12-2-1957

Excerpts from recommendations made by Father Robert F. Drinan, S.J., Dean and Professor of Law at the Boston College Law School, to the Special Recess Commission on Youthful Offenders on Monday, December 2, 1957 at 10:30 AM in Room 207, State House, Boston

Robert F. Drinan, S.J.
Boston College Law School

Follow this and additional works at: http://lawdigitalcommons.bc.edu/law_school_publications

Part of the Criminal Law Commons, Criminal Procedure Commons, Law Enforcement and Corrections Commons, and the Legal History, Theory and Process Commons

Digital Commons Citation

http://lawdigitalcommons.bc.edu/law_school_publications/133

This Article is brought to you for free and open access by the Law School Archive at Digital Commons @ Boston College Law School. It has been accepted for inclusion in Law School Publications by an authorized administrator of Digital Commons @ Boston College Law School. For more information, please contact nick.szydlowski@bc.edu.
The Special Recession Commission was set up under Chapter 55, Resolves of 1957, to study the problems of offenders between the ages of 17 and 21. Its members are as follows:

Sen. William E. Hays, Chairman
Sen. James W. Hennigan, Jr.
Rep. Alexander J. Cella
Rep. Stephen French
Judge David A. Rose, Vice Chairman
Mr. Matthew Connolly

In virtually every state of the union lawbreakers under 18 or 16 are treated as juvenile delinquents in separate courts. Very few states, however, have special treatment or facilities for young adult offenders between the ages of 17 and 21. This group of "youthful offenders"—with a shockingly high crime rate—poses one of the greatest unresolved problems in American penology.

Boys from seventeen to twenty-one are arrested for major crimes in greater numbers than persons of any other four year age group. In 1953 8,400 young persons between the ages of 16 and 21 were arrested in the State of New York for major crimes. This was 26.7% of the total major crime arrests of that state during 1953. Other evidence indicates that one-quarter or even one-third of the one million persons annually sentenced for serious crimes throughout the nation are in the age group of 17 to 21. As far as can be determined 40% of these youths are first offenders.

In 1940 the American Law Institute, a group of jurists composed of law school deans and legal experts issued the Model Youth Correction Authority Act, the product of vast research. Up to the year 1957...
two states, California and Minnesota, have adopted this Act in substantially its original form. Two other states, Wisconsin and Massachusetts, have accepted its provisions for youths from 7 to 17 but not its recommendations for young adult offenders between the ages of 17 and 21. In 1943 New York enacted its own Youthful Offender Law for persons between 16 and 19. This Law has been criticized for its complexity and confusion.

For many years Massachusetts has been in need of a new arrangement for the young adult offender,—the adolescent a day over seventeen but not yet 21.

Many grave reasons indicate that the 17 to 21 group should receive special consideration. It seems certain that many of these youths who go to jail for their first offence later take up a life of crime because of the influence of their prison associates. Furthermore, many youths who repent of their one crime are haunted forever by the disabilities which remain from their crime—the "invisible stripes" of their prison career. While the present law of Massachusetts allows for release by parole at any time—even before imprisonment—yet the stigma of being a convicted criminal is difficult if not impossible to erase.

Two interests must be harmonized in this area. One is the interest of the public to be protected from the incredible savagery of youths whose crimes must be punished with sanctions adequate to deter the rising crime rate among those beyond high school age but not yet of voting age. The second interest is to salvage those in the 17 to 21 age group whose anti-social conduct is not the result of ingrained criminality but only the result of unfavorable family and employment environment. Punishment must be stern enough to deter young adults from violating the law while at the same time it must be flexible enough to protect those
young adults whose passions or prejudices have brought them before
the tribunals of justice.

RESEARCH

Reliable information more than any other item is needed on the
question why so many young adults are aggressively and brazenly violating
the law, either in gangs or alone. What deep unrest has made America's
citizens of tomorrow—her young people on the threshold of adulthood—the perpetrators of one fourth of the major crimes of the nation? What
can be done to re-educate this group in their home or their school or
their community? What motivational or psychiatric help can arrest this
wave of crime among those who seem so profoundly confused and disturbed
that they apparently feel the need of the release of violently anti-social
conduct?

Not enough research has been done on this problem and more adequate
statistics and more accurate information on crime in the 17 to 21 age
group is by far the most urgent need in this area.

It does not seem wise completely to segregate the 17 to 21 age
group of offenders from older criminals. Such a practice would be
needlessly expensive, dubiously constitutional and questionably effective
in its attempt to correct and rehabilitate those young persons capable of
such reform. But neither does it seem wise to continue the present
practice of maintaining the somewhat arbitrary cut-off point of a youth's
seventeenth birthday as the single deciding factor in resolving the
question whether society should treat an offender—especially a first
offender—as a juvenile delinquent or an adult felon.

A new zone of responsibility and an intermediate penal facility
should be set up for the beyond-delinquent but less-than-criminal young
adult offender between the ages of 17 and 21. The following recommenda-
tions are proposed:
PROPOSALS

1. Any person between the ages of 17 and 21 who has committed a non-capital offense may at the discretion of the court be adjudged a "youthful offender." Such person shall be selected by the judge on the basis of reliable evidence that he would profit by corrective treatment outside of a prison. Any person so selected shall not be imprisoned but shall be committed to an existing youth board or to another board created especially for the care of the Commonwealth's and the nation's most crime-ridden age group.

2. The setting up of this intermediate facility for certain of the more responsive and remediable persons in the 17 to 21 age group would represent a departure from the Commonwealth's present penal philosophy that those over 17 have total responsibility and should be treated in a manner virtually identical with fully adult criminals and recidivists of all types. Within the framework of the intermediate facility the state could experiment with less formal types of institutions such as forestry camps and custodial homes—arrangements that have proven their value elsewhere. Likewise, an adequately financed diagnostic clinic would be most helpful in turning youths back from the career of crime on which they have entered.

3. If a person committed to the custody of the youth board is released such discharge may restore to the youth all civil rights and shall have the effect of completely expunging the crime from the record. The records of the youth board should be confidential.
CONCLUSION

It seems clear that no remedy or treatment now being used for the 17 to 21 year old criminal is effective. The crime rate within this age bracket continues to mount. Massachusetts could pioneer in this desperately important area by enacting legislation based on the best-informed opinions gathered after lengthy hearings. The Commonwealth's efforts for the 17-21 year old criminals could be as significant as this state's enactment of the first probation law in the United States in the year 1878.