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PUNISHMENT AND THE CORRECTIONAL FIELD

THOMAS J. MCHUGH*

THE ROLE OF PUNISHMENT in the field of correctional treatment has been a matter of some controversy in recent years. Many social workers and theoretical penologists have insisted that the concept of treatment of offenders, including prisoners, parolees and probationers should include nothing of a punitive nature. They contend that supervision in the community or segregation in an institution should be solely designed to rehabilitate, readjust and change the attitudes of offenders workers and theoretical penologists have insisted that the concept of treatment.

Readjustment and rehabilitation are unquestionably the objectives of all correctional treatment but, consciously or unconsciously, punishment is implicit in the methods used to attain these objectives. With few exceptions, those who have had practical and extensive experience in the development and furtherance of correctional programs accept the fact that offenders are being punished when they are convicted and sentenced to any form of correctional treatment. They accept the fact and extend their efforts to obtain constructive results from the punishment.

Accepting completely the place of punishment in correctional treatment, this article will present some of the problems of the correctional field and how punishment in its various manifestations relates to the manifold problems of that field.

It is impossible to divorce punishment from any of the forms of legal restriction or control which are known to the correctional field today. Those dealing directly with offenders, including judges, probation and parole authorities, heads of correctional institutions and other workers in close relation to the subjects of such restrictions, accept the fact that

*A.B. (1931), Niagara University; M.A. (1938), University of Buffalo. Former New York State Commissioner of Correction.

the restrictions are punishment and cannot be considered otherwise. Controls which interfere with the voluntary activities of individuals, which impose limitations on freedom of action and choice are punishment, just as any enforced, involuntary, unwanted discipline is punishment. It matters little if the theoretical penologist or criminologist with a philosophy of permissiveness succeeds in eliminating punishment from his own concept of proper correctional treatment; it is invariably in the concept of the offender who is subject to the restriction, no matter how great are the skills, techniques, and persuasiveness of the individual with the approach he considers non-punitive.

There is nothing inherently wrong in imposing punishment for wrong-doing. Every criminal act is basically an act of will, if the offender is mentally competent, and just as the laws of God impose prohibitions on wrong-doing and warn of the punishments that follow violations of those laws, so do the laws of man. While man has free will he must be prepared to face the consequences of his acts — reward if good, punishment if bad, if he has adequate mental competency. In the history and tradition of civilized man, reward and punishment have been correlated with good and bad conduct since the beginning.

The question then remains: Can punishment in correctional treatment be used constructively and be directed with reasonable success toward the single objective of all correctional work — protection of the community through the rehabilitation and readjustment of the offender? An affirmative answer assumes that society is fully protected only when the offender becomes changed and is no longer an offender, and that segregation or incarceration alone is only a temporary measure of protection,

since ninety-seven per cent of those imprisoned return eventually to the community. There are some individuals who must be segregated from the community for long periods of time and frequently for life because they represent serious threats to the community and present problems with which we cannot cope at the present time. Fortunately these untreatable cases are in the minority.

If we accept the fact that punishment is an integral and unavoidable part of any correctional treatment program, consideration must then be given to the kinds of punishment used, the degree of punishment imposed, and its method of exercise or execution. What kinds are effective and what ineffective? What can be done to make punishment more effective in its application in correctional work and in its results?

The three major forms of correctional treatment employed in the United States are prison, parole, and probation. These will be considered in the order listed, with prison taken first because of its serious impact upon the prisoner, his family, and on the community.

The United States and New York State in particular are notorious throughout the world for the excessive sentences imposed upon convicted offenders. Sentences of nine to ten and nineteen to twenty years and those with similar short spans between minimum and maximum terms are not infrequently imposed in New York State. These types of sentences must be considered as punishment alone, punishment without any objective of readjustment, because they provide little opportunity for after-care agencies to help in the adjustment of the offender from the artificial life of the institution to the comparatively free life of the community. At the same time the courts imposing these sentences must be

well aware of the fact that the individual will come out sometime, at the expiration of his maximum sentence, when nothing, under the law, can keep him in, and that he will then have little, if any, help or guidance, just when he needs it most. Judges who believe that they can tell at the time of sentence that nine years or nineteen years, or any specific period of time, will correct a particular individual's criminal tendencies must also believe that they have prescience close to the Divine. If they believe that the long minimum sentence provides more effective and lasting rehabilitative results, they should carefully examine correctional institutional programs, understanding the limitations of institutions, and be prepared for disillusionment.

New York State law now permits wide discretion in the imposition of sentences, and socially-minded judges have used this discretion wisely. For example, conviction for the crime of burglary third degree may be followed by a sentence of any range between one to ten years. It may be one to two, one to three, two to five or any other combination within the limits set by law. A wide range in the sentence between minimum and maximum, if authorized by the judge, enables the parole board to study the case at an early date, possibly within one year and then, if necessary, review it at periodic intervals thereafter. Backed by the full resources and reports of the vocational, psychiatric, psychological, medical and disciplinary facilities of the institution, the board can then determine with more assurance than the court the best time for release of the individual. If supplemented by discretionary parole discharge, not now legal for indeterminate sentenced prison inmates, these types of sentences and release procedures would

provide correctional treatment of a much more individual nature than that now generally in use.

Many judges do not use their discretionary power in imposing minimum and maximum terms wisely. Some judges are less objective than others, are more affected personally by the nature of the crimes committed and by their own "blind spots." The end results are usually excessive sentences. Then too, it frequently happens that long sentences with short ranges between minimum and maximum terms are imposed during periods of hysteria when crime waves of varying severity have aroused the community and brought undue pressure on the courts. Often, the courts respond to public demand and fear with sentences that are excessive, leaving little room for correction and not really producing the protection the public believes it is getting. Unfortunately, the general public is inclined to forget offenders once they are sentenced to prison. They are considered problems solved when actually they are problems only deferred, problems postponed, because they are going to leave prison eventually and, tragically, usually far more dangerous to public safety than when they were committed.

The great variety of sentences for the same crime imposed throughout the State of New York due to the wide discretionary powers vested in the courts has created unrest and bitterness among prisoners. It is not unusual for a prisoner sentenced from one part of the State to meet a fellow prisoner from another part of the State who committed essentially the same crime and has the same general background but whose sentence is far less than his own. The injustice of such a situation is obvious.

The answer to this problem may lie in mandatory, widely spaced minimum and

maximum sentences or in a single broad indeterminate sentence of one day to life for all felony convictions. If constitutional and acceptable to the courts, this latter might be a solution. If fully implemented with mandatory periodic review, at least every two years, by a parole or review board, with study and treatment facilities in prison and on parole, and discretionary parole discharge when appropriate, this latter type of sentence would guarantee to a greater extent than any other the application of the principle of individual treatment. Punishment would then be truly used as a method of treatment and not as a method of retaliation or vengeance.

An historical look at the correctional system of the State of New York will help bring the question of punishment and treatment into better perspective. This system has been in existence for over a century and a half. During this period, countless thousands of human beings have passed through the gates of our state prisons and reformatories, many of them to assume an accepted pattern of normal social life, but far too many to return again to incarceration as parole violators or because they have been convicted of new offenses. Other thousands have been placed under the supervision of our probation and parole services and their successes or failures on probation or parole have been dependent largely upon the quality of those services.

The history of this tragic procession of offenders through our institutions and agencies is the history of our progress in correctional methods. This progress has not been significant. It has been marked only by the development over the years of improved personnel selection, more humane methods of treating prisoners, by some deeper insights into their motivations and by the improvement of methods of community su-

per vision of offenders, specifically probation and parole. Basically, the concept of imprisonment or punishment for reformation remains the same, and in the years that have passed since the inception of this concept it has not demonstrated its effectiveness. The rate of increase of recidivism has not been retarded but has grown steadily, keeping pace with, if not exceeding, the rate of increase in prison populations over the years.¹

In 1796, the first prison in New York State, Newgate, opened in Greenwich Village to receive its first prisoners. The opening of this prison marked the beginning of the correctional system of the State of New York. The program of this institution formulated by its first warden, a Quaker,

¹ In the United States during the calendar year 1957, 39,535 prisoners, out of a total prison population of 169,431, were released on parole. In the same period 11,004 were returned as violators. This figure relates to state prisons and reformatories reporting to the Federal Bureau of Prisons and does not include short term institutions or jails where the incidence of recidivism is much higher. NATIONAL PRISONER STATISTICS, A REPORT OF THE WORK OF THE FEDERAL BUREAU OF PRISONS, Table 34 (1958). As for federal institutions: "The proportion of repeaters received into Federal institutions rose again to a new record. This year 66.6 percent of the 10,322 prisoners received in Federal institutions with sentences of more than one year had served one or more previous terms in either State, Federal, or local institutions. This proportion was greater than in any of the previous fifteen years for which comparable data are available." *Id.* at 63. New York State, which is generally accepted as having one of the better parole systems in the United States, has a method of statistical reporting which studies the cases of all paroled prisoners five years after they have been released. A study of 3,164 men released in 1953 on parole from New York prisons and reformatories revealed that in five years 1,801 (56.9 percent) were not delinquent in that time. However, 1,368 (43.1 percent) violated parole in the five year period.

was founded on a principle of reformation rather than retribution, of readjustment rather than revenge, a principle so far in advance of its time that it was foredoomed to early failure.

The plan of incarceration for reformation instituted at Newgate in 1796 was a new and unique method of handling offenders. Previously incarceration had been used almost exclusively for debtors, those awaiting transportation and exile in prison colonies, or for those awaiting execution for one of the dozens of capital crimes then on the statute books. The plan at Newgate was based on a system that was then being tried by the Quakers in Philadelphia at the Walnut Street Jail, and the movement in New York was clearly influenced by the religious thinking of this group.

Incarceration as a method of treatment, as a substitute for the death penalty, was an innovation in penal concepts. Reformation as an objective, rather than atonement, was an advanced and progressive idea, a component of the philosophy of individual rights and dignity which had been born with the new Republic. This guiding principle, that the state had a responsibility to try to reform offenders, somehow stayed alive during the many investigations and complaints, successes and failures of the penal program in the nineteenth century and resulted finally in the acceptance of the principle of individual treatment, at least in theory. This principle, however, has been put into limited practice only in the programs of correctional institutions because of the inherent difficulties presented by the huge size of most correctional institutions with their overcrowding, understaffing and necessary mass treatment of prisoners.

Unfortunately, the experiment introduced at Newgate and extended to the new

prison at Auburn was short-lived. Overcrowding and political interference brought the program of mild and humane treatment to an abortive end. Recurring riots, arson within the prison and escapes so disturbed the public that there was a strong demand for a return to the practice of capital punishment for felonies.

This demand was not heeded, but after the failure of Newgate the legislators completely discarded the idea of reformation and adopted precisely the opposite extreme of treatment. It authorized the construction of solitary cells at Auburn, reasoning that better results might be obtained if prison life and punishment were made drastic and terrorizing, since confinement alone had not proven a deterrent to crime, nor an inducement to reformation.

After the construction of the single cells, inmates were classified according to their previous crimes. Some prisoners were to work in association during the day and be in seclusion at night; some were to alternate between confinement and labor to distract their minds. The Auburn Prison Board of Inspectors in 1821 affirmed their faith in this system, asserting:

... let the most obdurate and guilty felons be immured in solitary cells;

... let them brood over the horrors of their solitude and the enormity of their crimes, without the hope of executive pardon.

The extremities of this punishment were such that a number of inmates died; others became psychotic and many attempted suicide.

Because of the severity of this punishment and its results it was necessary to modify it, and over the years more humane methods slowly developed. The walls, the cells and the long sentences remained,

however, and there is little fundamental difference today in the physical appearance of a prison than in 1843. The cells are larger, there are no chains, personnel are better, the treatment is more humane, and attempts are made to apply the principles of individual treatment. There is still, however, the same segregation from society in most cases, the same basic discipline, the same deleterious effect of prisoner upon prisoner and the same lack of practical training for existence in the community.

The objective first espoused at Newgate was an excellent one — reformation. The methods used, punishment and atonement alone, seldom succeeded in producing reformation. Eventually leaders in the correctional field recognized that punishment alone was not enough to attain the goal of reformation, that there must be deliberate efforts to retrain men and reshape their thinking according to their needs and capabilities. With this recognition the principle of individual treatment for prisoners evolved.

Unfortunately, while this principle of individual treatment has long been accepted as necessary if progress is to be made, it has just as long been neglected. The correctional field has seldom stopped to evaluate the reasons for its failures and when it has, it has failed to change its course. It has failed to experiment, to make new efforts, and as a result, our methods are fundamentally the same as they were a century and a half ago and just as ineffective. We are treating men in the mass, not individually; as numbers, not names.

The apathy of the public is partly to blame for the lack of progress in correctional treatment. Throughout its entire history the correctional field has ignored its responsibility for the education of the

public. Because of this neglect the prevailing concept of crime and its treatment remains substantially the same as in the eighteenth and nineteenth centuries. The community, properly concerned with its security and protection, is familiar with only one method of treatment — the removal and segregation of the offender. The offender has wronged and threatened society, so society will punish him until he is no longer a threat. Unfortunately it does not work that way, because continued and excessive punishment usually intensifies the threat.

Today in the United States we are faced with many serious problems resulting from the highly increased rate of crime and delinquency. We are fast approaching a crisis in our correctional systems, particularly in our institutional systems. We are facing a crisis produced by mounting prison populations, tremendously increased costs of prison construction and maintenance and — most frustrating of all — a dawning recognition of the sterility of institutional programs as methods of constructive treatment for the improvement of offenders.

Few individuals, if any, actually benefit from penal confinement. Correctional institutions are relics of the thinking of the post-Newgate era, the nineteenth century, when it was accepted that punishment and confinement alone would automatically produce reformation. Our ideas have changed over the years but our prisons have not. While we have become more humane perhaps, there has been little change in the theory and purpose of confinement and institutions.

If there has been any development in correctional treatment over the years it has been the acceptance of the principle of individual treatment of the offender — the recognition that offenders cannot be con-

sidered identical in motivation, attitudes, emotional balance or intelligence and will not react identically to any single approach or method of treatment. There are as many different methods of treatment as there are problems and multiple problems for many offenders. It is almost impossible however, to apply this principle in institutional treatment.

Prisons by their very nature are antitheses of the principle of individual treatment. They require regimentation of inmates and foster dependency as an essential requirement of institutional living. In most cases we take away any constructive initiative the inmate might have had and let him channel his initiative into learning or developing methods of evading or breaking institutional rules. Institutional life by its very nature is difficult and oppressive. It presents no opportunity for the development of resourcefulness, independent thinking, or the exercise of judgment, all of which are requirements for normal community living.

The tragic wasteful aspect of incarceration with its astronomical cost is that so many prisoners are idle in correctional institutions while others gain little benefit or training from the employment they may have. Work days in institutions are frequently so short that inmates are not even disciplined to steady, regular employment when they return to the community. Training resources are limited because of economic and teaching limitations, and rarely does a prisoner leave an institution to accept employment for which he was trained exclusively in the institution.

Prisons seldom provide the answer to society's criminal problems. They do provide a form of protection for society, but this protection is usually only temporary since, statistically, at least ninety-seven per-

cent of prisoners leave prison, at some time, to return to community life. Too often, in spite of the efforts of prison administrators, they leave prison with more serious problems than those which brought them there.

What we do to the criminal conditions what he does to society. Our efforts to change him, to correct his antisocial tendencies, should be concentrated on modifying the kind of conditions that made him what he is — on changing his associations, environment and attitudes. Instead, and this is the paradox of prisons, when we incarcerate him, we put him in a far worse environment than that which originally molded him; we put him into association with companions far worse than those he would have joined outside and we expose him to attitudes and abnormalities he might never have encountered in the community. Too often we remove from society an individual who has had a problem, aggravate the problem in an unnatural setting — the institution — and then expect a parole or after-care agency to work a miracle and adjust him to society's standards.²

² "It is known that congregation of offenders has unavoidably bad influences on some inmates. Some inmates get progressively wise and sophisticated; others develop antisocial attitudes as a result of their experience in correctional institutions. Some develop friendships and contacts that are used when they are released. It is true, in part, that the correctional institution is unavoidably a school for crime and unavoidably assists in the making of some criminal careers. [I]t takes a very adequate program in terms of individualized treatment and in terms of a day fully occupied by constructive work, education, and recreation to keep the criminal influence in such institutions at a minimum." RECKLESS, *THE CRIME PROBLEM* 148 (1950).

"The prison or reformatory with an armed-fortress atmosphere, with a severe discipline system, poor segregation practices, poor facilities for health, education, recreation and lacking good reception, classification, and release practices can

In short, in spite of all we may say about our objective of rehabilitation and adjustment, in spite of the theories of correctional treatment, incarceration is basically punishment and too often excessive and unnecessary punishment, considered in the light of society's needs.

This is no advocacy of the abolition of correctional institutions. Correctional institutions are necessary for the protection of society and for the confinement of prisoners because there are too many individuals with problems beyond our ability to control or treat. Our skills have not been fully developed to the point where we do not need institutions for the segregation of dangerous or uncontrollable offenders or for those on whom society has exhausted all its alternative resources. There are many vicious and depraved prisoners who are not made that way by institutional life. Unfortunately there are many who are

We must face the fact that correctional institutions are not doing the job they were originally expected to do; that they are an ever increasing burden and we must look for all possible alternatives for the many prisoners who are amenable to some other form of correctional treatment. Prison in itself is unadulterated punishment which grows worse and loses its effectiveness as a means to readjustment the longer the potentially adjustable prisoner is incarcerated.

The answer, if any, to the problem of increasing prison populations and rising criminal statistics is the actual application of the principle of individual treatment rather than mass treatment. An approach would be the establishment of a widely diversified system of small institutions for prisoners.³ There should be a definite movement away from the mammoth, heavily populated institutions, which have created so many problems in the United States, toward these smaller institutions. It is

very readily revert to a human jungle that brutalizes rather than improves prisoners. As a matter of fact, it is very difficult to keep the jungle cut back so that cultivation of the personality can take place. The prison and reformatory jungle consists of the growth of antisocial attitudes, corruption and vice, and mental and physical deterioration. . . . It is clear that men worsen in confinement unless provided with ample opportunity to improve themselves within the controlled environment. It is because of the persisting institutional jungle and the worsening of offenders in this jungle that some authorities advocate the idea of doing away with prison and reformatories as such and of substituting entirely different treatment measures and institutions." *Id.* at 590, 591.

Unfortunately, the large heavily populated prisons and reformatories in the United States make it almost impossible to provide the facilities necessary for the full occupation of time of prisoners and adequate individual treatment. The destructive effects of imprisonment on the personality of prisoners and the lack of real preparation for return to the community make family and social adjustment an almost insurmountable problem.

³ The fact is that the smaller institutions, particularly those of a minimum security nature like forest camps, are usually occupied by carefully selected prisoners who are placed in them because they are good security risks. In 1955 and 1956 New York State established a program of prison camps initiating the program with two open forestry reformatory camps of fifty to sixty men each. These were remarkably successful because of the relationship which could be developed between camp counselors (guards) and camp inmates because of constant association. This kind of an arrangement differs from the large reformatories and prisons where guards supervise companies of men numbering several hundred. Parole and probation systems are successful because both treat and try to adjust prisoners in the community away from the harmful surroundings of the institution. Figures vary according to the statistics of different states. New York State's statistic of 56.9 percent who were not delinquent in any way after a five year period under close supervision is an indication, it would seem, of the success of a parole system.

almost axiomatic that success in adjustment is in direct ratio to the size of the institution — the smaller, the greater the success. In other words the closer the approach to normal community living, the greater the possibility of successful adjustment.

One objective of punishment is to deter. Reasonable punishment may deter, or it may teach better values. Excessive punishment will not deter. Punishment that is oppressive, barely endurable, or too long, degrades the subject and is destructive rather than constructive. Excessive punishment will not deter. At best, it will beget fear and personality corrosion; at worst, it will beget vicious bitterness and a compulsive need for retaliation on individuals and on society as a whole.

There should be considerable flexibility in our laws to permit the release of offenders to independent community living at the optimum time. This time should be determined by careful and experienced study of all the facts and findings in each individual case. It is the time when supervision in prison or in the community will no longer help the offender — when it begins to damage him, and this might happen after one day or after ten years, depending upon the individual. The need for flexibility applies equally to the highly restrictive supervision of prisons and parole and to the less restrictive supervision of probation. If this flexibility could be developed in our laws, we would be closer to the goal of individual treatment for offenders and punishment would be used as one of many tools of treatment, and not for its own sake alone with its questionable results.

Parole as a method of treatment of offenders is a vast improvement over incarceration since it enables a skilled parole

officer to assist the ex-prisoner in his re-adjustment to the community while he is actually living and working in the community. He can help him bridge the gap between the artificial and dependent life of the institution and the independent natural life of the community. Parole supervision, however, must be restrictive and limiting to a great extent because the individuals under supervision have all been convicted and committed to correctional institutions, have probably been affected in some way by the harmful influences of other prisoners, and in most instances have come out with more problems than they had when they entered the prison. Unfortunately, in addition, the very fact of their commitment makes them dangerous offenders in the eyes of a large segment of the public. Public and newspaper reaction to new offenses by parolees is usually so strong that the parole agency must exercise every possible supervisory precaution to avoid unfavorable publicity and criticism. It is one of the inherent problems of parole that its failures are always news while its successes are rarely news and are usually presented in undramatic statistical form.

Parole officers must have thorough understanding of the peculiar kinds of problems brought out of prison if they are going to be effective in their efforts to help parolees and at the same time protect the community from further depredations. Some of the problems which require special understanding are these:

(1) The effect of the almost permanent stigma of arrest and imprisonment and the attendant publicity on the offender and more importantly, on his family.

(2) The problem of the ex-prisoner's reunion with his wife and relatives after long imprisonment.

(3) Sex problems resulting from long imprisonment which may affect the entire future life of the individual and his family.

(4) The problem of complete dependency which has been fostered, even demanded, in many correctional institutions. This blocks to an extraordinary degree the true participation in planning which is so necessary in case work treatment.

(5) Dislike, resentment or disrespect for the law which may have been bred in prison by experiences or by associations.

(6) The problem of establishing good treatment relationships in a setting which is primarily legal and carries the constant threat of arrest and re-imprisonment.

(7) The problem of continuing association with other ex-prisoners. This is always a matter of concern for parole officers. The association is often understandable, for frequently ex-prisoners are rejected by the community and find what they believe to be a common ground or understanding only with other former prisoners.

Ordinarily, citizens do not realize the difficulties encountered by an inmate who has been confined for a long period of time. He is confused, insecure, apprehensive, unable to make a decision — unable, frequently, to perform the simplest task by any standard of normal community living. A restaurant, a department store, a bus, an employer, present problems magnified out of all proportion by the individual's long absence and complete dependency on others. He requires a period of pre-parole orientation in prison to help prepare him for release; and then exceptional help when he "hits the street."

It is a sad commentary on our modern methods of correctional treatment that all but a few of our modern correctional institutions send a man out of the institution

to the supervision of community agencies with more problems than when he entered, and particularly with new problems he might never have had if he had not been committed to an institution in the first place.

Probation, as a method of correctional treatment, provides the greatest hope for effective and lasting results.⁴ Effective understanding, controlling probation services and the supervision of selected offenders in the community, as an alternative to commitment to an institution, are possibly better answers to the problem of treating offenders than anything we have at our disposal now. If staffed adequately and given strength, probation can be one of the most effective weapons in the community arsenal against crime.

The weakness of probation has always been inadequate staffing — too many cases for one officer to supervise in the community. In such instances probation supervision is only nominal and cannot be effective as a rehabilitative and controlling service. Probation officers must have only as many cases as they can properly supervise — small enough case loads so that they can know the activities, constructive or destructive, of the probationers under their supervision and provide the help they need. Anything less than this is short-sighted economy and a tremendous waste in terms of human values and finances.

It is unfortunate that the value of pro-

⁴ See BARNES & TEETERS, *NEW HORIZONS IN CRIMINOLOGY* 774 (2d ed. 1951). "As we have stated before, probation is the hope of the future in the adjustment of both adults and juveniles. Yet it cannot succeed unless judges present a *convincement*, unless the service is adequately financed, and unless the staff is professionally trained and employed on a merit basis." *Ibid.*

bation supervision in the community is not more widely recognized and accepted. Society, blindly fearful of the men it has put behind walls, demands maximum security provisions for them even though there is but slight distinction, in many cases, between them and the men placed under probation supervision by the courts. For the men in prison, in New York explicitly, there is one custodial officer for every seven or eight prisoners. This is in addition to the walls and bars and weapons which control the prisoners. Yet under probation supervision where an offender has a real chance to adjust, under guidance, with his family, self-supporting and at a minimum cost to the state, there is usually one probation officer to seventy or eighty men, very often many more.

It is my conviction that far more men are committed to correctional institutions than should be — that many are committed because there are no other resources to which the court can turn. In my personal experience I have interviewed thousands of prisoners. Many of these were ready to go out, some should never have gone out, but far too many should not have been in the institutions and would not have been if there had been adequate probation services in which the courts had confidence.

Probation is punishment certainly. It is restrictive, limiting, and the probationer is guided by rules and regulations the violation of which may result in greater punishment. It is nevertheless a form of punishment that can be constructive and can be used as a therapeutic tool to help in the readjustment and rehabilitation of

an offender. Probation permits individual treatment to a much greater degree than incarceration, and good probation supervisors who have the respect of the offenders under their supervision can do exceptional jobs in changing their thinking and in helping them readjust to constructive, contributing lives in the community.

Every effort should be made to focus the attention of the public on the inadequacies of our prison system because by their very nature prisons are inherently places for punishment alone, and should be used only to protect the public from those we cannot treat or correct.⁵ If society is to have adequate protection and the offender the opportunity he deserves, there should be a complete re-evaluation of our modern methods of correctional treatment with emphasis on exploration and experimentation in all possible areas where treatment can be conducted in the community.

⁵ See ATT'Y GEN. REP., SURVEY OF RELEASE PROCEDURES vol. 5, at 35 (1940). "[C]ertainly no other social agency in the history of America has been the graveyard of so many fine ideals. Punishment for crime through custody in a prison may be the best solution society has yet found to satisfy that feeling for justice which is instinctive with human beings; it may even be of value in shocking some people into a realization of how far from social adaptations they have strayed; it may be the only means of protecting society from the depredations of the abnormal, sub-normal, or vicious criminal. But a realistic view of 150 years' experience with imprisonment as a means of rehabilitation, moral, physical, intellectual or industrial, does not incline one to an optimistic conclusion. After all is said and done, imprisonment remains chiefly a custodial and a punitive agency." *Ibid.*