

THE TREATMENT OF CRIMINAL YOUTH

The problem of proper treatment for criminal youth has defied solution throughout the history of the criminal law. Although the same problem exists with regard to criminals generally, its gravity increases as the age of the offender decreases, because of the longer period he will be of concern to society. The basis of the difficulty may lie in the fact that criminal law has at least two aims: prevention of recidivism by actual offenders, and deterrence of potential offenders. The methods which have been employed in attempting to prevent recidivism include incapacitation of the offender by imprisonment, capital or corporal punishment, and rehabilitation through education and training. Deterrence of others has been sought through harsh treatment of apprehended offenders to make "examples" of them, and, more recently, by attempts at social education and reform designed to ameliorate the conditions which produce criminal behavior. Although punishment or incarceration may logically serve both objectives, other and perhaps more effective means of reaching each of these goals may be inconsistent. If rehabilitation is the most effective means of preventing recidivism, treatment of actual offenders will be less effective in deterring potential offenders. The object of this note is to examine the methods which have been employed in the treatment of criminal youth, particularly those from sixteen to twenty-one, and to evaluate them in light of their actual operation.

EARLY METHODS OF TREATMENT

Society has always found youth to be a mitigating circumstance in its punishment of criminal offenses.¹ Initially, this was evidenced by recognition of an age of responsibility rather than by special processes for dealing with youthful offenders.

Under Roman law, which became the basis of the common-law rules, mitigation because of youth existed as early as the fifth century B. C.² Later, a graduated standard developed for determining when a child acquired criminal responsibility. Absolute immunity was accorded children below seven years of age, a period of life designated as *infantia*. Puberty, which was fourteen for boys and twelve for girls, marked the beginning of adult responsibility. Between *infantia* and puberty, criminal responsibility was determined on the basis of three factors: (a) the chronological age of the offender, *i.e.*, his proximity to puberty or *infantia*; (b) the nature

1. Cf. BARMAN, *THE ENGLISH BORSTAL SYSTEM* 23 (1934).

2. The early background material herein is adopted largely from LUDWIG, *YOUTH AND THE LAW* 12-19 (1955), and a more detailed summary can be found therein. Departure from this source is indicated by subsequent footnotes.

of the offense insofar as malicious intent played a part; (c) the mental capacity of the offender.³ The Roman theory of conditional liability between infancy and puberty, like the rule of absolute immunity for children below seven years of age, was incorporated into the common law, and, with modification, exists generally in current jurisprudence.⁴

Examination of early criminal law suggests two significant observations. First, although the youthfulness of the offender was considered, the upper age limits for mitigation were relatively low, usually fourteen years and often less. Possibly the shorter average life span of the general population and the concomitant necessity of assuming adult responsibilities at a younger age led to the presumption that adult capacity to distinguish right from wrong had developed by the time of puberty. Despite these age limits, it was at least recognized that for some initial period youth should not be considered fully responsible for acts against society.

The second observation suggested is that the treatment accorded even those within the age of less-than-full-responsibility was mitigated in degree only, and not in kind. During the period in English history when capital punishment statutes were numerous, many children of less than fourteen were executed.⁵

NINETEENTH CENTURY REFORMS

Toward the end of the eighteenth century, movements began throughout the western world for reform in the criminal law.⁶ These resulted in greatly modified punitive measures, including the abolition of capital punishment for many offenses and the overhauling of prison systems.⁷ The concept of specialized treatment for juvenile offenders emerged at this time,⁸ the basis of which was the belief that the immaturity of youthful offenders made them particularly responsive to rehabilitative training.⁹

3. LUDWIG, *op. cit. supra* note 2, at 14, 15. See also STEPHEN, COMMENTARIES ON THE LAWS OF ENGLAND 18, 19 (14th ed. 1903). Subsequently, children up to 10½ years were generally considered to be absolutely immune, and children between 10½ and 14 years, if found capable of mischief were given mitigated treatment. *Ibid.*

4. LUDWIG, *op. cit. supra* note 2, at 19.

5. RADZINOWICZ, A HISTORY OF ENGLISH CRIMINAL LAW, THE MOVEMENT FOR REFORM 1750-1883, at 12-14 (1948). See especially *id.* at 13 & n.39. See also BARMAN, THE ENGLISH BORSTAL SYSTEM 20 (1934).

6. RADZINOWICZ, *op. cit. supra* note 5, at 268-607, wherein the reform movement both on the continent and in England is traced. For a brief survey of the history of English criminal reform, see TEETERS, WORLD PENAL SYSTEMS 3-11 (1944). On reduction of capital penalty statutes, see *id.* at 4. In the United States penal reform found its early roots in Pennsylvania. For a description of the Pennsylvania experience, see TEETERS, THEY WERE IN PRISON (1937).

7. See text at note 10 *infra*; SEAGLE, THE QUEST FOR THE LAW 240-45 (1941).

8. TEETERS, WORLD PENAL SYSTEMS 56, 191 (1944) (France and United States, and by implication, Germany and Switzerland); TEETERS, THEY WERE IN PRISON 161 (1937) (United States). See also Sellin, *Youth and Crime*, 9 LAW & CONTEMP. PROB. 581 (1942); BARMAN, THE ENGLISH BORSTAL SYSTEM 23, 24 (1934).

9. Sellin, *supra* note 8. See also, BARMAN, THE ENGLISH BORSTAL SYSTEM 24 (1934); *cf.* ADVISORY COUNCIL ON SOCIAL QUESTIONS, PRINCIPLES APPLICABLE TO THE FUNCTIONING OF JUVENILE COURTS AND SIMILAR BODIES, AUXILIARY SERV-

The idea of segregating youths from older offenders appeared early in the nineteenth century in Germany and Switzerland, where special detention homes were established to educate and rehabilitate wayward youths and delinquents.¹⁰ The United States soon followed the European lead in the treatment of youthful offenders. Houses of Refuge, as they were then known, were established in New York in 1825, Boston in 1826, and Philadelphia in 1828.¹¹

Initially these Houses of Refuge were little more than exclusive prisons.¹² The discipline was stern and in some cases the Houses were enclosed by the classic high walls of a prison.¹³ In Boston and New York, however, some attempts were made to experiment with educational treatment, such as the inauguration of a form of honor system.¹⁴ An interesting characteristic of these Houses was that children were sent to them on an indeterminate basis,¹⁵ thereby permitting a more exact determination of the point at which an offender was ready to regain his status as a free member of society.

Eventually, Houses of Refuge gave way to the cottage system,¹⁶ originally established by Demetz in France. Today, every state has at least one such institution.¹⁷ However, few of these modern "homes" have progressed beyond the stern disciplinary methods of the original Houses.¹⁸

With this reform movement came an adjustment in the age groups subject to specialized treatment. In France youths up to the age of twenty-one received modified treatment for some offenses as early as 1791.¹⁹ By the twentieth century, specialized treatment was generally accorded youths up to sixteen and in some instances up to twenty or twenty-one.²⁰

ICES AND INSTITUTIONS 20-21 (League of Nations Pub. No. 1937.IV.9.). This theory was supported by the realization that harsh penalties had no noticeable effect on the general incidence of crime. The classic statement is the oft repeated English story of the pickpockets in action during the hanging of other pickpockets. See also George Wharton Pepper's statement during Senate hearings in 1943, quoted in S. REP. NO. 1180, 81st Cong., 1st Sess. 5 (1949), and also BARMAN, *THE ENGLISH BORSTAL SYSTEM* 23 (1934).

10. TEETERS, *WORLD PENAL SYSTEMS* 191 (1944).

11. Teeters, *Institutional Treatment of Juvenile Delinquents*, 29 *NEB. L. REV.* 577, 580-81 (1950).

12. *Id.* at 581-83.

13. TEETERS, *WORLD PENAL SYSTEMS* 192 (1944).

14. *Ibid.*

15. *Ibid.*

16. This system employs separate housing facilities, each unit to accommodate a specified number of youths. The object is to promote a more intimate relationship between the wards and the cottage parents or counselors. Also, this arrangement permits a certain amount of qualitative segregation for treatment purposes. U.N. Doc. No. ST/SOA/SD/1 (1952).

17. Teeters, *Institutional Treatment of Juvenile Delinquents*, 29 *NEB. L. REV.* 577, 583-86 (1950). See also TEETERS, *WORLD PENAL SYSTEMS* 192 (1944).

18. Teeters, *Institutional Treatment of Juvenile Delinquents*, 29 *NEB. L. REV.* 577, 587-90 (1950).

19. TEETERS, *WORLD PENAL SYSTEMS* 56 (1944).

20. Lemkin, *The Treatment of Young Offenders in Continental Europe*, 9 *LAW & CONTEMP. PROB.* 748, 749-50 (1942).

The treatment of juvenile offenders had passed through three stages by the end of the nineteenth century: corporal punishment, imprisonment and, finally, a rudimentary rehabilitative system. But none of these methods resulted in a significant change in the general crime rate, and, although accurate statistics are lacking, it is probable that the recidivism rate also was little affected.²¹ Statistics, however crude, did provide the basis for one interesting conclusion. In 1894 the English Prison Commission pointed out that the critical age group in the development of criminals was sixteen to twenty-one.²² This gave impetus to one of the most revolutionary innovations ever attempted in penology, the English Borstal System.²³

THE BORSTAL SYSTEM: REHABILITATION INSTEAD OF RETRIBUTION

The primary objective of the Borstal System is rehabilitation of youthful offenders from sixteen to twenty-one years of age.²⁴ It is premised upon the belief that if young offenders can be educated, trained to perform useful activities and at the same time treated to overcome their anti-social tendencies, they will commit fewer offenses after release. The national crime rate will a fortiori decline and society will benefit by the addition of useful citizens.²⁵ Two types of deterrence are thus separated—deterrence of recidivism is isolated from deterrence of crime generally.²⁶ The approach also differs in that it abandons deterrence of either sort through fear induced by harsh treatment.

Under the system,²⁷ a convicted offender meeting the basic requirements for Borstal treatment is sent to a hospital for thorough examination. If no disqualifying physical or mental disabilities are found, he meets with a board at a general collecting center, which determines the type of Borstal to which the youth should be sent. The different Borsstals provide a

21. Had any of the methods employed achieved the desired reduction in crime it seems apparent that the quest for an efficient system would have ceased.

22. H.R. REP. NO. 2979, 81st Cong., 2d Sess. 4 (1950). Records of 1948 showed that 72.5% of federal offenders in the United States committed their first offenses before they were 24 years of age. See the statement of Judge Parker, Circuit Court of Appeals for the Fourth Circuit, testifying before the Senate subcommittee considering S. 2609, *Providing for the Treatment and Rehabilitation of Youth Offenders*, as quoted in S. REP. 1180, 81st Cong., 1st Sess. 6 (1949). Cf. MODEL YOUTH CORRECTION AUTHORITY ACT vii (1940), wherein it is stated that youths between 15 and 21 years of age account for 26% of total robberies and thefts, 40% of total burglaries, and nearly 50% of automobile thefts in the United States, although this age group represents only 13% of the population.

23. Tolman, *The Borstal System*, REPORT TO THE JUDICIAL CONFERENCE OF THE COMMITTEE ON PUNISHMENT FOR CRIME 53 (1942).

24. Originally the Prevention of Crime Act, 1908, 8 L&S 7, c. 59, now the Criminal Justice Act, 1948, 11 & 12 L&S 6, c. 58, § 48(1)(c).

25. Cf. BARMAN, *THE ENGLISH BORSTAL SYSTEM* 26-27 (1934).

26. Even though the mere incarceration at a Borstal is punishment and therefore something to be avoided, it is probably less effective in deterring would-be offenders than the harsher methods which it replaces.

27. The following outline of the structure of the Borstal System is adopted from Fry, *The Borstal System*, in *PENAL REFORM IN ENGLAND* 143, 150-63 (Radzinowicz & Turner ed. 1946), and a more detailed description can be found therein.

number of specialized facilities. They range from penal type institutions for recidivists and problem offenders to relatively unrestricted centers for those most amenable to rehabilitation. The basic program consists of instruction in one of a number of trades, supplemented by educational and recreational classes and physical activity.

Offenders are sent to Borstals for a minimum term of two years and a maximum of three. The minimum sentence is in fact indeterminate, however, since an individual may be released on "license" (parole) before the end of the two year period. All offenders are supervised for one year after the expiration of their sentences; for misconduct or breaking parole they may be recalled to the institution for a period not exceeding one year. There is job placement for released or "licensed" offenders and, alternatively, provision for transfer to regular prisons for the remainder of the term if Borstal treatment is unsuccessful.

The results of the Borstal System have been encouraging. Statistics on the activities of former Borstal inmates indicate that rehabilitation is fairly successful. In a follow-up study from 1936 to 1943 of persons who had been discharged from the system for two to six years, the percentage of those not reconvicted fluctuated between 53.8 per cent and 63.5 per cent, with the remainder about equally divided between one and two or more reconvictions.²⁸ It is believed that most of those reconvicted only once could nonetheless be successes, and an overall estimate of rehabilitation has been placed at 70-80 per cent.²⁹

A 1915 study covering dischargees in the years 1910 through 1914 showed approximately 65 per cent success in the case of 1910 dischargees and up to approximately 83 per cent success in 1914 dischargees.³⁰ Although the percentage of successes may decrease with the passing of time, the 1915 study indicated that the rate of decline also decreases. Whereas the percentage of non-reconvictions dropped 10 per cent between the first and second year after discharge, the percentage decrease was only 2 per cent between the third and fourth years. Comparison of these figures with Gluecks' famous 1930 study which showed an 85 per cent recidivism rate among 510 former inmates of a then advanced institution for young offenders³¹ gives some indication of the efficacy of the Borstal System. Further indication of the success of the Borstal System appears from the fact that on February 1st, 1936, only 8.1 per cent of the total English male prison population consisted of ex-Borstal inmates.³² The Borstal System has been given much credit for the fact that between 1900 and 1935, thirty

28. Fry, *supra* note 27, at 163.

29. *Ibid.*

30. Tolman, *The Borstal System*, REPORT TO THE JUDICIAL CONFERENCE OF THE COMMITTEE ON PUNISHMENT FOR CRIME 53, 68 (1942).

31. GLUECK & GLUECK, 500 CRIMINAL CAREERS vii (1930).

32. Tolman, *supra* note 30, at 54. In 1948 records showed that 72.5% of federal offenders in the United States committed their first offenses before they were twenty-four years of age.

to thirty-five prisons were closed in England, and the prison population fell from 153,000 to 47,000 while the general population was increasing.³³ During the same period, the rate of crime in the United States was increasing seven times as fast as the general population.³⁴

The success of the Borstal type system is underscored by the experience of many continental countries having similar, if not as highly developed systems. Germany, for example, had for a number of years prior to the Nazi regime a rehabilitative system for treatment of young offenders which encompassed the principles of education and trade training.³⁵ Statistics indicate that the degree of success for all ex-inmates was approximately 70 per cent.³⁶ Particular institutions showed remarkable results. The State of Baden, for example, reported that out of 2,118 discharges in 1920 only 509 had committed further offenses by 1927; a success rate of about 76 per cent.³⁷

In Belgium, a rehabilitative program was inaugurated in 1912.³⁸ A survey conducted in 1930 showed that 73.7 per cent of the wards had not been sentenced for a criminal offense during the five year period following majority.³⁹ Since some offenders were released before majority and release was mandatory at majority, the survey actually covered more than a five year period following discharge. Finland, too, had a system emphasizing rehabilitation through education and specialized treatment.⁴⁰ Out of 2,957 minors discharged from the institutions, a 1934 survey showed that 2,357 were successfully rehabilitated⁴¹ when followed up ten years after release.⁴² France's system, in an early survey, indicated better than 60 per cent success.⁴³

Such figures provided the impetus for a general re-appraisal of treatment for youthful offenders; as a result, during the 1930's there was an almost universal swing to the rehabilitative method.⁴⁴ It is perhaps surprising that the United States lagged in this respect, though this may be attributable to the fact that, unlike the situation in most countries, the federal government cannot establish a central organization for the treat-

33. Flood, *Youth Justice*, 21 NEB. L. REV. 75, 84 (1942).

34. *Ibid.*

35. CHILD WELFARE COMMITTEE, INSTITUTIONS FOR ERRING AND DELINQUENT MINORS 17 (League of Nations Pub. No. 1934.IV.1).

36. *Id.* at 25.

37. *Ibid.*

38. *Id.* at 59.

39. *Id.* at 64.

40. *Id.* at 146.

41. *Id.* at 148.

42. *Ibid.*

43. *Id.* at 149-54.

44. See CHILD WELFARE COMMITTEE, INSTITUTIONS FOR ERRING AND DELINQUENT MINORS (League of Nations Pub. No. 1934.IV.1), for a compilation of reports from forty countries comprising a cross-section of the world. The reports contain descriptions of the systems in each country for the treatment of young offenders, and includes evaluations of the programs.

ment of all youthful offenders.⁴⁵ Attempts at reform have been made for many years, however. Elmira Reformatory in New York, for example, was a leader in the rehabilitative technique during the nineteenth century.⁴⁶

CONTEMPORARY DEVELOPMENTS IN THE TREATMENT OF YOUTHFUL
OFFENDERS IN THE UNITED STATES

Perhaps the single most important factor in the success of the Borstal System has been its classification procedure. The segregation of offenders according to the needs of the individuals rather than according to the crimes committed increases many fold the chances for rehabilitation.⁴⁷ In 1941 the American Law Institute proposed nation-wide adoption of the methods developed in England.⁴⁸ Following the appearance of a report on youthful offenders in New York City⁴⁹ by Harrison and Grant,⁵⁰ the Institute drafted a Model Youth Correction Authority Act. Response to the act has been slight, however, and at present only six jurisdictions (California,⁵¹ Massachusetts,⁵² Minnesota,⁵³ Texas,⁵⁴ Wisconsin⁵⁵ and the federal government⁵⁶) have programs based on the act. Two important departures from the model act made by these programs suggest the reasons why it received limited acceptance. Whereas the Institute's proposal was directed exclusively at minors convicted in criminal courts,⁵⁷ as distinguished from juvenile court proceedings, the statutes of the five states apply to both groups.⁵⁸ This innovation substantially increases the administrative bur-

45. Forty-nine separate enactments would be required, all embodying the same basic principles. The likelihood of this happening is perhaps remote, although consistency among the states has been attained in some instances through widespread adoption of uniform laws, *e.g.*, the UNIFORM NEGOTIABLE INSTRUMENTS LAW, which as early as 1924 was adopted by all the states. HAWKLAND, *BILLS AND NOTES* 10 (1956).

46. See, GLUECK & GLUECK, *500 CRIMINAL CAREERS* 23 (1930).

47. Cf. Fry, *The Borstal System*, in *PENAL REFORM IN ENGLAND* 143, 145-46 (Radzinowicz & Turner ed. 1946).

48. BECK, 5 *STATES* 1-2 (ALI 1951).

49. *Ibid.*

50. HARRISON & GRANT, *YOUTH IN THE TOILS* (1938).

51. CAL. WELFARE & INST'NS CODE ANN. §§ 1700-83 (West 1956).

52. MASS. ANN. LAWS c. 120, §§ 1-14 (Supp. 1955).

53. MINN. STAT. ANN. § 242.54 (Supp. 1955).

54. TEX. REV. CIV. STAT. ANN. art. 5143c (Supp. 1956).

55. WIS. STAT. §§ 54.01-38 (1953).

56. 18 U.S.C. §§ 5003, 5023-26 (Supp. IV, 1956).

57. MODEL YOUTH CORRECTION AUTHORITY ACT §§ 1, 11, 16 (1940). The use of the word "conviction" necessarily implies court proceedings. Juvenile delinquents generally are not "convicted." See, *e.g.*, N.Y. CHILDREN'S CT. ACT § 22.

58. CAL. WELFARE & INST'NS CODE ANN. § 1736 (West 1956); MASS. ANN. LAWS c. 120, § 4A (Supp. 1955) (In Massachusetts the Youth Service Board deals only with children up to 17 years of age, *id.* c. 119, § 52, and c. 120, § 4A); MINN. STAT. ANN. § 242.14 (Supp. 1955); TEX. REV. STAT. CIV. ANN. art. 5143c, § 12 (Supp. 1956); WIS. STAT. § 54.09 (1953); 18 U.S.C. § 5006 (1952). Cf. 18 U.S.C. § 5032 (1952), wherein juvenile delinquents, defined as law violators under eighteen years of age may be tried under ordinary court procedures. This would place them in the youthful offender category and thus subject to youth offender treatment.

dens of the system. Moreover, it is inconsistent with the rationale of the model act and the Borstal System, which is to concentrate on the rehabilitation of youths from sixteen to twenty-one since they commit a larger percentage of crimes than any other age group.⁵⁹ Broadening of coverage may well hinder the effectiveness of the rehabilitative program, because it must then provide for more diverse individual needs.⁶⁰ But the fact that juvenile court processes in most states also need overhauling may have discouraged the adoption of improved measures limited to youths sixteen to twenty-one.⁶¹

The second significant departure from the model act is the failure to impose substantial restrictions on the sentencing power of the court. Under the model act, every offender not sentenced to death or life imprisonment must be committed to the Youth Authority for an indeterminate term, subject only to judicial review after a specified period.⁶² The Authority has sole responsibility for determining the treatment to be accorded the offender and for coordinating the facilities of the state to administer it.⁶³ But legislatures, under pressure from the courts, have been reluctant to thus confine the judiciary to determination of guilt or innocence.⁶⁴ It would seem, however, that such a step is necessary for the effective operation of a Youth Authority program. A rehabilitative system requires the classification of offenders according to the type of treatment required. If the authority must depend on the court's determination of whether a particular offender can benefit from the correction system, and/or be subject to a court-imposed limitation on the term of commitment, the effective operation of the system will be seriously hampered.⁶⁵

California, which first adopted the youth authority concepts in 1941, has perhaps the most highly developed program in the United States and the one most closely patterned after the model act. After a youth has been accepted by the authority, he is assigned to a clinic where he undergoes observation and study through a modified psychiatric team approach.⁶⁶ He takes educational and vocational evaluation tests, and receives a thorough medical and dental examination with treatment as required. After three to six weeks, the clinical team discusses the youth, using the insights of their professions: psychiatric social work, psychology, medicine and surgery, religion, education and custody control. Final conclusions and recom-

59. See note 22 *supra*.

60. BECK, 5 STATES 6-8 (ALI 1951); MODEL YOUTH CORRECTION AUTHORITY ACT XV-XVI (1940).

61. Cf. Beck, *op. cit. supra* note 60, at 10-11.

62. MODEL YOUTH CORRECTION AUTHORITY ACT §13 (1940).

63. See, MODEL YOUTH CORRECTION AUTHORITY ACT XIV-XVI (1940); Beck, *op. cit. supra* note 60, at 2-3.

64. Notes, 54 VA. L. REV. 579 (1948), 17 U. CHI. L. REV. 683 (1950); cf. Crawford, *The Youth Correction Authority*, 21 U. KAN. CITY L. REV. 184 (1953).

65. Cf. Beck, *op. cit. supra* note 60, at 8-11.

66. These materials on the California Youth Authority system are adopted from CALIFORNIA YOUTH AUTHORITY, BIENNIAL REPORT 1953-54 (Cal. Dep't of Youth Authority Pub. 1955).

mentations are drafted and submitted to the Youth Authority Board for action. Thereafter, the youth makes an appearance before the Board, and, on the basis of this meeting and the clinical team report, the Board determines what disposition to make of the youth. Upon arrival at the particular institution selected, if such treatment is decided upon, the youth is again classified by a committee consisting of a psychologist, a representative of the education department, and a representative of the care and custody department. A plan of action is adopted designed specifically to meet the needs of the individual, including his living quarters, educational and vocational program, and probable work assignments. In addition to academic and vocational training, the institution provides regular religious services and individual religious guidance and counselling. There are also recreational programs which are designed to teach the youngsters to utilize their leisure time in a constructive and acceptable manner. Outside activities, for example, trips to ball games and theatres, give the wards contact with the community. A recent innovation has been the granting of furloughs for wards meeting specified standards.

Throughout his stay at one of these California institutions the youth undergoes pre-placement training, directed toward his adjustment to society. In the final phase this training consists of meetings with classification counselors, with special attention being given to the youth's particular problems. Finally, when the institution recommends the youth for release, the Youth Authority Board decides on post-institution placement for him and upon agreement of both institution and ward, release is automatic. Initially, placement is on a trial basis, under stricter conditions and closer supervision than ordinary parole. If the results are satisfactory, full parole is granted after three months. Full discharge occurs either when there is reasonable probability that the youth can be given full liberty without danger to the public, or a period of two years has expired from his commitment or he has reached his twenty-first birthday, whichever first occurs. A person committed from an adult court must be discharged on his twenty-third birthday, or, if convicted of a felony, at his twenty-fifth birthday.

Only in California has a program been in existence long enough to estimate its success.⁶⁷ Of the 10,000 youthful offenders and juvenile delinquents who have passed through the hands of the California Youth Authority, it has been reported that less than 25 per cent have failed on parole or committed new offenses after discharge.⁶⁸ It would seem that this figure must be discounted by the probability that a certain number of discharges leave California, thus preventing accurate follow-up, and by the fact that it was too early to make definite statements about the most recent discharges. But even a conservative appraisal of this figure compares favorably with the results of a survey covering a five year period in

67. Minnesota initiated its program in 1947, Massachusetts in 1948, Wisconsin in 1947, Texas in 1949, and Congress in 1951.

68. H.R. REP. No. 2979, 81st Cong., 2d Sess. 7 (1950).

the 1930's before the Youth Authority was created; during the period 69 per cent of those released from California correctional institutions either failed on parole or committed new offenses.⁶⁹

Although accurate results from the other four states and the federal program are not available, primarily because of the short time which these programs have been in existence, indications are that the California experience will be repeated.

CONCLUSION

Treatment programs for youthful offenders in most state institutions remain similar to those for adult offenders in prisons. While there is emphasis on academic education, group recreational and athletic activities and, to a lesser extent, vocational training, dependence upon rules and discipline remains characteristic; few institutions have the counselors, case workers and psychologists necessary to provide an intensive treatment program.⁷⁰

Experience with the Borstal System indicates this type of treatment is definitely superior to more conventional punitive measures for dealing with youthful offenders. Much more serious consideration of the system is warranted in the United States than has so far been given it. Although Borstal-type treatment may involve some loss of deterrent effect on potential offenders in comparison with other more punitive forms of treatment, loss of liberty from commitment alone should remain a considerable deterrent. Greater effectiveness in preventing recidivism among actual offenders would adequately justify the adoption of a Borstal system.

H. G. W.

69. *Ibid.*

70. U.N. Doc. No. ST/SOA/SD/1 (1952).