

Hawaii's Juvenile Justice System: A Model for Reform

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DEINSTITUTIONALIZATION OF juvenile corrections today is a concept which cuts across political lines and which makes sense to persons with divergent interpretations of the human condition. The first state to deinstitutionalize its juvenile system was the extremely liberal state of Massachusetts, but under a Republican governor. The next state was Utah, a state about as politically different from Massachusetts as is possible, under a Democrat. Today, the two states most active in this area are Florida and Maryland, neither of which can be accused of having overly liberal political underpinnings.

The states which have changed from an institution-based system to a community-based, continuum of care model have done so for a variety of reasons. Some have adhered to the humanistic philosophy that inside each of us, there exists a potential which, if nurtured properly, can flourish. Virtually no one maintains any longer that institutions are places of nurturance. As such, if realizing human potential is a goal, the institutions should be closed, and their prisoners treated in the least restrictive fashion consistent with public safety so as to maximize prisoners' potential for becoming law-abiding citizens. This humanistic approach starts from the standpoint of human potential and moves to the inescapable conclusion of deinstitutionalization.

Other jurisdictions have approached the issue differently, along a more pragmatic, means/end line. They perceived several fiscal realities first and created a system whose primary goal was efficiency and which only coincidentally "maximized human potential." In the case of Hawaii this type of analysis would look as follows—Hawaii spends \$40,000 per year, more than the full-time salaries of two institution staff or enough to send four students to the University of Hawaii for 1 year—to lock these juveniles up, and still 75 percent get rearrested within 3 years (Nagoshi, 1984). Not only that, but there is mounting evidence from national studies to conclude that they get rearrested for crimes which are more serious

than those for which they were originally locked up, lending new meaning to the phrase "schools for crime" (National Council on Crime and Delinquency, 1987). A factory could not be run if 75 percent of its products failed, nor would one continue to hire a plumber if he made one's pipes worse! Again, the inescapable conclusion but from a different angle—the institutions must be closed.

These conclusions should not necessarily be called inescapable because there is at least one other conclusion which often rears its head. Why not just improve the institutions, train the staff, hire a new director, build a more modern building, or try any and all of these remedies in the guise of reform?

Reform is tricky insofar as, for a time, it makes us feel as though we are doing something real, something meaningful. Indeed, some reforms do result in real, albeit temporary, improvements in the conditions under which juveniles are imprisoned. However, the very process of institutionalization has an essence which transcends the architectural design of the building and outlives the zeal of the reformers. A look back on the history of correctional reform reveals a cycle of scandal and abuse, followed by reform, followed by gradual entropy during a period of calm, followed inevitably by scandal, abuse, and, once again, reform (Miller, 1987).

This cycle should not come as a surprise and should not for a moment lead to the conclusion that it occurs because those who carry out the reforms or who work in the institutions are somehow bad or defective. Rather one needs to accept the premise that the longer institutions are in existence, the more they will mold those who come to them, be they prisoners or staff, into their own image, that is, the image of the institution. Where once the watchwords were humane care and normalization, the priorities will become counting the silverware, withholding privileges, use of isolation and shackling, strip cells, loss of good time, hard labor—in short, sanctions and rules which are designed to more smoothly run the institution and which teach its occupants anything but how to live normally in the outside world.

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But surely, one might argue, the process of removing known felons from behind bars is a dangerous one and is likely to unleash a crime wave of unimaginable proportions on the community. If there is one thing which institutions do well, the logic continues, it is protection of the public.

An analysis of the risk entailed in placing juveniles in the community hinges on several factors, one of which is the basis for comparison being used. If one were to compare the dangerousness of a community-based system to a system in which no juveniles ever came out and committed crimes again, then indeed, deinstitutionalization is dangerous. But such a system does not exist. Instead, there is one in which most of them come out and reoffend, and one which has a better chance of turning a car thief into an armed robber than into a law-abiding citizen.

Another factor influencing the dangerousness which deinstitutionalization entails is the level of resources a system devotes to a deinstitutionalized youth versus an incarcerated youth. At present, the average cost of placing a juvenile on probation in Hawaii for a year is probably one-thirtieth the cost of incarcerating that same youth. Until the system is willing to allow the \$40,000 it uses to incarcerate a ward annually in the Hawaii Youth Correctional Facility (HYCF) to be spent on her or him in the community, it will continue to compare apples and oranges.

Even though the comparison is an unfair one, in a recent Rand Corporation study performed by Joan Petersilia, probation compared favorably with prison for adults (Petersilia et al., 1985). Neither had dramatically positive results, but, when Rand compared matched groups of persons who were sent to prison versus those placed on probation over a 40-month followup period, the probationers recidivated at a rate significantly lower than those sent to prison and subsequently released.

The data from juvenile deinstitutionalization is even stronger. In 1971, when the State of Massachusetts had over 1,000 youths in locked custody, 35 percent of those entering adult prisons in Massachusetts were graduates of the juvenile system. Today, although the Massachusetts Department of Youth Services has over 1,700 youths under its supervision, only 170 are in secure custody (including staff secure custody) with the remainder placed in a variety of less restrictive, more rehabilitative settings in the community. As a result only 15 percent of those presently entering the adult prison system are graduates of the

juvenile system (Loughran, 1987). Coates, Miller, and Ohlin's (1978) extensive research on the youths released from Massachusetts' system indicated that, while the institution-based and community-based systems initially showed similar recidivism rates in that state, the areas of the state where a full continuum of care was implemented showed a significant diminishing of recidivism.

In the State of Maryland, the National Center on Institutions and Alternatives (NCIA) has been active in placing incarcerated youths in community-based settings since that state's move toward deinstitutionalization in 1987. Over the first 13 months of NCIA's involvement with the Maryland Juvenile Services Agency it monitored 497 youths who were removed from the Montrose and Charles H. Hickey, Jr. Training Schools. During that time, according to NCIA's statistics (1988), only 31 of the 497 children who were formerly in locked settings had been recommitted to institutions.

The Massachusetts and Maryland examples reemphasize the two factors previously mentioned. Of course any time a juvenile is released and commits a new crime, it is extremely regrettable. However, the 6 percent who were recommitted after they were released from the Montrose and Hickey Schools compares so favorably to the 60-80 percent recidivism rates generally experienced by large training schools that it becomes difficult to criticize the process.

Jerome Miller, former commissioner of the Department of Youth Services (DYS) during the Massachusetts deinstitutionalization, has stated that, before that state moved its juveniles from the training schools into the community, his staff gathered volumes of newspaper articles about Youth Services graduates who had reoffended in some awful way over the previous 5 years. During the deinstitutionalization process, when one of the released wards offended in the community, he offered to trade with his opponents, two newspaper clippings about former DYS reoffenders to one about his system's recidivists in order to dramatize the failures of the old system. No one accepted the challenge.

The second factor, of course, is assuring that the money and resources follow the youths out of the institutions and into the community. In Massachusetts, Maryland, Utah, and Florida, a key to the success of the process thus far has been a reallocation of funding from the institutions to the community to meet the needs of youths for services and of the community for protection. It

would clearly be irresponsible to undertake such a process without an adequate funding complement.

Hawaii is a state which is poised on the brink of deinstitutionalization, a state which holds real potential for the design and implementation of a model juvenile justice system. In June 1988, NCIA presented to the Department of Corrections recommendations for such a system. NCIA recommended a substantial reduction in the number of youths in locked custody, in favor of a system of community care starting at in home services for youths and gradually increasing in security to locked custody for the truly dangerous. NCIA's recommendations included reducing the number of juveniles in locked custody from the present capacity of 82, down to 15 in locked settings and another 12 in staff secure settings for a total of 27 secure beds. NCIA's estimate was that the state would need to spend approximately \$38,000 per youth, per year for the locked and staff secure beds.

Based on NCIA's analysis, it is clear that the remainder of the youths could be placed in settings in the community at a substantially lower per bed per day cost than the present system. Of the boys in custody at HYCF, only 10 (15.1 percent) had been committed for felony charges involving either a threat of harm or actual harm to a victim. Fifty-three percent of the boys had been committed for property offenses, 18.2 percent for misdemeanors, 10.6 percent for parole or probation failures, and 3 percent for contempt of court. The picture of the girls was even less severe. Only 1 out of the 14 girls had been committed for an offense involving violence. A full 64 percent were committed for misdemeanor offenses. For both sexes, about twice as many youths are committed each year for "short terms" as are youths committed until age of majority.

Most of these youths could clearly be worked with more effectively in a community-based setting. In an effort to achieve this end, NCIA recommended that a series of programs be developed which bridge the gap between understaffed and underfunded probation services and total confinement. As it stands now, the system is analagous to going to a doctor with a headache and having him respond that he has two treatments available, an aspirin and a prefrontal lobotomy, and asking you which you would choose.

The present budget for the 82 beds at HYCF is slightly more than \$3 million. If 27 youths were confined in locked and staff secure custody at a cost of \$38,000 per year it would cost \$1,027,000

for those 27 youths. With no new allocations, the Department could operate a broad continuum of programs for the other 55 youths with the remaining \$2 million.

These programs could include a Wilderness Challenge Program. Modelled on the Outward Bound experience, wilderness experiences for juveniles are successfully operating in New York, Massachusetts, and Florida. Such 30-day programs culminate with a 2-week outdoor trip which challenges its participants in ways that simple institutionalization cannot approach. The cost of such programming is \$1500 to \$2000 per month, approximately \$1500 per month less than HYCF placement. A significant portion of the 131 youths placed in HYCF last year for short-term commitments could have benefited from such an experience.

A similar approach which can be physically taxing and emotionally challenging is experiential education. Estimates show upwards of 90 percent of the youths who end up in the juvenile justice system have failed in the traditional classroom environment—many feel because these youths learn better in active, experience-based settings rather than passive situations. A program modelled after the Associated Marine Institutes (AMI) program which now operates in Florida, Texas, South Carolina, Delaware, Louisiana, and Maryland could prove extremely effective in educationally motivating disaffected youths and promoting prosocial behavior.

According to a study by the Florida Department of Health and Rehabilitative Services (1987), youths placed in the AMI and Outward Bound models exhibited the lowest recidivism rates of any of the programs with which that state has experimented.

The In Home Family Services model, which is in operation in Maryland, Massachusetts, Illinois, Pennsylvania, Virginia, New Jersey, Washington, DC, and Delaware is another very exciting and promising method for working with delinquent youths. This program works with youths in their own home as an alternative to institutionalization. Using intensified staffing patterns of no more than four youths per caseworker, such programs offer the advantage of staff who are caring yet tough—what one worker dubbed "gentle gorillas." As the youth stabilizes in his or her home, the intensity of the staff supervision decreases, until it is determined that the youth no longer needs the services. During crisis periods or backsliding, such programming offers the advantage of being flexible enough to be increased temporarily

to as much as one on one or even two on one supervision for a period of time. Out of those youths removed from the training schools in Maryland by NCIA's staff, over half were placed in the Youth Advocates Program, and monitored back in their own homes, at a cost of between \$10,000-\$12,000 annually.

The Youth Advocates Program in Maryland also offers a subsidized employment project wherein a community employer is paid a part-time salary to serve as a "gentle gorilla." If a child is interested in becoming a mechanic, for example, program staff will find a garage owner willing to employ the youth, and in exchange, the program will pay a percentage of the employer's salary. The employer's job, as it were, would then be as a part-time garage mechanic and a part-time child care worker. Employers are told that they can remove the child at any time if they are dissatisfied with job performance. Such arrangements are time limited, until the youth can stabilize in the job and become a productive employee.

Another example of creatively using funding is hiring and training specialized or professional foster parents. Foster care is not generally used for delinquent youths due to the severity of the problems from which such children suffer and the difficulty part-time, non-professionals have in meeting the needs of such youths. In a professional foster care setting, a youth resides with a family, one of whose members is charged, full-time, with the care of that youth. Sometimes this is a married couple, or other times a single person, but in either case, it is essential that there be one person who is a full-time child care worker. The initial goal in such settings is to simulate normal family life as much as possible. The ultimate goal is to work toward reuniting the youth with her or his family, or to establish the youth in an independent living situation. Such arrangements cost on average \$20,000 annually.

Once it is fully implemented, this type of system offers the state maximum flexibility with which to design an appropriate placement for an individual youth. In this way, the task of deinstitutionalization is actually simplified from a process of moving 55 youths, to a process of moving one youth at a time.

In Maryland, NCIA's placement and tracking program has individually moved 154 youths out of locked custody and into the community. The program also monitors the daily activities of another 343 youths for a total of 497 youths being monitored. If Linda D'Ammario Rossi, the director of Maryland's Juvenile Services Agency, wanted

to call up today and find out the placement history, current location, prior record, and the subjective "level of compliance" of any of those 497 youths, she would receive an immediate answer from one of NCIA's staff. A print out of all 497 would take a few minutes.

Additionally, if a placement fails to meet the needs of a juvenile, which happens about 35 percent of the time in NCIA's experience, immediate placement adjustments can be and are made, without the need to reinstitutionalize the youth or return to court. For example, if a child does not work out under "in home care," he or she can be moved to a specialized foster setting until the home situation stabilizes. Conversely, if a child in a staff secure home is progressing, he or she can be moved back into the community gradually, first through a wilderness program, and subsequently monitored by a "gentle gorilla." Failure in one type of program need not mean 2 years of incarceration, but might instead mean 1 or 2 months of placement in a secure or locked setting, with a gradual return to the community.

The State of Hawaii should move quickly in the direction of reducing its incarcerated juvenile population in favor of a system of small secure and locked settings for truly dangerous youths, with a wide array of community-based programs for the rest. While there is never universal agreement on any subject, there appears to be a growing consensus among the Department of Corrections staff, the legislature, and the judiciary that a community-based system would meet the needs of Hawaii's youths for humane and effective treatment and of the community for both short- and long-term safety.¹

Whatever programs are chosen, the state and practitioners in the field should keep the following standard of care in mind: "If my son had committed the acts that this youth has committed, and I had \$40,000 with which to hold him accountable and rehabilitate him, would I hand that money over to the Administrator of the HYCF and say, 'here, take good care of my kid'? Or would I think of more creative, more meaningful and more effective programming?" Most people would do the latter. If that is the case, then the youths under the purview of the Department of Corrections, who are someone's sons and daughters, deserve no less.

NOTE

¹The 1989 Hawaii Legislature allocated \$500,000 for the development of community-based programming for HYCF youths. In addition, that session established an Office for Youth, which is to be given jurisdiction over juvenile justice

after a 2-year development period. In July of 1989 the Hawaii Department of Corrections, with funding from the Edna McConnell Clark and Public Welfare Foundations, contracted with NCIA to place 42 of its 82 incarcerated juveniles into community-based placements. From July-November 1989, the count at the Hawaii Youth Correctional Facility fell from 75 to 32. Only one youth was charged with a new offense during that period—theft of a moped.

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