

Review of Borstal Policy in New Zealand

THE LEGISLATION

One of the earliest special provisions in this country for a young offenders' penal institution appears to have been in 1910 when the newly rebuilt institution at Invercargill was set aside by the Minister of Justice, Sir John Findlay, for young prisoners under the age of 25 years. This institution was later named Invercargill Borstal but it was not until 1924 that the borstal system was given any statutory basis. In that year the Prevention of Crime (Borstal Institutions Establishment) Act gave the Supreme Court power, where a young offender was convicted on indictment of an offence punishable by imprisonment, to order detention in a borstal institution for between 2 and 5 years. At the same time Magistrates were given the power to make an order of detention in a borstal for a term of between 1 and 3 years in lieu of convicting an offender. This was intended to remove the stigma of a conviction from persons sent to borstal under the provision.

This Act was eventually repealed and replaced by the Criminal Justice Act 1954 which did not revive the provision for ordering detention in a borstal without conviction. However borstal training is still in lieu of any other sentence. Persons between the age of 17 (in special circumstances 15) and 21 who are convicted of any imprisonable offence may be sentenced to borstal but the 1954 Act provides that a sentence of borstal training may not be imposed until a report on the character and personal history of the offender has been made by a probation officer or a child welfare officer. The period of borstal training was originally up to 3 years, but the maximum training period was reduced to 2 years in 1962. The 1954 Act stated that a borstal trainee was to be released on the recommendation of the Prisons Parole Board, but in 1961 special Borstal Parole Boards, one for each borstal institution, were established. Release from borstal is now decided by the local Borstal Parole Board which directs a trainee's release as soon as it feels he is ready. Trainees are entitled to have

their case considered by a Borstal Parole Board once in every period of 6 months, although in practice trainees often appear more frequently and a Borstal Parole Board usually meets six times each year.

THE PROBLEM

In 1967 over 500 youths between 15 and 20 years of age were sentenced to borstal training. Most were persistent offenders who had not responded to other types of treatment.

Fifty-nine percent of the youths released from borstal in 1967 had at least two previous convictions before being sentenced to borstal training. Some had as many as 9 or 10 for offences such as burglary, conversion, assault, and breach of probation, and had received fines, detention centre, probation, imprisonment, and previous borstal training. Many of the youths sent to borstal have a history of committal to the care of the Child Welfare Division and have been seriously delinquent during their childhood and adolescence.

The persistent offenders in the borstal population influence each other in a detrimental way, pulling against positive teaching and training. Their mutual contamination tends to impede institutional treatment and is a factor in the high rate of reoffending following release.

Then again a high proportion of Maori youths find themselves in borstal because of the difficulties they experience growing up in urban society. The Maori comes to borstal for much the same reasons as the pakeha, but there are more Maoris offending at this stage of their lives. This points to a need for improving the upbringing and education of Maori youth. Social measures which help the young Maori from the country to adjust to city life are needed because this is the stage when many Maoris begin to offend.

To suggest that Maori offending can be approached purely as a matter of penal policy is to overlook its origin and causes. Maoris form only 8 percent to 9 percent of all male New Zealanders between ages 15 to 19 years but they comprise 35 percent to 40 percent of our borstal population. The reasons for this are primarily social and the situation calls for social rather than penal measures.

Some typical case histories illustrate the sort of poor material the borstal system is faced with.

Case 1

A. was born in April 1953. Family background characterised by marital disharmony and periods of separation. Father drank excessively and in 1960 he was imprisoned for attempted rape. Mother was very harsh in her treatment of A. and his sister. A. first came under notice of the Police in 1961,

when he was aged 8, for trespass. In 1962 he was in trouble for theft, and for repeatedly running away from home. He was placed in a Child Welfare institution and whilst there was in trouble for wilful damage. After 15 months he was returned home but unable to tolerate the tension there he ran away again. In 1964 he appeared before the Children's Court on a charge of burglary, and was sent to the Levin Boys' Training Centre where he stayed for the next 3 years. He tried to run away again and collected more convictions for theft, burglary, and attempted car conversion.

In 1968 A. and another boy absconded and while on the run committed the offences for which he was sentenced to borstal. Now aged 15 he has been under Police notice 11 times and has 22 convictions to his name. A. is said to be a likeable boy, but does not get on with his peers, and is easily stood over by strong personalities. He is lazy and easily depressed when faced with difficult situations. Although of average intelligence he has only reached Form III at school. A Child Welfare report states:

A disturbed family background has hindered his emotional development and since the first minor incident in 1961 he has shown a complete disregard for people's feelings and property and an almost compulsive urge to run away from situations he cannot manipulate.

To date he has been in borstal for 4 months during which time he has been on report for misconduct 11 times.

Case 2

B. aged 16 has made six Court appearances. Parents came originally from Europe in 1953. While he was still quite young his mother deserted the family leaving B. and his brother behind to be placed with a variety of foster parents. In time B's father went to live with a *de facto* wife and the two children returned to live with him. The stepmother is an anxious and nervous woman who has not established a satisfactory relationship with B. or his brother. In 1966 B. was before the Courts for an indecent assault on a 5-year-old girl, then later for theft. Was placed under Child Welfare supervision but his behaviour further deteriorated. Became increasingly unmanageable at home, friendly with other delinquents and was suspected of a number of minor thefts. Finally was removed and placed in a foster home where for the next 18 months he was free of major trouble (though suspected of minor misdemeanours). He again came before the Court in 1967. In March he received a fine for obscene language; in June 6 months' periodic detention for theft and burglary; and then in September he appeared for attempted indecent assault on a 7-year-old girl. For this he received probation with a special condition that he take psychiatric treatment as directed. In the following month he was again before the Court for breaching his probation and this time he was sent to borstal.

B. was seen by a psychologist in 1966, who reported:

Given the unstable, insecure constantly changing environment which B. has known, behaviour disturbances are neither unreasonable nor surprising. His offences could perhaps be no more than an expression of his insecurity, his emotional immaturity, and his difficulty in meeting the unreasonable demands of an unsatisfactory home environment.

In July 1968 B. was seen by a psychiatrist who said:

His development is retarded and his sexual interest in little girls appropriate for his psycho-sexual age. His personality has never been able to develop sufficiently for him to have even the semblance of an identity. He is close to schizophrenic withdrawal and is easily intimidated into doing things he really doesn't want to do.

The psychiatrist felt that it was difficult to assess whether B. was suffering from a developing character disorder or the early stages of a psychotic illness. Certainly he has every indication of being a severely disturbed adolescent, and someone on whom borstal training is unlikely to have a lasting effect.

Case 3

C. a Maori is now aged 19. He is also the product of a disturbed home background. Parents separated early in 1954 when C. was 5 years old. Two months before this he was placed under Child Welfare care because he was living in a detrimental physical environment. Mother later went to live with another man, and took C. to live with her. Her second marriage lasted only for 2 years, then she returned to Wellington with her children. Mother treated C. at times with physical violence and frequently made it plain that she would like to be rid of him. When 16 he left home and has since had nothing to do with his family. He drifted into a delinquent group, indulged in some minor offending, and as time went on he began to drink. His work habits deteriorated and his offending became more serious. In 1965 he was sentenced to the Detention Centre for theft of cigarettes and wilful damage. Upon release was fined for a further theft and later was placed on probation when found loitering at night in possession of gloves and a screwdriver. Soon after that he broke into business premises with a 15-year-old friend stealing \$40 in cash. For this offence he was sentenced to borstal training.

While in borstal C. was regarded as a very hard worker and he was well behaved. He had some initial difficulty obtaining a job after release and finally went to the Nelson district where he was described by his probation officer as the cleanest and best dressed worker in the area. Unfortunately, the job there did not last and C. returned to Wellington where he found it impossible to get work. Though given a form to fill out for unemployment relief he lost this and failed to tell anyone about it. Without money, disgruntled, frustrated about his difficulty in getting work, and with plenty of spare time on his hands, he moved into a flat with some youths who were to become his co-offenders. One afternoon they went on a brief offending spree as a result of which C. was sentenced to a second term of borstal training.

Case 4

L. is a borstal girl aged 16. Parents divorced when she was 2½ years old. She and her four older brothers remained with their mother. Mother remarried and L. did not discover until she was 13 years old that her "father" was really a step-father. In borstal L. said "she should have told me. She told some of their own kids. I kept on asking her. She always used to give me and my brother hidings for nothing. He's the only one I like. When I get out I'm going to get a big gang of girls and go up there and bash her up, my brother is too." This brother has also been

in borstal. In fact L. claimed that she had deliberately "pinched a few things" so that she would be sent to borstal like her brother and after she had an argument with her boyfriend.

L. came under the notice of the Juvenile Crime Prevention Squad for petty thieving when she was aged 12, and was placed under the supervision of the Child Welfare Division. She was put into a receiving home and then on farms and later in a number of different foster homes, but proved intractable. When 14 years old she was placed in a Child Welfare institution but soon absconded. Eight months later she was committed to the care of the Child Welfare Superintendent. Meanwhile she had joined a motor-cycle gang and enjoyed the sensation of "over 100 motor bikes all going together—hundreds of them all parked round the streets—parties and drink . . . I was in a girl's gang after—going round pinching things at night."

L. was aged 15 when she came to borstal. A psychiatrist's report described her as rough in manner, but with a reasonable moral code. Much less intelligent than her conversation suggests. Almost feeble-minded.

One of L's comments on borstal training may be of interest: "Before I came here I pinched anything I could get hold of, but I don't pinch so much now that I am here. But I've learnt all the sneaky ways to pinch. You don't get caught unless you are found with it."

These case histories illustrate the difficulties faced by a borstal administration and lead us to a review of the present system.

THE SYSTEM AS IT HAS BEEN

Borstal has aimed:

- (a) To keep youths from further offending during a difficult period of their lives;
- (b) To develop moral standards, good work habits, vocational skills, and personal hygiene;
- (c) To train youths to live responsibly as citizens in the community.

Borstal has endeavoured to keep trainees fully extended during the whole of their sentence. They have been encouraged to work towards their release from the beginning, to live an ordered life and to do a good day's work. Importance has been placed on remedial education, trade training, hobbies, sport, religion, and group counselling. As the sentence proceeds youths have been given more freedom, more privileges, and more responsibility with the intention of bringing them to the stage where they would exercise more self-discipline. Trainees have been encouraged to restore and maintain contacts with their families. In many cases a further preparation for release involved

spending the final weeks of the borstal sentence in a pre-release hostel working at a job in the community.*

In spite of the beneficial effect of borstal training, many youths have subsequently reoffended. They appear to have left borstal with the best of intentions, only to find that they were not able to withstand the pressures and problems with which they had to cope after release. However, considering the backgrounds and the past records of many of the youths sent to borstal, a high initial failure rate might well have been expected. In addition, many trainees return after release to the same poor environment that has contributed to their previous offending.†

THE RESPONSIBILITY OF THE COMMUNITY

Borstal failure is in substance the failure of our society. The borstal system cannot carry society on its back. It cannot make good the harm done by many years of life in a poor environment and poor upbringing. The community needs to have a better understanding of our policy and programme and to offer more substantial help with rehabilitation and with earlier remedial action.

The following cases illustrate the need for more help from the community:

Case 5

D. is aged 19 years. To date he has had three Children's Court appearances, 12 appearances in Magistrates' Courts, and 25 convictions. He has experienced Child Welfare supervision, fines, detention centre training, short periods of imprisonment, and now borstal training. D. was second eldest in a family of five children but none of the others has been under Police notice. The parents who separated in 1964 are said to have been very easy going and quite content for D. to leave home at an early age, live in a boarding house, and change his work as he desired. His first offence at age 14 years was when he broke into a football pavilion with a 22-year-old man and stole cigarettes and chocolates. For this he received 15 months' Child Welfare supervision. Nearly a year later he appeared in the Children's Court on a charge of car conversion and had his supervision extended by a further 12 months. A few months after this he was before the Courts again on charges of careless driving, and theft. He was fined for these offences. A short time later he received Detention Centre training on a charge of disorderly behaviour.

At the detention centre it was felt that D. was young and immature, though a good worker with a desire to make good. He would need support

*For a fuller coverage of the New Zealand Borstal system see *Crime in New Zealand*, Department of Justice, 1968.

†Speaking of the English borstal system, C. H. Rolph has commented that, although borstal training appears to be indefensible statistically, there is sometimes a delayed-action benefit on the youth who offends again and then reforms. These youths were frequently better for their borstal experience.

and firm guidance if he was to stay out of trouble in future. On his release D. went to live with the parents of his girl friend who at this time was under 16 years. This caused some concern about whether the Police would bring charges for unlawful sexual intercourse but the problem was solved when D. married the girl. At this point his Probation Officer felt very strongly that D. was too young and immature to be married although he thought that the extra responsibility it would involve might be helpful to him. Soon afterwards D. was fined \$50 and disqualified from driving for 2 years for reckless driving. Two weeks later he was fined a further \$100 and his disqualification was extended for a further year for driving whilst disqualified. Early in 1967, again caught driving whilst disqualified D. was given 3 months in prison. Washing up charges resulted in his receiving a further 3 months on five charges of theft. Later in 1967 he served another short period of imprisonment for driving whilst disqualified. In 1968 D. was again heavily fined for assault and obscene language, and finally in August 1968 he was sentenced to borstal training on charges of theft, forgery, and false pretences.

Opinion about this young man seems to be very divided. On the one hand although immature and naive he has impressed as hard working and serious about the welfare of his wife and children. On the other hand he has been described as "one of those irresponsible people who have learned nothing from detention centre training, imprisonment, probation, or marriage." One Probation Officer has felt it to be a hopeful sign that D's marriage continued despite references to failure to maintain his wife and family, assaults upon them, continued drinking, sulkiness, temper tantrums, and demanding ways. Against this there is a suggestion that D. has worked hard to furnish and establish their home, buying a little more each week as his wages enabled him. With a long list of offences behind him D. is a person who needs help and guidance if he is to make a success of his life. Fines and several short prison sentences have not brought about a change in his behaviour. A fresh approach would be worth a try, and D. is someone who might be helped by an interest from the community during his borstal training and after his release.

Case 6

E. aged 18, has two older brothers both of whom have served borstal sentences. At home material standards are said to have been good although relationships between the parents were strained and there were several periods of separation. E. has an early history of truancy from school and on two occasions has come before the notice of the Police for theft and burglary. In 1964 he appeared before the Children's Court on charges of theft and taking a motorcar. For these he was put under the care of the Child Welfare Division. In 1966 E. was before the Court again on charges of burglary and theft. The Magistrate felt that owing to his lack of real home life, his deteriorating work effort, and the nature of his friends, it would be helpful for him to undergo a period of borstal training. In borstal E's progress was very satisfactory. He was eventually transferred to a pre-release hostel but became a constant source of difficulty. It was felt that he was an expert liar and inclined to exploit any evidence of interest or kindness.

The offences for which E. was recalled to borstal occurred when he and another boy had missed the bus that would get them back to the hostel in time. In order to get back to the city before their leave expired they decided

to convert a car. Then because they considered that their return to borstal was inevitable they commenced a series of conversions and thefts which resulted in their arrest and appearance in Court. For this escapade E. had his borstal sentence extended by 9 months which meant that he was eventually in borstal for a total of 25 months. Yet within 3 months of being released he was again before the Court and received 3 months' imprisonment for assaulting a police officer, obstructing police in the course of their duty, obscene language, and disorderly behaviour. Shortly after being released from prison E. appeared again on a charge of robbery. This offence occurred when he and another young man attacked somebody at a party knocking him unconscious and stealing a wallet. This earned a sentence of 2½ years' imprisonment.

Now at the age of 19 years, E. has experienced a variety of penal treatments. Looking back it is fairly easy to see where he was denied the support he looked for. At first during his time in borstal he had turned to an older brother for help and had wanted to live with his brother upon release, knowing that he would be unable to return to the unsatisfactory conditions at home. The older brother was not receptive to this idea and more or less told E. that he would have to go his own way. On release from borstal E. wanted to return home to live with his father. This too, however, proved impossible. In his latest period outside he formed a relationship with a young woman more in the hope, it appears, that this would stabilise him than anything else. Now beginning this 2½ year sentence E. appears rather confused and unmotivated. A recent report states "E. feels hopeless about himself, his behaviour and its consequences. A very dependant person, his need for support has gone unrecognised and he has been left to stand alone. Each time he has solved this by running away from himself and towards the things he thinks can help him—drink and a casual acceptance of other young men like himself who do not seem to judge or condemn him. Within the institution he is well behaved and can cope with life adequately. Outside, however, he seems to have no established behaviour patterns to fall back on, is erratic and soon finds himself in trouble."

Case 7

S. is a Maori girl from a small town. Third oldest in a family of eight. Father was heavy drinker who assaulted and abused his wife. When S. was 16 her mother died. She left school and stayed at home to look after the family for a while. Then she moved to the city, and the family disintegrated. She worked briefly at a number of jobs, but was dismissed each time for laziness and bad behaviour. The following year she was described as drinking heavily, associating with undesirables, and being promiscuous. She was placed on probation for being idle and disorderly, but was reluctant to report and to take jobs that were found for her. Three months later she was sentenced to 2 months' imprisonment for being idle and disorderly. She was in a filthy condition, and had been sleeping with whoever would offer her a bed. After release from prison she was found a job as a domestic worker where she remained for 6 months. This is the longest time she has spent in any position. Fellow workers objected to her because of her dirty personal habits, and she was finally dismissed for taking time off without notice. From then on she led a hand-to-mouth existence. On one occasion, when invited to stay the night after a party she found herself without bedding, so took some pillow cases and blankets from a neighbouring house after entering it through an unlocked window. Described as

"a primitive young Maori without personal or moral training", she was sentenced to borstal at 18 years of age.

At borstal she was overweight and very sensitive about it, moody and stubborn at times. But she gradually improved in self-control and became clean and tidy in her personal appearance though her pre-release report expressed doubts of her ability to manage in a less controlled environment.

She was released to a live-in domestic job, near one of her married sisters, but seemed unable to settle down. Again her dirty personal habits and promiscuity aroused comment. Three months later she was seriously injured in a car accident, in a stolen car. After a month in hospital she was recalled to borstal on charges of being idle and disorderly and unlawfully getting into a motorcar. The Magistrate commented: "This offender is a pathetic girl and has a horrible background of filth and promiscuity. She has a bad work record. She has, however, been involved in a very serious accident—it may have given her a jolt! She is still a sick girl—no one will have her. Borstal therefore was the only alternative. She will need close supervision on release."

In borstal S. gradually recovered from her injury which had left her with a permanent limp. She was surprised to find herself pregnant.

On her release 5 months' later she was placed with a family, helping to look after children. With the support and acceptance of this family she became very settled and happy, decided to keep her baby, and took it back to them. When their position changed, S. was found another family, where she again settled.

Eight months later she was fined for unlawfully going into a building. This was after the second position had proved unsuccessful. A year after her release she had again been before the Court, this time for theft, and had virtually abandoned her baby, which was being cared for in a foster home.

AREAS FOR IMPROVEMENT

A study of cases similar to those quoted above, and an appraisal of the borstal system as it has been leads to the conclusion that there are a number of shortcomings in the present borstal system. Particular areas for improvement are:

- (a) Most of our borstals are too large for staff to achieve close personal relationships with trainees. A large inmate community separates itself from the administration and reinforces its own failure by setting up an alternative and rejected society. An experiment with a small open institution for 18 trainees is being undertaken near Wanganui where the emphasis will be on personal interest in each lad, community work by the trainees, and the involvement of the community in the institution programme.
- (b) Overcrowding has been a serious problem in our borstals.
- (c) We have already stressed the need for improved classification.*

*See page 7 of *Penal Policy in New Zealand*. Department of Justice publication.

(d) The undermining influence of some of the more difficult inmates is a continual drag on the training programme. When a new institution is established at Palmerston North for trainees of this type the effectiveness of borstal training should be substantially increased. This new institution will be run as a closed borstal. Experience has shown that when a recalcitrant youth is removed to a different institution he, in most cases, gives less trouble and it is easier to bring positive forces to bear upon him. Sometimes a transfer is all that is necessary as it enables the difficult trainee to start off on the right foot in a new environment.

(e) Efforts must be made to obtain more qualified staff and to improve staff training. The forces of change reaching an inmate are largely conditioned by the standards, attitudes, and personalities of our prison officers. The nature of the daily contacts between officer and trainee is of vital importance.

(f) We must improve our arrangements for after care and be much more imaginative. The principle of group recovery could be applied more usefully to meet the needs of trainees who have had a long history of institutionalisation. Co-offenders can be most effective co-menders and boys who have slipped together can often climb together even though they cannot climb apart.

One proposal which will help to increase the treatments available is for a hostel in Auckland for young female probationers. Residence in this hostel will be a condition of a girl being released on probation by the Court. This will provide the extra supervision and support which many of these girls need and in some cases those who might have otherwise gone to borstal may be sent to the probation hostel instead.

(g) Educational influences should play a larger part in the borstal system. A social and ethical programme organised by dedicated leaders is what is required. Many borstal trainees are the failures of our education system and have also dropped out of church activities.

(h) In the past borstal training may have concentrated too much on the teaching of trade skills. Sound habits of workmanship are more important than the actual type of work being done. Application and thoroughness should take precedence over the acquisition of skills.

(i) Much borstal training has ignored the basic fact that the battle for recovery is a battle for the mind. Youths are not changed merely because of a training programme, and mechanical

conformists are not rehabilitated offenders. Authority, while necessary, must be communicated with human concern and understanding. It must help a rejected youth to restore faith in himself by conveying an appreciation of his worth. All but a few psychopaths will stand by the officer who displays genuine human care for his charges and is scrupulously fair, impartial, dependable, and considerate.

- (j) In no field is there a greater need to rethink our attitude than in that of escapes. Most escapes amount to little more than walking away from a working party or walking out of a minimum security institution. Abscondings of this nature are impulsive, irrational, and often quickly regretted by the offender. There is nothing particularly startling about them and we must learn to accept them as a part of the borstal training process.
- (k) There is a strong case for experimenting with a change of approach. For far too long we have been dominated by a step by step approach to goodness. We need small institutions and more leaders with imagination if we are to succeed.

THREE SMALL INSTITUTIONS

The 1961 annual report to Parliament surveyed the penal system as a whole and made these points:

- (a) Small institutions offer the best hope of success and they are easier to control.
- (b) We have too many inmates in maximum security.
- (c) There should be more open institutions as these are less expensive and they offer a better environment for reformatory work.
- (d) Buildings should be of flexible design to allow for fluctuations in prison population and changes in penal policy.

We propose that three small open borstals designed to take up to 60 trainees each be established at Auckland, Wellington, and Invercargill. They should be run by dedicated imaginative people who can organise a vital programme. We seek exceptional characters.

The community must be prepared for us to take more risks in transferring inmates to minimum security. It is plain that the most effective programme to pursue is likely to result in a substantial increase in the numbers absconding. But even if the borstal escape rate doubles or triples, this could still mean that our programme is effective, and might in fact be a necessary corollary to our achieving better results.

It is important that as many inmates as possible be kept in minimum security, both because it is desirable for them to learn to respond favourably to trust and because it is less costly.

The time has come for a new approach to borstal training which will present youths with a challenge, teach them responsibility, trust, and self control in minimum security conditions, and which will involve the community still more in the realm of after care. Much has been done in recent years to provide alternatives to borstal (such as periodic detention and detention centre training) and the increasing use of these sentences should reduce the proportion of youths who need borstal. Much has also been done by voluntary organisations and church groups to help trainees in borstal and the continuing assistance and interest from these people has been of great benefit. What is now needed is a more vital programme within institutions together with greater help from the community.

J. R. HANAN, Minister of Justice.

February 1969.