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REHABILITATION v. RECIDIVISM—THE CALIFORNIA YOUTH AUTHORITY PLAN

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They may say "there's no such thing as a bad boy" (or girl), but what about those boys and girls who "go wrong," the five per cent¹ who incessantly offend against the rules of society observed by their contemporaries? How should they be handled? Should they be allowed to drift in and out of prison associations with older and more hardened criminal types to become recidivists² in their later years, or should they be retained for useful roles in a society whose pressures contributed to their digressions?

These are questions to which law enforcement authorities, legal minds, sociologists, and experts in the mental and psychological fields in every state in the country have been addressing themselves with particular emphasis in view of the rising incidence of what is known as "juvenile delinquency" in these post-war years.

Nearly a decade ago the State of California cast its lot with a program for retraining its maladjusted when, in 1941, the state legislature set up the California Youth Authority,³ modeled after the Youth Authority Plan submitted to the nation in 1940 by the American Law Institute.⁴ California, in 1943, shifted the responsibility for youth correction schools from the then existing Department of Institutions to the newly organized Youth Authority,⁵ officially removing any remaining vestiges of a "reform school" atmosphere connected with the plan.

The main objectives of the new approach made possible under the Youth Authority Act⁶ were: (1) substituting methods of rehabilitation for young persons⁷ afoul of the law, and (2) prevention of re-occurrences of delinquency. In attaining these objectives the boys and girls are given the same quality of treatment irrespective of race, color or creed. There is no segregation and no favoritism.

The three members of the California Youth Authority Board, charged with responsibility for organization and operation of

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¹ "Youth, California's Greatest Natural Resource," Address: Honorable Earl Warren, Governor of California, Sacramento, January 23, 1948.

² BOUVIER'S LAW DICTIONARY (Baldwin's Century Edition) "Recidivist: a habitual criminal. One who makes a trade of crime. Reformation in such cases is rare . . ."

³ CALIF. WELFARE AND INSTITUTIONS CODE, §1700 (Deering 1937).

⁴ "Organization of the Youth Authority and Outline of Its Program" (May, 1949, by Vandyce Hamren, Assistant to the Director).

⁵ CALIF. PENAL CODE, §6002 (Deering 1949).

⁶ CALIF. WELFARE AND INSTITUTIONS CODE, §1701 (Deering 1937).

⁷ §§1731.5 and 1732. Young Persons, Age: ". . . less than twenty-one years of age at the time of apprehension . . ."

the Youth Authority, are appointed by the Governor. One is appointed directly; the others are appointed by him from a list⁸ of persons recommended by the advisory panel.⁹ All appointments are subject to confirmation by the senate and are for four years.¹⁰

Powers of the Youth Authority Board regarding classification, education, and rehabilitation are outlined in the law¹¹ passed by the California Legislature:

The powers and duties of the Authority in respect to classification, segregation and parole of persons committed to the Authority or to, or for placement in correctional schools shall be exercised and performed by the Authority as such, shall not be delegated by it to, nor exercised or performed by, any individual member. . . .

The Youth Authority, after careful examination of any offender entrusted to it for retraining, may accept or reject the individual as a ward depending on need for treatment such as Authority facilities afford and the probability that the youth will benefit. The Youth Authority exercises its responsibility only in regard to those youths who are considered, after careful examination and evaluation, reasonable risks for rehabilitation. The feeble-minded, insane, mentally ill, sexual psychopaths, or psychopathic delinquents may be returned to the committing court for discharge from the control of the Authority.¹²

CAREFUL SCREENING

Rehabilitation is sought through use of the latest techniques: (1) diagnosis of factors entering into anti-social behavior; (2) classification of offenders on basis of age, mental capacities, emotional stability, and retraining accordingly; (3) individualized treatment and retraining through a program of work and re-education; (4) adequate parole supervision to guide individual re-entry into the conventional social life. At the initial appearance interviews, the assembly line program of even the best operated reformatory is broken down.

The Youth Authority concept is that the delinquent youth is a person in difficulty and in need of guidance, discipline, and re-education. The Authority believes that actual experience has long since proved that the "treat 'em rough and throw away the key" school of penology is a totally erroneous approach to the solution of problems of delinquency and crime, neither does the

⁸ §1712.

⁹ §1713. "The following persons are hereby constituted the Advisory Panel: The President of the California Conference of Social Work, the President of the California Probation and Parole Officers Association, the President of the State Bar of California, The President of the California Medical Association, the President of the California Teachers' Association and the President of the Prison Association of California.

¹⁰ At \$12,000.00 per year plus travel expenses for the Youth Authority member designated "Director" by the Governor, and \$10,000.00 per year plus travel expenses for the other two members.

¹¹ CALIF. WELFARE AND INSTITUTIONS CODE, §1725 (Deering 1937).

¹² §1756.5.

Authority seek an answer in the over-sentimentalism sometimes referred to as the "sob-sister" approach.¹³

After a boy or girl is assigned to the Division of Diagnosis and Classification for initial study of personality traits, mental aptitudes, historical, psychological and sociological factors, heredity and environment, the next step is to the Division of Training and Treatment for placement in the type of school or camp designed to be most helpful in retraining. There are six schools and four forestry camps operated by the California Youth Authority.

Programs and facilities are created for younger, intermediate, and older boys. The facilities for girls are so arranged as to make it possible for separation of the younger from the older girls, and these from girls with a more confirmed delinquency pattern.

A program on a pre-vocational or pre-apprentice basis with extensive shop and farming operations is maintained for the older boys. The training received is largely of a terminal nature, and its cost would be prohibitive unless it served a comparatively large number. Within any group of older boys there are members who would not benefit from technical training and who need an active *work-habit-forming* program. For this type the forestry camp is an ideal unit. Forestry projects, with a supplemental program of recreation, education, and religious training, can also be used for a tapering-off period for boys who have been referred on parole from the larger institutions, making their re-entry into normal living less abrupt.¹⁴

TEEN-AGE PROBLEMS

Governor Earl Warren of California has pointed to the dilemmas regarding teen-age delinquency:

There appears to be a mounting wave of serious law violations by boys and girls, 16, 17, and 18 years of age. They need to be protected from the serious effects of their own actions and society is entitled to be protected from them. Soft and sentimental treatment is no favor either to this type of youth or to our citizenry.

One increasing problem is the matter of employment for teen-age boys and girls. They have no veterans' employment rights. They find difficulty in securing vocational training. Many are not interested in academic instruction.¹⁵

For the younger boys a formal type of program is advocated where academic education and simple vocations are the foundation of the training. It is recommended that the population of this type of school should not exceed 300. Also, for the younger

¹³ California Youth Authority: Report of Program and Progress (1943-1948, By Karl Holton, Director), p. 35.

¹⁴ *California Youth*: A summary of speeches and recommendations at Governor Earl Warren's Conference on Youth Welfare (Sacramento, Calif., Jan. 29 and 30, 1948), p. 73.

¹⁵ Warren address, *loc. cit.*

boys, there should be a ranch or camp type of school, where simplicity and informality is the basis for the program.

After a rough, natural separation on the basis of age, sex and physical maturity, the breakdown for day to day living while under Youth Authority guidance is made into smaller groups to lend emphasis to individual retraining. The size and type of the living units will vary somewhat with the age of the youth. Cottage-type buildings, housing not more than 30, have been found preferable to large dormitory-type buildings.

NO CORPORAL PUNISHMENT

The interpretation of discipline has broadened with the growth of the training school movement and the development of the cottage unit type of living. It has been learned that youth respond more readily to reward and encouragement than to punishment. Corporal punishment and other abuses are not tolerated and the particularly vicious monitor system, which permits older and more aggressive children to exercise force and authority over the more timid and less matured, has no place in the modern concept.¹⁶

Vocational training, as it has been carried on in most of the correctional schools throughout the country, consists too often of maintenance and production work and has little relationship to the needs of the individual. Under the Youth Authority training program there may be transferred to the California Vocational Institution any boy whom the Authority believes will be benefitted. The tendency is to transfer youths 17-21 years. The California Vocational Institute had a population of 475 wards in 1948 of which all but 7 were under Youth Authority guidance. There is vocational training in 20 trades: airplane mechanics, auto mechanics, baking, cooking, building construction, drafting, dry cleaning, electrical work, general shop, mattress making and renovating, laundry, mill cabinet and carpentry, plumbing, radio, sheet metal, shoe repairing, welding, machine shop, clothing repairing, painting, and decorating.

FORESTRY CAMPS

Wards at California Youth Authority forestry camps are between the ages of 16 and 21 years—in general, they fall into three classes: (1) those who cannot or will not profit by a strictly academic training course—generally have limited mentality and cannot do normal school work—a few of superior ability who have rebelled against any attempt at academic training; (2) those who because of background and temperament would actually be harmed by the regimentation of one of the training schools; (3) mild offenders who need maturing more than training.

In addition to an agricultural program which includes animal

¹⁶ Conference Summary, *op. cit. supra* note 14 at 79.

husbandry, poultry raising, dairying, vegetable gardening, field crops and farm mechanics, the Authority has a program which gives boys practical *on-the-job* training in the construction, alteration and repair of buildings and facilities. Boys have participated in these construction projects all the way from layout to completion.

HEALTH IMPROVEMENT PROGRAM

The Youth Authority takes responsibility for improving the physical health of the wards, which is generally found to be on a lower level than for the rest of the population. This includes medical and dental treatment and everything in the way of minor and major surgery. Proper and just discipline is considered one of the most important phases of training and rehabilitation. A year-round schedule of intramural sports, under the supervision of trained athletic coaches and physical education instructors is considered invaluable as an aid toward instilling effective discipline on all age levels. The Youth Authority facilities are equipped with adequate athletic fields and evening activities are made possible through night lighting.

The age range of wards of the Youth Authority is from 8 to 21 years, they are of all races and creeds, and their offenses represent every type of social maladjustment from homicide to truancy. Tests have shown regarding their mental abilities that some are superior, some defective, and the general distribution of a slightly lower mental endowment than that of the total population. Their physical conditions are below the standard of an average group the same age in the public schools.

MALADJUSTED TO PUBLIC SCHOOLS

Typical of delinquent youths within the age group 8-15 years is that most of them have a history of truancy; nearly all of them have developed a dislike for some teacher or, in many instances, for all teachers. A great many delinquents began their antisocial behavior as a result of continuous failure and inability to adjust within the public schools. Faulty work habits are another frequent contributing cause.

Boys and girls are not considered for Youth Authority retraining unless their behavior characteristics have become so severe that they cannot be handled on the community level, either under probation, detention homes, or in county forestry camps.

Almost invariably the factor of poor home conditions has been found. The majority come from homes substandard materially, and totally inadequate otherwise. In almost every case behind those who have come under Youth Authority jurisdiction there has been a history of household conflict, rejection, humiliation and frustration due to family inadequacies.

Experience indicates that juvenile delinquency is a symptom

of failure to meet the needs of children and youth adequately; that delinquency is in the main *acquired* and that environment plays an important part in causation. The factors involved are inextricably related to all the processes of social and economic life.

Governor Warren has explored possible causes:

The automobile, the motion picture, the radio, the complexity of our industrial civilization, have vitally affected family life. There appears to be a weakening of family ties, a lessening of the mature responsibility which parents and children owe to each other.¹⁷

CONSTITUTIONALITY OF ACT SUSTAINED

The constitutionality of the California Youth Authority Act was established at an early date. In the case, *In Re Herrera*, decided by the California Supreme Court on November 18, 1943, in a unanimous opinion, it was determined that the responsibilities of the Youth Authority as set forth in the act were constitutional. The opinion stated:

By establishing the authority as a central agency to cooperate with hitherto uncoordinated public and private agencies in the reformation of socially dangerous persons, the act provides for a unified program of correctional treatment. . . . The authority is vested with wide discretionary power in the treatment of a person committed to it. . . . The great value in the treatment of youthful offenders lies in its timeliness in striking at the roots of recidivism. Reaching the offender during his formative years, it can be an impressive bulwark against the confirmed criminality that defies rehabilitation.¹⁸

In the case of *People v. Ralph*, the supreme court of the state again ruled upon various phases of the Youth Authority Act and again sustained its constitutionality. This case was decided on July 21, 1944.¹⁹

PROGRAM FOR GIRLS

The Youth Authority's training schools for delinquent girls attempt to educate them into well-adjusted and mature individuals. However, its subjects differ from the usual school group in that nearly all the girls are emotionally unstable, suffer from the results of disorganized family and community situations, and usually have been frustrated by at least relative failure experiences in academic schools. A number of the girls have been married and are mothers, which is an added problem in emotional control.

Physically the girls are usually below par. Many have venereal or other infectious diseases and skin afflictions. A surprising

¹⁷ Warren address, *loc. cit.*

¹⁸ 23 Calif. 2d 206 (1943).

¹⁹ 27 Calif. 2d 866 (1944).

number have low basal metabolism. Intellectually they rank a little lower than California children in general of the same age. Temperamentally they are less stable, are unpredictable in behavior, harder to interest, more easily swayed by impulse of the moment, and have less regard for the consequences of their acts.

The Youth Authority tries to build up in them a positive attitude toward acceptance of responsibility and to develop in them feelings of self-respect and self confidence. Surveys have shown that most of the girls so re-oriented toward civilian life and eventually paroled have married and become mothers, capable of running their own homes.

The life in the girls' school is built around the *living cottage*. The program for each cottage is planned as a complete unit in which the girls are taught to care for a house and all that goes with it, such as housekeeping, cooking, and simple personal laundry. Each house has its own kitchen where all food for the cottage family is prepared by girls under supervision.

Woodworking, leather craft, clay modeling, printing greeting cards for school and individual use, and similar activities are especially useful with emotionally disturbed girls. Adequate recreational activities are organized and provided. Weekly feature motion pictures and educational movies, monthly birthday parties, dances, swimming, softball and other group contest games, picnics, amateur hours, library reading, radio, handicraft, and table games are an integral part of the schedule.

ASSISTANCE TO COMMUNITIES

Other activities of the Youth Authority are designed to assist in the raising of better citizens. A major role in its program has been delegated to the problems of delinquency prevention. Effective prevention can be accomplished through encouragement of attitudes within the family, in the schools and on the community level conducive to the raising of children with healthy social attitudes. Desirable recreational outlets and activities are an important consideration in prevention, as is the fight against economic factors contributing to juvenile delinquency on the community level. Youth Authority field services provide representatives to confer with communities and make recommendations in regard to solutions of these problems. The Youth Authority can contract with institutions of higher learning on research projects in the field of delinquency and crime prevention.²⁰

In the field of recreation alone the Youth Authority was among those groups instrumental in advocating the desirability of surveys and consultant services throughout the state. Recreational facilities were obviously inadequate to meet the needs of an ex-

²⁰ CALIF. WELFARE AND INSTITUTIONS CODE, §1752.6 (Deering 1937).

panding young postwar population. Surveys and recommendations on the recreation needs in 22 California counties, 60 cities and 7 unincorporated communities have been made and many of the recommendations have borne fruit in new facilities, new programs, additional personnel and interest, all deterrents of juvenile delinquency.

To meet the need for an up-to-date statement of principles of operation to govern detention of boys and girls, the Director of the Youth Authority approached the Rosenberg Foundation for a grant with which to make the study of detention homes in California. Through the findings of this study²¹ the Youth Authority has participated in improvement of detention home conditions in various counties throughout the state.

In 1943 leaders from University of Southern California, the Attorney General's office and from the Youth Authority, joined with the representatives of sheriffs' and police departments to establish a pilot course in the field of delinquency control. This formed the basis for what has grown into the Institute on Delinquency Control, now in operation at the University of Southern California.

In the selection of training staffs for each Youth Authority facility, care is given to the qualifications, personality and temperament for the work. Persons assigned to the schools are expected to have understanding, patience, and leadership as well as the technical knowledge required in their particular type of work. The salary scale is high enough to attract people trained in the field and to hold them. It has been recommended that the training at the universities and colleges and state teachers' colleges give special consideration to the programs for enrolling and interesting persons entering the field of youth rehabilitation.²²

OBJECTIVE: RETURN TO NORMAL SOCIETY

The entire planning should be done on a basis of what is to happen to this boy or girl when he returns to the community, and a complete record of the progress, the successes and failures, should be kept to assist the placement officer in finding the proper niche within the social structure of the community. As the boy and girl goes on parole, regular reports should be returned to the institution showing results of the training that has been given, permitting the institution to strengthen weak points and to evaluate their work on a basis of the end result—the ability of the boy and girl to adjust in normal society.²³

Over a five-year period, 17.6 per cent of all youths released

²¹ TOLMAN and WALES, *JUVENILE DETENTION IN CALIFORNIA* (1946).

²² Conference Summary, *op. cit. supra* note 14 at 80.

²³ *Ibid.*

to parole were returned to facilities of the Youth Authority. All results have not been successful, but the short experience of the Youth Authority indicates that the methods now employed by the Authority are highly beneficial and are paying dividends as expected by the legislature when it created this new agency.

RECENT PUBLICATIONS OF THE CHILDREN'S BUREAU ON ADOPTION AND GUARDIANSHIP

GUARDIANSHIP—A WAY OF FULFILLING PUBLIC RESPONSIBILITY FOR CHILDREN. By Irving Weissman in association with Laura Stolzenberg, Harry S. Moore, Jr., and Robbie W. Patterson. Federal Security Agency, Social Security Administration, Children's Bureau. U. S. Government Printing Office. Price 54 cents.

ESSENTIALS OF ADOPTION LAW AND PROCEDURE. Federal Security Agency, Social Security Administration, Children's Bureau. U. S. Government Printing Office. Price 15 cents.

The needs of the child as an individual member of our society receives scant consideration under the guardianship laws of the United States.

That is the conclusion of a study "Guardianship—A Way of Fulfilling Public Responsibility for Children," recently completed by the Federal Security Agency of the Social Security Administration. The study was based upon records and cases in 12 selected courts in the states of California, Connecticut, Missouri, Florida, Michigan, and Louisiana.

The courts, where the problem of guardianship is involved, have generally considered the minor's estate and not his personal welfare, as the most important problem before them. And the Federal Security Agency survey report indicates the courts have frequently done a poor job in safeguarding the minor's interests even in this respect.

Specifically, the report charges that appointment of guardians is made in a perfunctory manner, the courts are poorly equipped to give proper attention to guardianship cases, supervision of the guardian after appointment is lax, and the great increase in the number of children becoming financial beneficiaries of veterans' and social-security programs has greatly complicated the problem during the past decade.

In a brief historical summary of guardianship laws, the survey discloses that these laws have tended to remain static, with few changes of any kind since such laws were originally adopted by the states included in the survey.

"The only changes in guardianship laws for more than a century have been to recognize the rights of the mother in her chil-