole without a confrontation with the police and despite a positive parole report.

To be released on clay-parole (temporary), which can be done at any point in the sentence, one of the conditions was that the individual work at a

specific project – in this case, Con-Act. Since Con-Act, as perceived by the Parole Board, was no longer functioning as a theatre workshop – and since the member has had to find employment at least temporarily, then technically the reason for being granted day-parole no longer existed, which meant that the sentence must be completed in the prison. Beyond the point that Con-Act is emphasizing individual projects and has consequently taken the view that group supervision prohibits the full development of the artistic potential (and the particular member's connection to this work is unclear), the irony behind the incident, from the point of view of Con-Act, is that the technicality upon which the member would be returned to prison arises because of the failure of outside agencies, including NMUD (but not exclusively this agency), to either adequately fund or adequately support the program. Con-Act proposed that the Parole Service give money directly to the participants as 'training allowances' to enable them to find their own living quarters rather than paying \$9 per day per person to the YMCA. Despite some intervention from officials of the Parole Service in Halifax and NMUD, no decision has yet been communicated to the group.

The relationship between Con-Act and the parole official has significantly changed as well. Since Con-Act has ceased to function as a group, the parole supervision is done individually as in other cases. There still seems to be some conception of cohesion remaining, although we have not interviewed all of the participants – in fact, contact was arranged through the Con-Act coordinator who may exercise some control over who is interviewed and even the content of the interview, since Con-Act records all interaction with the 'authorities' on tape for future reference.

It is within this context that Con-Act perceived the research component. While their own proposal for research was rejected by HMUD, Con-Act had approached certain individuals with a view to conducting research and had proposed significant research aspects. Con-Act subsequently felt that the research component as it was devised was imposed upon them without their agreement. Objectively serving the interests of social agencies the research component was viewed equally with hostility straining relations in an understandable fashion.<sup>6</sup>

## **Rationale and Philosophy**

Our analysis of the rationale behind Con-Act programs will centre around two principal aspects. First is the nature of the artistic enterprise, the development of which is stated explicitly by the group to be a primary objective. This aspect involves an individual and a social component and is common to the ideology of both Con-Act and those holding the liberal perspective. Second is the rehabilitative aspect which we suggest may be similar in form but dissimilar in content as perceived by Con-Act and the liberal authorities.

From our perspective a third key element, which is not explicit in the rationale, may be significantly related to the degree of success attained by the program at this time. This element involves the delegitimation of traditional authority – of both a conservative and a liberal variety. This last aspect is misunderstood by liberals who, with the exception of behaviorists, tend to assume that rehabilitative success depends upon the assimilation of dominant cultural values and is feared by those wedded to more traditional theories of criminality,

The explicit rationale of Con-Act programs emerges clearly from the brief referred to above. Ideologically, Con-Act bases itself in practice on a nebulous and ultimately non-scientific artistic ethos which is assumed to represent an essential given in human beings as a species. Much as a conservative view postulates human nature as inherently evil, Con-Act sees human nature as embodying a mysterious need for self-expression which is not susceptible to social explanation. According to the brief, the

... need to express oneself through art is a compulsive force, not necessarily frantic, but complementary to one's being and abilities. It is difficult to attempt to explain the importance of those needs as they touch each of us, individually and how they relate to us as a group. These things can never be fully explained, anyway – they just are.<sup>7</sup>

Despite its universality, the expression of this artistic ethos requires more than mere spontaneity to be valuable either socially or individually. On the contrary, “an understanding of the culture is a sine qua non of artistic endeavors.”<sup>8</sup> The reference to “the culture” carries a dual connotation: it reflects a general view of the society as a whole and of the place of prisons within the whole and refers specifically to what we might consider the pervasive subculture of middle class artistry.

The oppression in prison creates an existence for the inmates which is “fragmented and severe” and the prisoners “are presented with no real opportunities for intellectual or emotional growth.”<sup>9</sup> Theatre and the related arts provide an outlet for this creative talent which, with collective guidance and reinforcement, enhance personal growth and secondly represent a commitment to the moral and intellectual concerns of the wider society. Expressing a view which is typical of an artistic ethos, Con-Act begins with a conception of the essence of human beings and contrasts this essence with existing social conditions. It is, according to Con-Act, within prison institutions that individuals experience most directly the coercion and violence upon which the social order is ultimately based and where the potential kaleidoscope of 'natural' expressiveness has least scope for articulation.

Con-Act was an independent community-based program at the time of its operation within the prison institutions. An official at Dorchester Penitentiary expressed the view that Con-Act was perceived by the prisoners as being 'neutral' – that is, as being unconnected with the authorities. This provided the program with an initial legitimation in the eyes of the inmates which was important in establishing trust in the beginning. The nature of prisoners' past experiences may predispose them in a quite understandable fashion to react with caution and distrust and to sharply differentiate between 'friends' and 'enemies.' In this sense, Con-Act was not seen as 'neutral' but, on the contrary, adopted a hostile and antagonistic attitude to the authorities, an attitude which became more sophisticated over time as the Con-Act instructor became more 'prison wise.' The group dynamics seemed to involve a differentiation between individual problems, such as the relationship people had to the group and to the work and collective problems, such as the constant petty 'hassles' that go on in prison between the officials and the individual prisoners – difficulties which are normal in a situation of coercion and reflect resistance on the part of the inmates – a form of subtle prison 'guerilla warfare.'<sup>10</sup>

The individual problems were apparently not brought up for group discussion and the attitude taken was that the individual must either resolve them or leave the group. In fact, there was some turn-over which, given the demanding nature of the workshops in Springhill, would be expected. The artistic nature of the work and the opportunity for self-expression probably was important for some people in making the decision to accommodate to the group norms. Adoption of the artistic ethic is one form in which ideological transformation took place. Sociologically it is unnecessary for an ideology to overtly base itself on demonstrable fact for it to significantly shape social action.<sup>11</sup>

From the other perspective, that of collective difficulties, a different process was evolved in which longer group discussions took place. In this process, it is possible that the typical anti-administration view of the prisoners became solidified and to some degree reinterpreted in an interaction which would be frequently reinforced by everyday example. A group consciousness evolved which defined the situation for the individuals, explaining who they were and what the prison was all about. Under the stimulation of articulate leadership people, a second ideological transformation may have taken place which delegitimized the prison and the officials – in fact, all institutions. It is within this process that the prisoners developed a sense of dignity and self-worth, which is equally developed by the sense of accomplishment which can come from successful achievements, in this case of an artistic nature, and which is solidified by being incorporated within a coherent world view.

This world view involves different levels of understanding, including the logical notion that prison and parole authorities are dependent upon the continuation of criminal activity for their livelihood, from which it follows that

their expressed interest in rehabilitation is actually the opposite. When the Con-Act brief states that "the beginning of the artistic process is often just finding a way of educating people to what they already know – about themselves and the world – and helping them convey and articulate their feelings within the context of formal expression,"<sup>12</sup> the meaning can be broadened beyond the artistic ethos.

In short, then, the rationale behind Con-Act includes an artistic ethic which is explicitly expressed by the group and by the liberal authorities as their justification for supporting the program and by a less explicit form of interaction which links closely with the individualistic perspective of the artist and upon which much of the group cohesiveness rests. The instructor and coordinator report that, while the group has experienced some severe crisis situations, no serious internal split has taken place. In fact, it is possible, given the nature of many of these crises originating in a situation of unequal power, that they may have reinforced the group cohesiveness. With the coordinator acting as interpreter to the group, collective decisions were made and action determined. The cohesiveness, then, combined elements of trust, a sense of an artistic subculture and a practical defence against perceived threats. It is predictable that when the situation changed and the participants came out on full parole or were released from supervision, the last aspect would be less important and this would then be reflected in less group cohesiveness. This point, however, may especially reflect the ability to more adequately handle social situations and therefore to be less dependent on the group.

The benefits which participants presumably gain from involvement in Con-Act are generally presented by others as being incidental to the actual artistic work produced. That is, while Con-Act emphasizes the primary goal as being the development of the talents of the individuals, support for the program is usually expressed in terms of the generalizability of the attributes presumably acquired to other social situations. If, from the point of view of parole officials, Con-Act is supportable for therapeutic reasons, there are numerous assumptions behind the use of the word. The impression created by the NMUD project officer that Con-Act participants "communicate real changes in their lives as cons" and admit in their performances that "their past perceptions of what it meant to be cool were wrong,"<sup>13</sup> suggests a view which is explicitly denied by Con-Act. It is equally incompatible with the view put forward here which suggests that the latent function behind the group dynamics involves a solidification of the prisoners' perspective developed in an interaction which accepts the individual and places responsibility on social institutions. It is easier to accept the individual when a basic set of values and attitudes is shared. The common practice in evaluating treatment programs is to assume that success is related primarily to initial probabilities, and it is also possible that other more subtle mechanisms may be at work in the selection process.

The question of drug use by Con-Act participants is not as clear cut as a simple elimination. The crucial point is that a state of intoxication – either 'under the influence' or recovering from the effects of the previous bout were defined as inappropriate during the period Con-Act functioned as a theatre workshop. To an extent at that time, according to sources connected with Con-Act, this major use was curtailed. The director of the program was explicit, however, in maintaining that no opprobrium was placed on drug use except insofar as it interfered with the artistic ethos. This opens the way for occasional use at all times, a possibility which does not negate the original and significant change in degree, but places it in a different context which leaves more room for resumption following the termination of group cohesion.

From the point of view of general theory, the use of drugs is directly related to – is both a consequence of and partially determines – other social problems which impinge directly on the individual. The curtailment of drug use is conditional upon concrete material changes in a life situation which interacts with a process of change in social consciousness. The fundamental change related to failure to recidivate is employment in the post-release period, a state of affairs which alters the concrete situation of the individual. For others who are 'successful' it has been found that a learning process has occurred referred to as 'institutional dependency' in which the ex-prisoner learns to utilize reformist channels of the state which are considered to be more legitimate, such as welfare. This is usually presented as a case of 'living off' the government when it is rather merely resignation to survive on the subsistence level available in the absence of other legitimate opportunities. In the case of Con-Act it could be argued that, at the time of group parole and while workshops were functioning, there was both a common activity (form of employment) and either the substance or promise of remuneration from government granting bodies - perceived by some as a form of state subsidy to the middle classes. To the extent we accept the social problems perspective, the initial curtailment of substantial abuse becomes explicable.

For some there was also the possibility of full time employment, as well as an ideological transformation which amounted to an adoption of the philosophy behind Con-Act as giving meaning to activities, as well as providing the basis for involvement in a middle-class artistic/academic 'radical' milieu. The program can claim success in this sense with specific individuals who had been in it.

Those sentenced to prison by no means represent a random selection from the population; on the contrary, the poor, the young, and minority groups are by far over-represented. While the predominant social class in the prison would not be what is generally termed 'middle class,' the actual content of the Con-Act program – music, poetry, theatre and so on – would seem to represent primarily middle class urban culture. (The director at one point commented that: "We got ourselves to that middle class space in the midst of a prison...." It follows that those prisoners from relatively middle class

backgrounds would tend to gravitate to the program. While impressionistically it seems that the workshops included individuals from diverse class backgrounds, the question of the social class composition of the group is more complicated than merely some assignment of class based on occupation prior to incarceration.

In this case the class question concerns above all the ideological content of the ethos which the participants imbibe in the program, and this is fundamentally middle class or petit bourgeois individualism. According to their parole officer, the eight participants did not become involved in Con-Act for the purpose of attempting to gain favour for early release but because of a genuine interest in the workshops. From his point of view, the individuals selected were what he termed 'angry' – those least likely to acquiesce to prison regime, an aspect of considerable importance to the group dynamics and the evolution of a group perspective. (An official interviewed at Dorchester believed that the 'intelligent' inmates were attracted to Con-Act.) It is likely the case that these individuals would be most difficult for the authorities to control and the typical conservative response reflected by some in the Parole Service would be to see them as "clever criminals" and consequently "more dangerous."

If a class predisposition may help account, for the initial interest in Con-Act, the explicit rationale involves a process of exposing the participants both to 'the culture' in the form of artistic material, as well as to the actual artistic and academic subcultures and the accompanying middle class life styles. According to the Con-Act brief:

The skills learned in the workshops, and the insights they have gained into the workings of the culture ... make it unlikely that many of the men in the project will choose to resume the low status they occupied before entering the prison campus.<sup>14</sup>

It is probable that the value shift which occurred in prison is reinforced on the outside through contact with intellectuals displaying alternative life styles. For some individual there occurs a significant shift in reference groups. It seems possible that, beyond the usual prediction methods, some predispositions in character may be significant in determining the differential success of the program for certain types of individuals.<sup>15</sup>

This point emerges in an evaluation of the program from two aspects which are suggested by the one failure in the original group of eight. Described by the parole official as a 'loner,' an individual upon whom the group pressure did not work, this characterization suggests that certain dispositions are required – either present initially or developed over time – in order for a participant to be affected by the group dynamics.

The second point to be made, again arising from the description offered by the parole officer, is that this individual had 'violated trust' several times

previously, at which points the group (including the official) "stuck their necks out" to assist him. He reportedly had the potential for giving the project a bad reputation because of his lack of commitment to the project. This suggests that another important element is the attitude of the parole officer as well as the sense of responsibility that the participants have to the group. Here we have the case in which an individual within the service, typed as "urban, Liberal, and parolee-oriented"<sup>16</sup> closely identified with an innovative and experimental program and was instrumental in its initiation and through continuing liaison. The nature of the commitment demanded by the program, however, led inevitably to a parting of the ways as both defined their interests relative to the other in a more open fashion.

We have suggested that the Parole Board's perception of the group dynamics influenced their decision to grant parole to the participants. As Con-Act has evolved, the concept of group dynamics has changed. In the April 23, 1975 Brief, the idea was advanced that the group should live together in a newly established CRC, but over a period of time this aspect has been altered to the point at which the group control function is perceived as interfering with the realization of the full artistic potential of the participants. Their recent proposal for training allowances includes allowing the individuals to make their own living arrangements. This evolution to increasing individualism is predictable from the basic orientation of the program; the change away from group to individual projects is defended as being within the philosophical priority of Con-Act, which is to facilitate individual expression. From the parole point of view, however, it was the group control aspect which most interested the Board.

The break-up of the group coincided with the transition from day-parole (temporary) status to full parole and it is therefore possible that there is a causal link between the two related to the termination of the necessity to remain with Con-Act. This is not clear, however, since as we have seen objective factors external to Con-Act have been responsible for the discontinuation of workshops. Again it seems possible that there is a link between attributes of character and individual continuation in the program.

One of the factors relating to the future of Con-Act is the question of returning to the institution. In a summary brief written on August 17, 1975, it was written that:

The project's future involves returning to the Federal Institutions in 1976, to continue offering workshops, extending the numbers of prisoners involved in the Programs, and also to include the participation and active involvement of prison staff members.<sup>17</sup>

The question revolved around the meaning of this return. According to Con-Act the institutions have been pressing to have the program return on the same basis upon which it operated previously. The two primary areas of

controversy involve the period of time devoted to workshops in the prison and the perennial question of funding. It is possible that the difficulties involved in parole may partly be related to a sense that it was through the restrictions imposed by a day-parole (temporary) status that the prison and parole officials retained some measure of control over Con-Act. Con-Act is willing to return to the institution on purely a recruiting basis – and the CPS is willing to fund such a proposal. In addition, the original decision of the Parole Board was based on their perceptions of the powerful social control mechanisms involved in the group dynamics. A proposal to enter the prison solely on the basis of selecting individuals for community training is seen by the Parole Board as simply being a free ticket, without the necessary demonstration of commitment and control.

It is at this point that the competing ideologies clash. The Parole Board remains wedded to the view of their role as protecting society from its members who are defined as dangerous and to ensuring that those so defined receive their punishment. Con-Act, on the contrary, sees the prison experience as completely negative and as stifling creativity and personal growth. It operates on a view of selecting the 'talented' individuals and removing them to an environment more suitable for their individual self-cultivation. It is seen as being a positive alternative to prisons which are essentially punitive and negative. Middle class art, like middle class alternative life styles, are essentially a process of individual social rebellion. In selecting 'angry' or rebellious individuals from prison, Con-Act does not claim to socialize the rebels into a "pathology of normalcy" which, according to the group, is at least the implicit goal of prison rehabilitation. On the contrary, it focuses their rebellion and provides a more legitimate means of expressing it – a means which will not activate the coercive agents of society.

Our own societal view of art often thrives on iconoclasm, on the act of exposing within an individualistic frame of reference the inconsistencies between the ideal and the actual. If a form of heightened social consciousness is the hallmark of contemporary art, then the essential realism and cynicism that is prevalent in prison art should bring greater recognition to Con-Act and lessen its dependence on other social agencies whose ultimate social control function is in theory antithetical to the guerilla theatre type of art we can expect from prisoners. Such art generally claims the ability to transform the consciousness not only of the participants but of wider audiences.

The ideological clash is between those who want to precipitate change in certain directions, usually defined as freeing the individual from social restraints, and those who want to ensure that the prisoners receive their full measure of punishment. Based on a view which sees contemporary society as 'pathological,' rebellion is considered the only sane response. It is on this basis that Con-Act can accept the pacification role of the workshops within the institution as being short term and ultimately turning into the opposite of pacification in the long run.

Within the view put forward by Con-Act, which is based on a coherent and explicit rationale, there is an explanation as to the effectiveness of the project. Essentially it results from the fundamental need for individual self-expression which is suppressed in prison but allowed free development by Con-Act. From our perspective it seems possible that these explanations put forward by Con-Act may not be the only, nor perhaps the principal, causative elements. Beyond the possible hypotheses that may lie behind the degree of effectiveness achieved by the program, perhaps the main point that has to be made is the success rate that Con-Act has achieved. Studies that relate recidivism rate to type of rehabilitation program have generally found that the success is independent of the type of program but rather depends primarily on the characteristics of the individuals selected for the program. That is, the most successful projects are those which select prisoners least liable to recidivate. According to the parole official, that is not the case with Con-Act, the eight ex-prisoners being rated either fair or poor parole risks.

There is general agreement as to the overall aim of Con-Act programs which is to keep people out of prison. If we accept the view that major indices of success include both the amount of time before violation and the seriousness or persistence of the violations, then it is possible to adopt Glaser's definition of success which "is the percentage of time spent reconfined in a given post-release period."<sup>18</sup> The eight participants were released in August 1975. In the following one-year period, one participant spent three weeks back in Springhill Institution prior to being granted full parole. This means that, calculating eight individuals for 12 months, Con-Act has achieved a success rate of over 99 percent. On the average, based on 1973 data, 25 per cent of ex-prisoners are at liberty less than six months between imprisonments, and an additional 35 per cent are at liberty only from 6 to 12 months. Sixty per cent of ex-prisoners, then, on the average, recidivate within the first year of their release from prison.<sup>19</sup> Not only is the Con-Act success rate more than double the national average but many of the participants who achieved this result were defined as above average risks. While the actual creation of control groups will provide a more adequate measure of the relative success of the program, these figures indicate that a study of the causal factors behind the program could prove significant. This success rate was lower in the second year because of the return to the prison of one individual not through violation of parole but through the technicality of not participating in the theatre workshop, the argument that Con-Act programs had merely diversified not being accepted.

A second commonly-used index for measuring the success of a program which is explicitly vocationally oriented is the employment records of the individuals involved. The concept of offering training in a marketable craft is explicit in the rationale for the program, a rationale which is sometimes treated skeptically by parole officials. The training encompasses a wider range of potential activities than acting, including journalism, radio, film, and so on.

At least three of the original eight day-parolees are presently occupied in these types of pursuits. An analysis of this employment criterion would, however, have to take into account both the indirect rehabilitative effects that Con-Act putatively offers which are relevant to any employment, as well as the special definition of the situation involved in being centered around Con-Act and finding 'temporary' employment while waiting for Con-Act to become financially viable.

The third important factor is cost, since "prison treatment in most systems costs approximately ten times as much as supervision in the community."<sup>20</sup> This argument, along with the view that denies the possibility of rehabilitation – when individuals are isolated from normative cultural influences – suggests that minimally Con-Act was no worse than other programs and; in significant respects, appears even to have been better.

## **CHAPTER SEVEN**

### **THE OPPORTUNITIES PRINCIPLE: CONSERVATISM IN REFORM GUISE**

#### **The Failure of Rehabilitation**

Optimism about the second wave of rehabilitation, the trend towards community corrections, was of relatively short duration. By the middle 1970s this attempt to devise programmes to correspond with the latest ideology in corrections had been declared a failure. The official conclusions had been based on the growing number of studies which rejected the rehabilitation concept in practice and as ideology. As usual, recidivism statistics were used to demonstrate the ineffectiveness of programmes. According to figures published by the Solicitor General's Department, only 20 percent of admissions to federal prisons in Canada were first offenders, and 80 percent of reconvicted offenders were free 18 months or less. The Director of Prince Albert Penitentiary declared that "the recidivism rate doesn't seem to have changed much in the last 100 years."<sup>1</sup> The basic point of rehabilitation had been to transform prisoners into law-abiding citizens, and the belief that there was virtually no relationship between treatment programme and recidivism was advanced as a justification for scrapping programmes. The implications were clear: "If what happened in penal institutions had no effect upon subsequent recidivism, what was the point of elaborate and expensive attempts to match individuals to treatment?"<sup>2</sup>

In addition to the question of the ineffectiveness of treatment programmes, it was further argued that treatment was "coercive in character" and was administered by a staff which existed in a conflictual relationship with the prisoners.<sup>3</sup> Two conclusions were drawn, one in the realm of ideology, and the other with respect to implementation. The understanding of the "failure of rehabilitation" was sought in the appropriation by the correctional system, of goals which were the province of the individual. As Trasler articulated this view, the "notion that the correctional system ought to aim to 'straighten' the offender, to remedy all his weaknesses, to refurbish his values, his attainments, his social skills and his spiritual responsiveness" had been refuted. In its place was "a more modest and practical goal: endeavouring to avoid further criminal reconviction".<sup>4</sup>

For a variety of reasons, having less to do with a scientific appraisal of the rehabilitation model and more to do with the ideological climate, the new philosophy of deterrence through incapacitation appealed to conservatives in the criminal justice field. A Commissioner of Corrections in the United States was quoted as asserting that "the rehabilitative approach to imprisonment, the whole framework of indeterminate sentencing, education and job training

in prison and, finally, parole have provided a structure on which prisoners outwit the people who imprison them and gain an easier time in prison and earlier release than society expects." The result was simply a "facade of public protection".<sup>5</sup> Prisoners had agreed to participate in the treatment programmes solely for instrumental reasons, principally to impress the parole board, and resumed their criminal activity upon release. The logical outcome of this argument was to curtail many of the programmes introduced into the prison systems during the post-1945 decades and to promote a greater emphasis on punishment. As a Conservative Member of Parliament in Britain declared on the BBC: serving a prison term had become a badge of honour, and something needed to be done to counter the "arrogance and pride" of prisoners. Far from being convinced that they had sinned by their penitentiary experience, prisoners were refusing to change their personalities to suit the requirements of the rehabilitators.

This attack on rehabilitation coincided with the policy of austerity implemented most consistently in Britain and the United States as a response to the fiscal crisis of the late 1970s, which took a considerable toll on social programmes. Although the right-wing demands for more law and order imply the expansion of the punishment complex," within corrections the first place to cut back was in the new reform programmes, the most expendable frill in the budget. The days when prison was described as being less for the purpose of punishment and more for rehabilitation were gone, to be replaced by a more "realistic" appraisal. Within the overall context of the contemporary economic crisis, the new "revolution" in penology has generally undermined rehabilitation and underscored a return to a law and order perspective in the population expressed in a political rhetoric demanding the restoration of capital punishment, harsher punishments for major drug offences, and in general a reiteration of the punitive model. Rehabilitation was no longer considered a realistic goal for any but a very few prisoners: for the prison administration, the goal was restricted to safe confinement of offenders.

In Canada, the Solicitor-General's Department did not abandon its concern for rehabilitation, although it was no longer the priority nor the main legitimation of the prison system. Sound correctional programmes were listed behind "necessary control [and] humane treatment" as the goals of imprisonment. It was not only, or even primarily, the academic or moral critiques of the prison that fostered a return to conservative principles. Practical developments in the prisons themselves reinforced a return to the "stick" of law and order. At the same time, however, arguments from government departments in Canada were also rallied on the "carrot" side of the controversy. The Liberal government issued a bewildering array of liberal and conservative documents, including early notions of a Charter of Rights on the one hand, and new concerns about security on the other. Within the penitentiary system the main reform considerations addressed were the civil rights of prisoners and the need for some mechanisms to protect these rights.

The concern for prisoners' rights did not arise solely from the benevolence of the government but, in part, from the demands of prisoners' rights groups. This development of special interest groups for prisoners was considerably more significant in Europe than Canada. In England the main national group was the Preservation of the Rights of Prisoners (PROP), which had been modelled after similar groups in the Scandinavian countries. After a full decade of rehabilitation, during which the prisoners had been relatively quiescent, there was an increase in prison rebellions in North America and in Europe. In Canada, as in the United States and Britain, disturbances and hostage-taking incidents were occurring in the penitentiaries with unprecedented frequency. From 1970 to 1975, there were 38 hostage-taking incidents in Canadian penitentiaries.<sup>7</sup> There were just as many in 1976 alone, most of them occurring in maximums.<sup>8</sup> In May 1971 a major riot had occurred at Kingston Penitentiary during which six guards were taken hostage, \$300,000 worth of damage was incurred, one inmate was killed and 15 injured. Causes of the uprising included prisoners' concern over transfer to the new Millhaven facilities and the dehumanizing routine. During the rebellion, a prisoner's committee had asked to meet with a citizen's group to air their demands; however, the Solicitor General would not bargain and the Armed Forces were called in to restore order. When a settlement was reached the officials promised that dissenters would not be abused physically. However, when prisoners were later transferred to Millhaven, the "ringleaders" were made to run the gauntlet.<sup>9</sup> It was a Canadian dress rehearsal for the 1972 events in Attica.

Underlying the move towards the justification of more authoritarian measures in the prison was a change in 'the organizational style of some of the prison rebellions. Major demonstrations in Canadian penitentiaries in the mid-1970s did not consist only of spontaneous uprisings conducted by "irrational" prisoners lashing out at their oppressors, but there were also some demonstrations and sit-down strikes which were well organized and generally self-controlled. In these instances, prisoners demanded reasonable reforms such as better living conditions, access to media, and the promise that there would be no reprisals.<sup>10</sup> These demonstrations, however, were always close to the edge of violence, as would be expected in a prison setting. As both conditions of violent rebelliousness and political demands co-existed, and as prisoners become more sophisticated politically and used the reform ideology to achieve some of their reformist aims, the prison system chose to resort to force to restore the power of the administration. When it comes to a question of real power, the prisoners are at an enormous disadvantage vis-à-vis government resources.

A Commission of Inquiry, which was struck to investigate this disturbance, concluded that many of the demands of the rioting prisoners were justified and many inmate grievances were well founded. It listed among the "shortcomings" of the penitentiary the aged facilities, the overcrowding,

misclassification, too much time in the cells, the absence of effective channels for grievances, a poor staff attitude, the lack of adequate staff and an inconsistent and unstable enforcement of regulations. Almost 35 years previously the Archambault Report had said the same things: prison reform was still not a reality.

The critique of rehabilitation advanced by the most conservative in the correctional field usually fails to distinguish one key function of the treatment staff which had nothing to do with the main liberal ideology supportive of their programmes. Donald Cressey has acknowledged that the treatment staff are employed to assist in the maintenance of control in the prison. He regards the professional staff as serving the function of diminishing group violence and helping to pacify incensed prisoners.<sup>11</sup> By canalizing violence and presenting an ideology of either neutrality or of acting in the interests of the prisoners, the treatment staff attempted to interfere with processes which polarize the prison into a keeper/prisoner confrontation. As Martinson put it, by and large the treatment philosophy kept the lid on for two decades, but prison rebellions in the 1970s served to warn that it could do so no longer.<sup>12</sup> The failure of rehabilitation, then, was a double failure: not only had it failed according to its own precepts, but it had failed in its latent function as well. Rehabilitation was jettisoned (or rather redefined) when it ceased to service the second function.

### **The Inmate Committee**

In response to the demand of prisoners for a greater input into the decision-making process, prisoner committees were organized in Canadian prisons and procedures were implemented for an ombudsman-type office to investigate complaints in the corrections system. In Dorchester the inmate committee consisted of elected representatives of the convicts who were to present the views and interests of the prisoners to the prison administration. In general, the committees tried to act as the voice through which the prisoners could be heard, and they were initially welcomed by the prisoners as an important reform.

In the early 1970s, coinciding with a large transfer of inmates from Dorchester to Springhill, a large draft of prisoners were transferred east from the British Columbia penitentiary. These were described by prison staff as being more sophisticated and a different type of prisoner than was found in the Atlantic Provinces. In 1972, in the words of an official, several of these prisoners attempted to take over the running of the prison by first capturing leading positions on the Inmate Committee. These members became "power struck," (in the jargon of the staff) and gave the administrators further "headaches." Their demands were at times backed up by demonstrations of prisoners who refused to eat or to go to work.

As a result of a major disturbance in Dorchester, the Inmate Committee was disbanded and, when the prison returned to its usual condition, a new Inmate Committee was not constituted. Instead an Inmate Sports and Recreation Committee was established, still with representatives of the prisoners elected from the cell blocks. Their sphere of activity, as the name implies, was to organize recreation in the prison, thereby expressing the devolution of decision-making from the unofficial representation of inmate grievances to the allotting of some control over inconsequential matters. On an unofficial basis the Recreation Committee represented individual prisoners by bringing to the attention of the staff requests for TLAs or transfers. It performed some of the functions of the Inmate Committee although its terms of reference were changed. It had no formal right to represent the prison population, and therefore merely raised issues with the staff on an individual basis, leaving the initiative and the decision-making entirely in the hands of the staff. The new Committee discussed mutual problems in an informal atmosphere, as contrasted with the overt atmosphere of antagonism prevalent during the period of the real Inmate Committee in which the ideology which pitted prisoners against the Administration legitimized the definition of the Committee as representing the interests of the prisoners. The Inmate Committee had been instituted as a means to ensure due process of complaints and grievances which would leave the action in the hands of representatives. It was also expected to bring potential problems to the attention of the staff and serve as a means to calm things down. In practice, the Inmate Committee had frequently heightened rebellion and gave leadership to the tendency towards polarization. The content of the demands depended on the objective conditions of the prison and were reflected in specific election choices. In the newer set-up, the administrative advantages of the weakened Committee, which helped staff keep in touch with the mood of the prisoners, was retained, while the political content involved in the representation of interests was eliminated.

An Inmate Committee was also formed in Springhill but it has also evolved through various forms over time. The Committee was formed of eight members, two representatives of each unit, and met twice a month. Over the period of its existence, from the administrative point of view, the representatives chosen varied from the best to the worst depending on the mood of the institution: when the conflicts were closer to the surface, "obnoxious," prisoners tended to be elected; otherwise, "decent" prisoners got the nod. The TC apparently tended to elect "better" representatives.

The Committee's duties involved such things as organizing different projects, such as special family visit days, which were described as major events held twice a year. It was argued by staff members that the Committee served a rehabilitative function by placing inmates in a responsible position accountable for planning events. The Committee also functioned in a second way relating to the types of representatives: it gave the administration some

indication of conflicts in the institution and thereby allowed steps to be taken to intervene, if possible, to influence the direction of events and control the situation in the prison. The Committee did not function as a grievance organization for prisoners. The grievance procedure was handled privately through senior administration and was not expected to arise in the Inmate Committee meetings. The staff was also left out of the discussion. The problems were brought directly to the top—if they were brought anywhere—and a disposition was provided after they are investigated. They were seen as individual problems rather than as individual manifestations of collective grievances. An Inmate Affairs Branch (of the Canadian Penitentiary Service) has been set up to deal with claims of individual prisoners which reach that higher stage.

In 1974 the guards came out strongly against the creation of Inmate Committees which, they argued, would potentially increase the use of strong-arm tactics among prisoners. They were supported by the Public Service Alliance of Canada in this stance. Thereupon, the Inmate Committees were temporarily disbanded and a Parliamentary Commission was established to investigate the situation. Later, Inmate Committees were re-established in some institutions but, again, without any real powers. According to the Sub-Committee on the Penitentiary System (1977), the rules of the game are such that the "Director has the power to remove any member of the Committee who does not adequately represent the inmates, is using his position on the Committee to the detriment of the inmates, or is using his position for his own personal purposes."<sup>13</sup> Some maximums have still not had Inmate Committees restored. Those that have been reintroduced are of an ad hoc and precarious nature, acting more as a mechanism for keeping tabs on the prisoners.

The new reformism had attempted to liberalize the conditions of imprisonment. With a new generation of prisoners who were conscious of civil rights, the problem of maintaining traditional order intensified. There appeared to be a connection between the new reformism and the demonstrations, rebellions and hostage-taking incidents occurring with increasing frequency in Canadian prisons. One consequence of this was a further development of hostility and antagonism among custodial staff against both the prisoners and treatment officials in the prison.

In December 1974, five escapees from St. Vincent de Paul demanded press coverage of the conditions there, and cited guard brutality, the use of the "hole," drug use and homosexuality as some of the problems. The "hole," refers to a dissociation cell which serves as punishment for breaches of discipline. Punishment consists of solitary confinement on a restricted diet. The federal court in B. C. has ruled it to be "cruel and unusual treatment" (McCann vs. the Queen) but it has not been prohibited. Less than a year later, in response to the death on duty of an Archambault guard, 6500 prison guards walked off the job in a "day of protest," in an attempt to pressure the Cabinet

to institute capital punishment. The RCMP and the Armed Forces patrolled the 49 penitentiaries and correctional centres.<sup>14</sup>

The Canadian Penitentiary Service responded to developments such as these with a combination of new legislation and some administrative changes. The government announced its intention to create a legislative package including gun control laws and changes which tightened bail and parole. Staff colleges were to offer training courses in crisis intervention and riot control. In the prisons, perimeter security was tightened and additional security officers were recruited. A Criminal Code Amendments Bill was introduced in the House of Commons which amended the areas of firearms control, electronic surveillance, the handling of dangerous offenders and the custody and release of inmates. A number of measures were introduced to attempt to reduce the access to guns by potentially dangerous people and police rights were to be expanded with respect to the use of electronic bugging systems. The legislation also proposed the imposition of an indeterminate sentence for all dangerous offenders, as well as measures designed to provide better control in penitentiaries. Statutory remission would be abolished, with only earned remission available. The maximum penalty for escape would be increased from five to ten years. The NPB would be expanded from nineteen to twenty-six members to ensure a more careful review of applicants.

In addition, reflecting the two-handed policy of the Canadian government, the CPS announced a reform package which would include better planned and smaller prisons, more rehabilitations programmes and more Temporary Leaves of Absence. There was considerable disagreement about these reforms. The Canadian Association of Police Chiefs protested that parole would still be "too loose." Prison guards called rehabilitation a costly waste; in the words of one, it was "a monumental farce costing taxpayers millions of dollars."<sup>15</sup> Media outcry over escapes and crimes committed on TLAs provoked heavy criticism of penal reforms. There were cutbacks in the number of paroles granted in the middle seventies because of what was seen as an alarming number of parole violations. More stringent screening procedures were applied and fewer applications were approved. Official viewpoints reflected a pessimism about reform in penitentiaries. William Outerbridge, Chairman of the National Parole Board, said at the time that the "most important single cause of the unrest, the dissatisfaction which surrounds corrections today, is simply the fact that no consensus exists as to what the purposes of the system are and how these aims can be achieved."

Meanwhile, prison after prison experienced major disturbances. After the 28 major incidents in 1976, a Parliamentary Sub-committee was set up to visit penitentiaries across Canada and to recommend solutions to the problem of unrest in prisons. With talk of the failure of the rehabilitative ethic even more widespread, a Gallup Poll showed that 56 percent of Canadians thought that prisons were "too soft."<sup>16</sup> The report recommended a complete overhaul of the CPS, which was described as being excessively bureaucratic: there were

almost as many prison employees as prisoners. It also reported that management was not in fact running the prisons, the directors having become impotent as a result of the growth above them of the power of regional offices, and below them in the hierarchy of command, of the power of the guards who were increasingly taking decision-making into their own hands. From the guards' point of view, however, it is the prisoners who exercised control. At best, they maintained the perimeters, fulfilling the function of short-term protectors of civil society while watching over an increasingly violent prison population. Partly as a result of this de facto dissociation, both murders and suicides are endemic in Canadian prisons. In Britain, industrial actions by guards have been attributed to such factors as the rise in the prison population, the effect of the national prisoners' movement, the increasing number of disturbances in the maximum prisons and the general loss of confidence in the managers of the prison system.

### **The Principle of Confinement**

The withdrawal of the guards from internal as opposed to perimeter control is indicative of the conservative response to the critique of the prison as an institution of reformation, and reflects the reiteration of what is viewed as its other main function: that is, that prison is a custodial institution and nothing more.<sup>17</sup> The more liberal-minded have not accepted the full implications of this stance. Hawkins, for example, settles for a view which posits a multiplicity of aims related to the prisoner's classification. The top security risk category require only "control and confinement," a recommendation which is in accordance with a conservative emphasis. For other offenders, imprisonment serves no positive purpose and alternatives to imprisonment are suggested, from more general use of probation to expanded programmes of restitution and community service. He accepts the usual view of rehabilitation as individualized treatment, while more carefully delimiting the offenders at either end of the continuum who will not benefit from, or are not in need of, rehabilitation: "In between there will be many different categories of prisoners for whom a variety of different objectives, educational, vocational, disciplinary, remedial or therapeutic might feasibly be selected as primary."<sup>18</sup> In other words, the traditional categories are maintained, although the number of offenders for whom rehabilitation is appropriate is diminished in theory, to correspond with the failure in practice.

The most interesting policy recommendation that comes from this view that, as Hawkins puts it, "the penitentiary system was, quite literally as it happens, a monumental mistake,"<sup>19</sup> is not the abolition of the prison, but the use of alternatives where feasible. On the contrary the prison is deemed necessary for those who are criminally engrained and who cannot be rehabilitated. From this perspective comes one significant recommendation: for "the development of much smaller, specialized custodial establishments

designed to meet the diversity of our penal needs and purposes."<sup>20</sup> This would include small maximum security institutions for high security risks in which the emphasis would be on control and confinement. In Canada a similar proposal suggested building a number of new mediums and maximums for 150 to 180 prisoners each over a five-year period. This was meant to ensure that there be no further Atticas—no large prison population in which politicization and collective action is readily feasible. In these small maximums the emphasis on security would mean little attempt to rehabilitate and the maximum use of coercion.

The loss of the diversity of the prison population might solidify the opposition of the prisoners, and the traditional problem of the 1950s prison, caused by the lack of a hierarchy of rewards to complement the relatively narrow hierarchy of punishments; would be reproduced. In such institutions, containing those defined as the most incorrigible, repressive measures would be more readily accepted by the general population if conditions precipitated rebellion. Acceptance of official brutality depends on the definition of the targets of this action as significantly different and evil. This is difficult to maintain with respect to the prison population as a whole—although this belief is a cornerstone of conservative penology—but super-maximums would more easily be seen by the public as reflecting a real difference which would justify the use of harsh measures. Officially, the prison administration remains wedded to a punitive model for all prisoners, and maintains that the prison is an appropriate means of punishment, not only for the criminal considered "engrained," but for others as well. The suggestion that the living unit programme be adopted in the maximums has not been implemented. Administrative reform in the maximum security prisons means the reorganization of staff (the "team principle," for example) as a means to make prison management more efficient. While the small maximums will supposedly have a more personal prisoner/counsellor relationship and better conditions, more importantly they would be easier to control: prison radicals could more easily be identified and isolated or transferred.<sup>21</sup>

If it is agreed that the majority of prisoners are not in need of institutional treatment, then this delegitimizes the use of hospital techniques for this group. But it legitimizes a more systematic use of such techniques on the minority of prisoners who are defined as being in need of it for their own good. Those who are defined as "borderline psychotic" in the jargon of administrative staff will be assigned to a new psychiatric prison and subjected to the potential use of mind-altering drugs, psycho-surgery, electric shock and the other modern paraphernalia of control in a mental hospital. The new prison could then be increasingly used as a scientifically sophisticated adjustment centre for those driven into irrationality by the wider society, but also for consciously rebellious prisoners deemed threatening.

A new control mechanism is in the area of drug use in prison—not primarily the nonmedical use of drugs by prisoners, but the putative medical

prescription of drugs by the staff for use by the inmates. In addition to these measures of social control, there is the issue of the use of prisoners as experimental subjects by drug companies. In the United States a large proportion of prisoners volunteer to act as experimental subjects, and waive rights to sue for damages, in order to obtain money, perhaps to relieve boredom, and in the hopes of obtaining an earlier release. It has been estimated that 85 percent of the first human testing of newly developed drugs in the U.S. utilizes prisoner "volunteers." In the U. s. the National Commission for the Protection of Human Subjects of Biomedical and Behavioural Research has recommended that "non-therapeutic biomedical research," not be conducted in prisons. The use of pacification drugs to try to keep the prisoners in lines was not addressed, and by implication, it is left open.

### **The FCA and the Opportunities Principle**

The new orthodoxy of the late 1970s in Canada is to give the question of "rehabilitation," a back seat relative to a renewed emphasis on "sentence management." In 1974, the Solicitor General set up a task force to develop the role and organizational structure of a new Federal Corrections Agency (FCA) which would integrate the Penitentiary and Parole Services. This task force consulted with staff at all levels, representatives of private and after-care agencies, police, provincial correctional agencies, as well as some guards and inmates. A sub-task force was to prepare an inventory and analysis of all programmes carried out by both services and a review of the programme planning process in a number of programmes. It would also have to come up with a proposed programme planning model.

The official response to the talk about the failure of "rehabilitation" came out in the statement from the Solicitor General on the role of Federal Corrections in Canada (1977).<sup>22</sup> This report reviewed the state of corrections in the late 1970s which were "experiencing rapid and complex change that, coupled with a dramatic increase in the incidence of violence, has pushed us into the spotlight of public scrutiny and has left correctional staff without a clear sense of direction." In this situation, "assumptions have been challenged and correctional administrators have undergone soul-searching re-examinations of their own correctional goals and objectives."<sup>23</sup> In the Task Force's view, federal corrections should be based on humane treatment while administering the sentence imposed by the court. Policies about corrections should not be determined solely by public opinion, although public acceptance and support are important. Correctional agencies must provide leadership rather than follow broad social trends. In this respect, the correctional service was setting itself up as more liberal than the Canadian population. The report mentions public concern over the many disturbances in prisons and how, more than ever, public safety and accountability will have to be a primary concern. However, rather than abandon the idea of community corrections, the Task

Force recommended revisions, including a demand for a greater role in the development of correctional policy by the private sector. Increasing cooperation between federal and provincial correctional agencies in policy development was also advocated. A National Advisory Network was established to serve as a coordinating body for federal-provincial endeavours, responsible for the development and implementation of innovative models, and correctional manpower training and development.

In retrospect, the guiding philosophy of corrections proposed by the Task Force reiterated the need for a more unified administration of criminal justice, a never-ending litany of previous Royal Commissions and Task Forces. From the point of view of the philosophy of rehabilitation, however, the task force rejected the model as it had been defined up to that time: that the responsibility for the success or failure to rehabilitate the offender rested with the correctional agencies rather than with the individual concerned. If criminal behaviour is a manifestation of a deep personality disorder, then rehabilitation not only requires extensive treatment, which is an unrealistic goal for penitentiaries, but also requires a commitment from the offender. It was primarily misconceptions about this latter aspect of rehabilitation which had led to the public placing the blame for failure on the correctional authorities. The Task Force, however, did not advocate returning to a strict punishment model. It argued that the failure of the correctional system to recognize the responsibility of the offender had led to the abuse of authority under the medical model. This model, which formed the basis of the rehabilitative ideal, wrongly minimized offenders' responsibility for their crimes by assuming they were sick for reasons not of their making. This "approach gives correctional practitioners a strong inducement to employ coercion in the guise of human treatment, and enforces participation in treatment programmes as a requisite to release,"<sup>24</sup> a situation which results in distrust among offenders and an undermining of treatment goals.

Another problem with the rehabilitative approach was seen to be its emphasis on expertise for solving problems. This was harmful, the Task Force declared, because it relieved the community of its responsibility in corrections. The fact that the task force argued that unrealistic expectations had been generated did not mean, in its view, an admission of failure or a "copping out," on the part of Federal Corrections. It merely reflected an unrealistic approach to corrections which ignored certain basic principles. The main revision suggested was the explicit adoption of the "opportunities principle." Federal Corrections was still charged with providing correctional opportunities "designed to assist the offender in the development of daily living skills, confidence to cope with his personal problems and social environment and the capacity to adopt more acceptable conduct norms." The opportunities principle, however, was "based on the assumption that the offender is ultimately responsible for his behaviour.... The offender is convicted and sentenced on the basis of his criminal behaviour, not on the basis of some

underlying personality disorder or deprived socio-economic condition.”<sup>25</sup> It was the role of the courts to establish guilt or innocence and the role of corrections to manage the sentence imposed by the court. The Task Force softened its line on individual responsibility by discussing the shared responsibility of correctional staff, offender and community in the correctional process. Although the offender was ultimately responsible for his or her criminal behaviour, the community was also responsible for providing opportunities for law-abiding behaviour. The role of Federal Corrections was to manage the sentence and provide treatment opportunities, while the inmate, with the help of professional guidance, was to select the appropriate programme. A further recommendation called for the development of mechanisms to channel prisoner grievances and protect prisoner rights.

The Solicitor General of Canada announced that the rehabilitation model would be replaced by an “opportunities-incentive model.” Correctional officials were quick to adopt this new justification. In Springhill it was denied by senior staff members that rehabilitation, as a philosophy, had ever existed, and that the opportunities principle more accurately described exactly what had always been done. Upon being admitted to the institution, the prisoner had been informed of what facilities were available in the prison; he was reminded of the maximum and minimum lengths of his incarceration, and the conclusion was drawn that what use the prisoner made of the facilities over time depended entirely on him. There were concrete incentives, such as earlier parole, attached to the participation in programmes, for which the prisoner must apply. The prisoner similarly had a choice of working or not working, with the understanding that to choose noncompliance would mean a period in isolation (dissociation). In addition, there were other incentives such as prison pay (which is low, but pressure has been mounted to increase it), temporary leaves, and so on. The basic point was that the responsibility of the prison system was to provide opportunities and inducements of an appropriate kind, but that ultimately the responsibility for reformation rested on the individual incarcerated.

This standard retrospective denial of the rehabilitation philosophy begs the question. There was always a distinction between the rehabilitative programmes devised and the motivation of prisoners to participate. By definition if the prisoner did not take the programme seriously, then no rehabilitation benefits could result; but it has been assumed that if the prisoner did actively fulfil his role in the programme (e.g., take vocational training seriously) then he could be rehabilitated. The opportunities principle does not negate rehabilitation—it more precisely defines it to take the responsibility for failure away from the prison, while leaving responsibility for success at least partly with the staff and programmes. This rejection of rehabilitation means that the prisoner is not to be regarded as sick, which is seen as the intrusion of moral labeling and condemnation. The sick approach, carried out to its logical extent, implied that the prisoner was not responsible

for his actions. Now it is merely held that prisoners have troubled personalities but they are responsible for their actions. So the staff can still justify the use of therapy but they do not have to feel guilty about its failure.

### **The New Behaviourism**

In contrast to an impressionistic social work format of the old medical model and rehabilitation, the Canadian Penitentiary System has attempted to adopt a more rigorous image. Requests for new programmes or justifications to the Treasury Board for the continuation of old ones have to be couched in scientific terminology with statistical data. The key concepts are programme planning and sentence management. Sentence management is not so much opposed to rehabilitation, it is argued, but rather is a component of it, and in each case it involves four considerations: the protection of the society, the welfare of the offender, retributive punishment, (reintroduced as a theoretically important element) and mutual agreement on individual programme planning.

One of the origins of the last item, the development of an individual's programme participation, had its origins in the classification movement and has been most explicitly implemented in the United States. In some jurisdictions it consists of a legal contract between the prisoner and the authorities (presumably binding, although it might be argued that it is signed under duress). The prisoner agrees to be responsible to do certain things which are as fully spelled out in behavioural objectives and as capable of objective assessment as possible. For example, it is agreed that the inmate will complete a specific training programme following a declared routine by a stated date, to be on "good behaviour" (also spelled out as "objectively," as possible and so on. The responsibility of the authorities lies in their agreement to provide the facilities for training. In the United States, the Mutual Agreement Program is legally binding, and contract violations can be taken to court through a litigation process. The Canadian recommendation, Individual Program Planning, included a non-legally binding contract; it was an agreement only. The courts would not be involved and the prisoners could not sue for the prison's failure to live up to the contract. In place of the old rehabilitation there is diagnostic interviewing, which is merely a redefinition of the medical model with the crucial additional component that it attempts to be unambiguous about the prisoner's responsibility and the resulting legitimacy of punishment. In the interview, needs are assessed and a programme is devised in an atmosphere of recrimination with the responsibility solely on the shoulders of the condemned individual.

The staff, having abandoned the concept of rehabilitation, no longer needs to defend it. Even their best effort may be to no avail in trying to change the criminally incorrigible. The "unworkable," "unmotivated," and "hostile" prisoner is simply assigned to control—sentence management is merely retribution, "humane control" and public protection. He had been given the

opportunity to contract with the authorities but had not, and is responsible for his condition. Recidivists similarly had failed to live up to the agreement, having not "gone straight" upon release. The staff no longer has to defend the image of the rehabilitator. The law and order perspective prescribes that prisoners are a dangerous and difficult lot, and the staff agrees that it is virtually impossible to change them. They can manage them in the sense that they can see to it that the commitments are kept—for example, by ensuring that prisoners do not escape custody and thereby escape part of their retributive punishment. Crime is defined as a community problem, society's problem, everyone's problem equally. Since the generation of crime and criminals is in social processes usually of a relatively undefined nature, then it is unrealistic to achieve individual solutions to crime. Some intervention in criminal careers may be successful, but prison and parole staff are responsible at best for trying to control these problems and cannot realistically cure them. In this fashion the liberal social worker comes to cynical terms with his job.

This philosophy is spread through staff training sessions. Courses for staff include dealing with hostage-taking incidents and office occupations. Staff training and development programmes become a fringe benefit of employment, with travel grants to distant conferences and sessions. The upshot of all this is that the staff is becoming specialized. A new facility for staff training has been opened at Memramcook. If such a facility had operated in the late 1960s or early 1970s, we can speculate that it would have stressed counselling and training which were consistent with the rehabilitative ideal. The new national priority—as in the case of the staff of the CCC—is to train personnel in management and supervisory skills. The claim is that there are enough social scientists and social workers in the field but people in management positions often know nothing about management or budgets. The priority of the institution, which was designed originally to train security officers, is now to train people to more effectively "run the business."

The recent plethora of legislative changes and proposals have been presented as reforms. In substance, the chief characteristics of the proposed changes amount to a reiteration of the prison as a place of confinement and punishment, while certain measures, such as the new inmate committee, are added to conjure up a progressive image. In contrast to the reformism which tried unsuccessfully to transform the prison from a lock-up to a centre for rehabilitation, the new "reforms" are based on the premise of punishment. In short, prison reform means the expansion and consolidation of the hierarchy of punishment.

## **Endnotes, Chapter Seven**

<sup>1</sup> T. Ellis, Quoted in *Time*, 9 December 1974.

- <sup>2</sup> G. Trasler, G. "The role of psychologists in the penal system," Pp. 129-141 in L. Blom-Cooper (ed.) *Progress in Penal Reform*, (Oxford: Clarendon, 1972), p. 131.
- <sup>3</sup> Norman Bishop, 1974 "Aspects of European prison systems," pp. 83-100 in *Progress in Penal Reform*, (Oxford: Clarendon, 1974), pp. 96-97; cf. M. Warren, "Correctional treatment and coercion," *Criminal Justice and Behavior*, 1977, Vol. IV.
- <sup>4</sup> G. Trasler, "The role of psychologists in the penal system," p. 132.
- <sup>5</sup> *New York Times*, 1 June 1976.
- <sup>7</sup> Department of Solicitor General, Annual Report (Ottawa), 1976, p. 55.
- <sup>8</sup> Michael Enright, "The halls of anger," *MacLeans* (21 March 1977), pp. 32.
- <sup>9</sup> *Time*, 3 May 1971.
- <sup>10</sup> *MacLeans*, 18 October 1976.
- <sup>11</sup> Donald R. Cressy, "Sources of resistance to innovation in corrections," Pp. 438-460 in Carter et al. (Eds.) *Correctional Institutions*. (New York: J. Lippincott, 1972), pp. 440-441.
- <sup>12</sup> Robert Martinson, "The Meaning of Attica," *The New Republic* (15 April 1971), pp. 17-19.
- <sup>13</sup> Parliamentary Sub-Committee on the Penitentiary System, Report to Parliament. (Ottawa: Supply and Services, 1977), p. 99.
- <sup>14</sup> Enright, "The halls of anger," p. 32.
- <sup>15</sup> (*Time* 9 October 1974)
- <sup>16</sup> Enright, "The halls of anger," p. 32.
- <sup>17</sup> F. E. Emery, *Freedom and Justice within Walls*. London, 1970), p. 97.
- <sup>18</sup> Gordon Hawkins, 1974: 115). "The ideology of imprisonment," In Blom-Cooper (Ed.) *Progress in Penal Reform*. Oxford: Clarendon, 1974), p. 115.
- <sup>19</sup> *Ibid.*
- <sup>20</sup> *Ibid.*
- <sup>21</sup> Eric Olin Wright, *The Politics of Punishment: A Critical Analysis of Prisons in America*. (New York: Harper and Row, 1973), p. 333.
- <sup>22</sup> Solicitor General, The role of Federal Corrections in Canada (Task Force 1977).
- <sup>23</sup> *Ibid.*, pp. iv-v.
- <sup>24</sup> *Ibid.*, p. 27.
- <sup>25</sup> *Ibid.*, p. 30-3.

## **CHAPTER EIGHT**

### **CONCLUSION**

Since the passing of the Great American Celebration, western social science has been in considerable disarray. The predominance of structural functional analysis, which was undergirded by post-war material prosperity, has been broken. The development of historical experience exposed in practice what the radical critics had understood in theory: functionalism universalized a temporary period of social stability in advanced western nations into a "grand" theoretical justification. Despite some marginal criticism, the ideological root of "end of ideology" thinking was not fully exposed until, as a theoretical mode, it failed to account for changing historical experience.

In the place of a relatively established theory, a myriad of seemingly different models or "paradigms" developed by those Reasons calls "paradigm entrepreneurs,"<sup>1</sup> compete for ideological hegemony. The analysis of social theory in the realm of penology and criminology indicates that this situation is not without precedent, but it also shows that there have been periods in the past when dominant ideologies held sway for considerable periods. Nevertheless, this area as well is currently undergoing a process of ideological turmoil and it is this process of change and its programmatic consequences which have been our primary focus. While change has been incessant and periodic in correctional ideology, it is remarkable how stable certain traditional outlooks have been in the correction field. The changes in penology which have been analyzed—with the possible exception of the transition from a general metaphysical conception to the classical model—can hardly be termed revolutions. More importantly, even with respect to this particular transition, the main question has not been the supersession of one paradigm over another but the incorporation of substantial ideological elements from the old in the new. From this vantage point they seem to have more in common with a theory of epicycles than with revolutions.

#### **Individualization of Treatment**

We have seen that the classical emphasis on rationally determining the amount of punishment according to the severity of the breach of law, was modified by the recognition that abstractly equal sanctions are not, in fact, equal. The resulting neo-classical modifications are usually interpreted as the first important steps in the individualization of "correction."<sup>2</sup> With the rise of a rehabilitative philosophy, the old view suggesting that penalties were to be determined by the type of infraction has been modified by notions that, in individual cases, the consolidated behaviour pattern of the individual, as well

as the peculiar circumstances surrounding the act, should be taken into consideration in the sentencing process.<sup>3</sup>

The mechanical positivists of the nineteenth century also contributed to the individualization of punishment. Gall, the father of phrenology, who posited a physical relation between criminality and brain structure, also stressed the need for individualized punishment.<sup>4</sup> Sellin has traced the concept of individual treatment to the "moral insanity," viewpoint of Benjamin Rush and his followers who concluded that criminality was a form of "mental illness," and therefore ought to be "treated" rather than "punished." With this background, the contemporary philosophy of rehabilitation pushes the individualization to the farthest point, in one-to-one counselling. The social causation thesis is acknowledged as having produced psychological shortcomings in individuals; but individual processes are deemed capable of rectifying the initial errors.

The rise historically of a reform ideology in Canada was intimately connected with an ethos of Christian morality and temperance which was solidly rooted in religious views which maintained a metaphysical distinction between good and bad people. The reformers, largely middle class humanitarians, defined as a social responsibility the "care, protection and improvement of defectives, dependents and delinquents," the latter broadly including "the careless, the spendthrift, the improvident, the shiftless, the drunkard and the criminal,"<sup>5</sup> all of whom were moral defectives. The three goals outlined for these individuals who occupied space at the fringes of society were: "care, protection and improvement" In the case of criminals in particular, the "protection" referred above all to the protection of the law-abiding public.

While these deplorable individual characteristics were at first thought of as ultimately deriving from an essentially flawed and unchanging "human nature," the rapid industrialization occurring about the turn of the century in major Canadian centres enormously exacerbated social problems and gave rise subsequently not only to an active and conscious reform element with some practical social policy connotations, but also gave an important impetus to the rise of sociological consciousness. In the realm of social theories there was some understanding that individual character itself was at least in part socially formed, and that "while many are responsible themselves for their condition ... countless thousands are not."<sup>6</sup>

It was this distinction which was of crucial significance. The development of positive criminology, in both its naturalistic and its social forms, tended to undermine the arguments supporting the notion of individual responsibility for criminal action, and therefore ultimately led to the rejection of retributive punishment. In subsequent ideological developments, the crucial issue had been to somehow reconcile the classical and positive notions into some reasonable compromise in which individual responsibility was retained but some social responsibility was accepted. Consequently, the penal system

incorporated some attention to "improvement" as well as "punishment." The distinction was drawn between "the reformable and the incorrigible."

The most important debate within penology has been between the conservative emphasis on incorrigibility, retributive punishment, and an extreme separation between the criminal and the non-criminal, and the liberal emphasis on individual reform of those amenable to change, institutional reform for more "humane," confinement, and a more flexible separation between the criminal and the noncriminal. Until recently the liberal expectation had been that the goal of individual reformation was realizable within the prison, that it was compatible with the degree of punishment consistent with imprisonment. If the prison experience itself did not change prisoners in the appropriate direction, then at least programmes could be devised within the walls to facilitate the process. Reform, then, comprised two aspects: the physical change of the prison (for example, the differentiation of types of prisons and changes in architecture), and the development of increasingly innovative programs designed to change individuals.

Within positivist theory there was the possibility of distinguishing between actual social problems and the individual manifestation of these problems, and several varieties of social causation were posited. In addition, an element of social, institutional reform was introduced and progressivists postulated that social problems could eventually be solved in a piecemeal fashion. The process of reform was necessarily twofold: a general objective reform of social condition and an individual reformation of those who had suffered through the inequalities and injustices of the given social environment. It was ludicrous to reform an individual and return him to the same situation from which his criminal action originated. The social view of the world, then, promised much in the way of change.

As corrections evolved, however, the progressive social element withered and was subject to a continuing process of individualization which tended to reduce social problems to the level of the individual. The conflict between the liberal view of progressive change and the conservative emphasis on imposing the assumed social consensus on individual deviants was resolved by increasing the emphasis on changing individual attitudes and skills and redefining institutional reform narrowly to mean manipulating social arrangements in the prison to facilitate this individual transformation. The philosophy of rehabilitation justified the attempt to transform individuals in ways deemed desirable based on the view that manipulating individual characteristics and motivations rather than changing concrete social reality was the appropriate response to problems.

The most significant ideological expression of this reforming trend was the medical model of rehabilitation which stressed the possibility and desirability of individual reformation based on a process of intervention in the prisoners' psyches to overcome specific deficiencies which were assumed causally related with criminality. But there was not a sense in which

rehabilitation replaced the classical punitive model but rather was grafted onto it. The rehabilitators came into the prison and supplemented the custodial/punitive staff. Despite its predominance in academic circles, the view that the prison is for rehabilitation and not for punishment has reflected a minority view within the field of practical penology.

Nevertheless, the list of reforms devised during the period of rehabilitation is lengthy and would include vocational and educational training in the prison, recreational activities, psychological counselling, medium and minimum prisons, therapeutic communities, living units, prison "camps," community correctional and residential centres, TLAs, day paroles, drug treatment centres, and a number of others. Many of these resulted from studies commissioned by the government which reported conditions to be virtually unchanged from previous studies and recommended solutions which were given some concrete implementation. But with the exception of parole, which is hardly a new concept, and CRCs, which merely provide temporary "bed and breakfast" type accommodation, the reforms eventually reach only a minority of prisoners, and therefore do not even begin to meet the needs identified in the initial reports. And, in the meantime, the maximum prisons remain deplorable and the minimums become increasingly like maximums. The social optimism which buoyed up hopes and was based upon the then solid foundation of an expanding economy which could be funnelled into reformist channels had dried up in a period of austerity and cutbacks, and the rehabilitative philosophy was attacked as one of the frills which had to go.

The development of the reform philosophy and its implementation was generally the result of specific crises in the prison system which were brought to the attention of the public by the actions of the prisoners themselves. The failure of rehabilitation is not merely its failure to produce non-criminals from criminals but, more fundamentally, its failure to maintain control. This is not to assert that institutions have some internal dynamics of their own which lead to the preservation of established routines, but to place the prison in the social context as being an institution of coercion necessary for the power of the state, which is preserved by both repressive measures and specific kinds of reformist ones.

There has, however, been a differing emphasis from time to time on one or other of these mechanisms. The traditional punitive approach has generally been ineffective in promoting long term stability, a conclusion which means that social control must also entail a development of an alternative reformist strategy (related to the degree of availability of adequate social resources). The degree of commitment to the rehabilitative ideal has been called into question with reference to trends in expenditure for the policy relative to those earmarked for "corrections." In 1962-3, 34.72 percent of the federal and provincial funds for administering criminal justice in Canada went into "correction," and 48.55 percent to the police. Despite the proclamation of the years of rehabilitation, in 1971-72 the proportion had changed to 29.41

percent for corrections and 55.24 percent for police and, if local government expenditures are included, the amount spent on the police increases to nearly 70 percent.<sup>7</sup> The proportion spent on "corrections" is allocated between security and rehabilitation and some shifts in this occurred with the hiring of trained rehabilitative staff. But this trend has also been reversed and more money is being spent on expanding the security staff and increasing their remuneration. What the figures show is that, regardless of the reform philosophy, correctional authorities remain wedded to coercive control.

The model of the rehabilitated prisoner, or the prisoner successfully responding to the prison programmes, assumed that the prison was operating in the interests of the prisoner. The fact that the "reformed" prisoner was also a "model" prisoner in the eyes of the prison administration was acknowledged as self-evident. As implemented, the philosophy of rehabilitation attempted to convince prisoners that the problem of criminality was within themselves; that the prison was designed to help them and that they were in need of a specific kind of attitude change. The intervention of treatment programmes must first of all undercut the tendency to develop, anti-administrative attitudes, the naturally developing arising conflict consciousness (which is reinforced by some aspects of the prison "culture" and replace them with "trust." This is based on the actual contradiction between the objective collective interests of prisoners and the structured reward system which counter-poses individual interests.

One standard viewpoint in criminology has been to assert that the goals of imprisonment are contradictory, consequently, that they work at cross purposes, and hence it is no wonder that rehabilitation procedures do not work.<sup>8</sup> Essentially the conflict of goals is between a punitive response and a rehabilitative response, and it is assumed that there is a zero-sum relationship between the two such that an increase in the punitive aspect must produce a proportional decrease in the treatment aspect. For example, allocation of scarce financial resources is divided between increased measures for security—the attempt to obtain internal order by coercion—and programmes designed to inculcate positive values. In Gibbons' view, "the present schizoid character of the sum of reactions to deviants poses severe obstacles to efforts to change law-breakers into conforming citizens."<sup>9</sup>

The prison situation, at its most simplistic, places two groups of people in a situation of coercion based on unequal power, such that the objective interests of the two are contradictory. Drawn to its logical conclusion, this would suggest the tendency to develop a consciousness of opposition among prisoners which in a social context can become solidaristic. There are numerous cross-cutting features which derive from the nature of the society, the characteristics of the prison as it is institutionalized, as well as from conscious manipulation on the part of prison administrators, treatment staff and professional social scientists, which operate in the opposite direction and serve to undercut the development of solidary opposition.

The conservative and liberal standpoints assert the primacy of either one or the other aspect—punishment or treatment; the crucial point, however, is that the object of the process is the same, and the conflict is merely over the appropriate balance of punishment and reward, for the “protection of society,” demands prisons. According to the populist right-wing view, this is so because there are in our midst “criminals,” an absolute category which can be contrasted with “conforming citizens,” and the former must be isolated from the latter and transformed into law-abiding people where possible. Obviously the real situation is far more complicated than this. The retort that victimizers are also social victims is only true to a degree; in some respects, dominant and privileged groups are the chief victimizers.

While the usual arguments against increasing the punitiveness of the prisons are based on “humanitarian” objections, there is also among criminologists the view that negative sanctions alone produce unintended consequences; in particular, that harsh conditions produce rebellion. It is not only that the emphasis on the punitive justification for imprisonment hinders the opportunities for rehabilitation, although this is an argument which is frequently raised. The argument that prison is a crucible of crime rests in part on the reactions to punishment itself. Consequently, an increase in punitive measures would lead to an subsequent increase in the failure rate. The conservative viewpoint has drawn the opposite conclusion: the curtailment of punishment implied by the rehabilitative programmes prevents the prison from adequately fulfilling its deterrent function. Rehabilitation and punishment, then, are seen as antithetical goals, and the emphasis on one of these aspects is automatically linked with a de-emphasis on the other.

This conceptual separation of these two goals, and the view that one aspect suffers at the expense of the other, was further complicated by the development of a dual staff, one sector of which was defined as “security” and was responsible for enforcing the deprivations of prison life and preventing any diminution of the punitive aspect, and a second sector, the “treatment staff,” who were responsible for the rehabilitation of the prisoner. Positive alternatives were expected to diminish the deprivations of incarceration and thereby increase the motivation for compliance, with motivation being seen mechanically as a recognition that certain ends can be achieved by certain actions. In many respects this separation is no longer regarded in the same way as it had been in Canada in the 1960s or in the United States in the 1950s. The treatment staff in many of the modern correctional programmes performs both coercive and treatment functions becoming more overtly responsible for social control. This is institutionalized to a degree in the opportunities principle under which the staff has become mere “people managers.”

One of the key theoretical critiques of radical criminology is that both punitive and reform aspects serve the same function: the maintenance of social control in the society. Beyond this simple formula are two important facts: first, the two strategies are not equal and social order is ultimately

founded on the threat and practice of violence. Second, the utilization of reform as a means of control is limited by several factors. The most significant is the absolute aggregate of public funds which are available for the implementation of reform proposals. The systematic introduction of the philosophy of rehabilitation occurred during the post-war years when, despite some relatively minor recessions and a consistent if rather small annual rate of inflation, welfare state interventions seemed to have produced long term stability. The failure of rehabilitation in the late-1970s is associated with stagflation and the unprecedented form of the economic crisis. There is some foundation in fact for the view that the philosophy of rehabilitation had never been given an adequate chance in terms of resources, but this must be understood first in relation to the aggregate of resources possible and to the priority of expenditure. To exaggerate the point, if every criminal had a full time social worker with sufficient resources to meet elementary needs for a decent life for the criminal and his family then recidivism may quite conceivably decline. What seems possible in theory is not always possible when the concrete circumstances are taken into account.

A further point is that there is a limit to the extent to which the aggregate social resources devoted to "corrections" can be distributed to the treatment end of the continuum of control. This is so primarily because the basis of the state's maintenance of social order is to be found in its control over the organization of social violence, with the prison acting as an important institutionalized expression of this control. Recourse to the means of violence proceeds by way of a hierarchy of responses and over time the level of resources diverted to the function of coercive control can vary. The relative emphasis on one aspect or the other within the given allocation of resources is dependent upon the degree of social threat perceived by the state, a perception which is not based solely on criminal statistics, but reflects other forms of social dissent. The locus of the increase in coercive control is not specific to one institution but is generalized and the "law and order" philosophy is reactivated in the sphere of policing and criminal justice as well as corrections. The new orientation is presented as a "reform" which, in Canada, usually contains some elements of a positive approach; in such periods, however, its characteristic is predominantly punitive.

The perspective of the custodians, who tend to adopt the clearly metaphysical separation of good and evil people, with prisoners defined to fall within the latter, simply asserts that the best way to maintain control is through segregation and systematic rules. The problem with this—clearly recognized by the early penologists—is that these measures are most effective when they are supplemented by possible inducements. That is, relative to staying locked in the cell for 24 hours, to be locked in the segregation compound, euphemistically called in contemporary jargon an "adjustment" centre, does not represent a very significant escalation of punishment.

At the present impasse in corrections, almost all but a small band of reformers now accept the fact that prison reform in its various historic and recent manifestations has failed. Even the recent most provocative attempts to include inmates collectively in their own reformation have come to nought. Reforms implemented within the liberal ideology, or the apparently more radical, one eventually come to rest on the simple pole of individual rehabilitation in the context of repressive control. The fundamental feature of the prison—its punitive quality—always comes back to haunt the reformer. The law and order ideology of retribution wreaked against malevolence waits in the wings when the inexorable logic of prison experience brings too much rebellion to the centre stage. If prison must punish and, if all else seems to fail, then traditional methods maintain the most consistent aura of truth and straightforwardness.

### **The Future of Reform**

Our analysis of the ideological and social meaning of prison reform results in a highly critical response to corrections as commonly conceived. The concept of prison reform has two potentially opposing aspects. If reform means simply to attempt to alter the behaviour of a certain portion of the population toward acceptable standards, then literally everyone, even prison inmates, involved in the correctional endeavour conceives that reform is necessary. The most radical response by prisoners and by criminology has been to question the standards of behaviour required, or, more precisely, the whole value system of contemporary society, and the manner by which such change of the value system should take place. On the other side, the thrust of corrections as traditionally perceived does not accept this questioning of the whole mode of societal organization. It is here where both the liberal reformers with their emphases on individual rehabilitation and the conservative retributionists with their emphasis on punishment actually meet in one convergent body of assumptions. This convergence is based on agreement on two fundamentals postulates.

The first is a separation between the healthy society and the unhealthy or criminogenic parts of it. Whether criminality is seen as rooted in essential human nature, in biological/medical causes, or social factors, conservatives and liberals agree that there are criminals in our healthy midst and something must be done to either quarantine the danger or to transform the danger into something as healthy as the rest of society. Even the attempt to conceive criminal behaviour as sick behaviour and treat it psychiatrically or medically does not alter this picture. To try to change a criminal into a patient is only an indication of social hypocrisy since criminal behaviour still retains its traditional aura and its definition as a menace to an essentially healthy social fabric.

The second basic postulate common to both liberal reform and conservative retribution is the acceptance of an externally imposed authority

system to operate the instruments of correction. While the reformer stresses the role of the rehabilitator or therapeutic professional and the traditionalist stresses the role of the custodian and sometimes the knout, they both agree that people other than the inmates themselves must decide on the treatment appropriate to supposedly alter behaviour. As we have indicated in our case study of the therapeutic community, rehabilitative attempts to include inmates in the decision-making process remain cooptative and manipulative as long as ultimate power resides in the prison authority system. Thus, even the most innovative programmes attempting to increase inmate participation must be seen as a continuation of the prison control process.

It is the convergence of these two assumptions in the context of prison being an essentially delimiting and repressing institution which transforms the reformer, who accepts theories of individual rehabilitation, into just another instrument for the control of prisoners. Wider social and economic causes may generate swings between law and order in the prison and the individual rehabilitation of inmates, remain two sides of the same ideological coin as long as basic social structure remains intact.

The fundamental limitation of all pre-existing prison reform has been the assumption that such reform can take place disconnected from reform of the larger society. The prison is a place which confines and physically controls excessive social failures in a society whose central evaluative thrust must generate social failure. Those in prison come from the most restricting social environments which propel them into specific kinds of crimes against property, giving them the least protection against getting caught, convicted and sentenced to prison. The contemporary social system nurtures competitive individualism in the context of material scarcity (real and induced). The great value put on material acquisition in this context means that a very few people attain social success. The few successful through their control of the ideological apparatus define the legal system as one which protects their social positions. Moreover, their power gives them rights to avoid being defined as criminal for greater infractions of the legal system than the social failures who get caught and incarcerated for lesser crimes of the same type.

"Property is theft," said the 19th century social critic, Proudhon, and, in a society which sanctifies the accumulation of property, the biggest property owners may be the biggest thieves. The line between legal acquisition and illegal acquisition of property becomes blurred, the only difference being the amount of power which legal property musters both to define its property as legitimate and to avoid criminal proceedings when it breaks the law. That there is a great deal of property crime committed in large economic enterprise is documented in the now classic *White Collar Crime* by E. H. Sutherland.<sup>10</sup> The bigger the economic power, the bigger the potential crime and the greater the potential to get away with it.

Crimes against property then are the most common forms of crime and they are built into the normal functioning of Canadian society. They are so

normal that the number of crimes actually occurring are much less than the number either reported or discovered. Moreover, the process of catching and convicting a perpetrator of this or any other type of crime funnels out those people of higher social and economic position and leaves only the most powerless to face a prison sentence. Bertrand Russell, the British philosopher, after entering prison for pacifist activities during World War I, remarked facetiously that he found his fellow inmates little different morally from the rest of humankind, the only difference being that they had been caught.

Prison, then, is a place for the already defeated society which glorifies victory and assures that very few have the opportunity to legally accumulate goods. Societal claims to free choice for all are belied by the institutional control of the marketplace by the economically powerful few. It is no surprise that those who have no legitimate opportunity to have what everyone is taught to want will use whatever means at hand to get it. The people with least opportunity are the ones who are most likely to get caught and imprisoned for acts that everyone else is committing. The truth of this observation is humorously borne out in university classes in Social Problems or Criminology where young students of predominantly middle-class background discover, under questioning, that literally all of them have already committed offenses of a criminal nature.

To think that locking away criminals is getting rid of crime in our kind of society is one of the central illusions of the correctional system. The average cynicism of the average prison inmate is bred not only by prison experience alone, but also by his recognition, if only implicit, that he lives in a dog-eat-dog world, the only difference between himself and others being the fact that he has been caught doing the biting. To think that prison gives new alternatives for "going straight" is only adding further degradation to the process. William Outerbridge, Chairman of the National Parole Board, acknowledged the irony of the prison when he observed that the obscenity of prison arises from the contradiction that a criminal is assumed to "make choices and, out of all the available alternatives, chose to commit an offense. When we put him in prison, we take away every opportunity of choice he has and then we expect him to be able to make the right choices after he's been released."<sup>11</sup>

In an opportunity system which has already been rigged against those social types who happen to be in prison, the inmate cannot be presented with a wider and more varied body of social possibilities than the proverbial man on the street. This seems to us the reason why the use of prison labour has always been marginal to rehabilitative ideology, at best, hollow make-work and, at worst, the chain gang. The return to a more punitive prison model may even lead to a greater exploitation of inmates as budget cutbacks generate demands for prisoners to do something to pay for their confinement. Real productive labour with adequate material rewards is impossible in this kind of society, since it would completely undermine the incentive to work

outside prison, and the development of useful products in prison would compete with the output of established economic enterprise.

In critically evaluating crime and the correctional system, we are in no way suggesting that crime makes no difference or that prisons should be all done away with immediately as has been suggested by some seemingly highly radical criminologists. Not all prison reform falls into the category of individual rehabilitation administered by external agents of societal authority. Many of the demands made by solidary prisoner groups connect prison reform to the wider demands of societal transformation. And they do not reject the idea that prisons may be necessary even in a transformed society, especially for some of the present inmates, or some not yet imprisoned, who everyone can agree are too dangerous to be on the loose. But they do see the prison in the present societal context, whether punitive or rehabilitative, as a more excessive injustice in an inherently unjust society.

Up to now, individual rehabilitation has proceeded in isolation from general institutional change in the rest of society, a fact which accounts for its illusory character. Since behaviour, attitudes and social response in general are shaped by environmental influences, to be de-incarcerated to an unchanged (in fact often worsened) family, work, and social situation virtually necessitates the resumption of previous modes of conduct (even assuming they have changed in prison). The socio-economic circumstances of the offender, coupled with the stigma which accrues to imprisonment, throw into sharp relief the discrepancy between individual "reformation" and the social situation which generates crime and the present prison system. Only a change in socio-economic circumstances, a change which may see inmates as part of a wide political movement, will ultimately affect the ideology and organization of corrections.

## **Endnotes, Chapter Eight**

<sup>1</sup> Charles E. Reardon, (Ed.) *The Criminologist: Crime and the Criminal*. Pacific Palisades, Calif.: Goodyear, 1974).

<sup>2</sup> Donald R. Cressy, "Sources of resistance to innovation in corrections," pp. 438-460 in Carter et al. (Eds.) *Correctional Institutions*. (New York: J. Lippincott, 1972), pp. 440-441.

<sup>3</sup> Daniel Glaser, *The Effectiveness of a Prison and Parole System*. (Indianapolis: Bobbs-Merrill, 1964).

<sup>4</sup> Thorstein Sellin, "Corrections in historical perspective," Pp. 8-16 in Carter et al. (Eds.) *Correctional Institutions*. (New York: J.P. Lippincott, 1972).

<sup>5</sup> Louis Daires, Address delivered to the 6th Canadian Conference on Charities and Corrections, Ottawa, Ontario, 29 Sept.-1 Oct. 1903. Quoted in Department of Labour, *Labour Gazette*, Vol. 4, 1903, p. 341.

<sup>6</sup> *Ibid.*

<sup>7</sup> Department of Solicitor General 1978, pp. 20-28.

<sup>8</sup> D. C. Gibbons, *Society, Crime, and Criminal Careers*, (2nd ed.). Englewood Cliffs: Prentice Hall, 1977), pp. 12-13.

<sup>9</sup> *Ibid.*, p. 13.

<sup>10</sup> E. H. Sutherland, *White Collar Crime*. (New York: Dryden, 1949).

<sup>11</sup> Michael Enright, "The halls of anger," *MacLeans* (21 March 1977).