

THE CARROT, THE STICK AND THE PRISONER

*"If I had the wings
of an angel,
I'd over these
prison walls fly"*

Is it ethical for the state to use behavior-modification techniques on its prisoners in an attempt to turn devilish personalities into angelic ones?

by Sharland Trotter and Jim Warren

The notion that most lawbreakers are in one way or another "sick," advanced by such modern penal reformers as psychiatrist Karl Menninger and former Attorney General Ramsey Clark, became popular in prison circles in the 1950's. The mental illness theory of criminality, with its suggestion that treatment replace punishment, found favor with law enforcement officers, prosecutors and judges, as well as with medical experts and behavioral scientists. Retribution was out, rehabilitation in.

By the early sixties, although the rhetoric remained intact, reality was beginning to rear its nasty head. Psychotherapy, educational programs and vocational counseling, to the extent that they were practiced in prisons, appeared to be empirical failures. Crime was on the rise and the recidivism rate little changed.

Disenchantment with the liberal treatment idea quickly led to a more "professional" emphasis on behavior-modification techniques. Instead of coddling criminals with psychotherapy and trying to understand them, the idea was to focus on their deviant behavior and *force* them to shape up.

The development of a sophisticated behavior-control technology and the notion of systematically applied rewards and punishments had an irresistible appeal to the champions of the law-and-order, no-nonsense, conservative point of view. By the late sixties and early seventies, the new rehabilitative model had gained a strong foothold in the corrections world and government agencies (Federal, state and local) began to unloose their purse strings to behavioral scientists with an interest in penology.

But now the future of behavior-modification programs in the criminal justice system has become very cloudy. In February two Federal agencies announced one after another that they were ceasing to fund controversial projects.

First, the Federal Bureau of Prisons, citing "economic reasons" decided to dismantle its much criticized Project

START (Special Treatment and Rehabilitative Training), a behavior-modification program for "unusually aggressive" inmates in prisons in Springfield, Mo.

Barely a week later the Law Enforcement Assistance Administration (LEAA) announced it would no longer support any programs involving behavior-modification, psychosurgery (which it said it wasn't funding anyway), chemotherapy or medical research. Donald E. Santarelli, LEAA administrator, said the ban was imposed as a result of the latest "major reorganization" of LEAA and because "there are no technical and professional skills on the LEAA staff to screen, evaluate or monitor such projects."

The LEAA ban does not necessarily mean a total halt to the use of behavior modification in law enforcement, since a number of other Federal, state and local agencies do fund such programs, but in recent years more and more behavioral scientists had been turning to LEAA for research funding.

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The government actions, prompted largely by Congressional inquiries, media pressure and protests from various civil rights groups, may signal the opening of a new chapter in the on-again off-again flirtation between prison officials and the medical and psychological professions. At the very least, they raise questions about the extent to which prisons should be in the treatment business.

James V. McConnell, professor of psychology at the University of Michigan, who spent years training flatworms to run through mazes by administering a series of painful electric shocks, represents the affirmative side. Writing in *PSYCHOLOGY TODAY*, McConnell states: "I believe the day has come when we can combine sensory deprivation with drugs, hypnosis, and astute manipulation of reward and punishment to gain almost absolute control over an individual's behavior. . . . We'd assume that a felony was clear evidence that the criminal had somehow acquired full-blown social neurosis and needed to be cured, not punished. We'd send him to a rehabilitation center where he'd undergo positive brainwashing. . . . We'd probably have to restructure his entire personality."

McConnell concedes that "the legal and moral issues are frighteningly complex, of course," but does not dwell upon them. "I don't believe the Consti-

tution of the United States gives you the right to commit a crime if you want to; therefore, the Constitution does not guarantee you the right to maintain inviolable the personality it forced on you in the first place—if and when the personality manifests strongly anti-social behavior.”

Albert Bandura, president of the American Psychological Association (APA), and Harold Cohen, executive director of the Institute for Behavioral Research, recognized leaders in the behavior-modification field, both feel that in today's climate all behavior-modification programs must undergo rigorous public scrutiny. Bandura goes so far as to call for the development of a separate set of ethical guidelines for people working in behavior modification. He says such a code should cover specific conditions in behavior modification such as acceptable choice of incentives, contingencies and conditioning procedures so the person applying them would have a guide to use.

Cohen feels the LEAA decision was justified given “the information they had” but adds they really should have seen the public unrest developing. “Earthquakes don't happen quickly, they build up over time,” he comments.

The APA, however, was openly critical of the LEAA decision to ban behavior modification indiscriminately. In a statement for the press the APA calls for “an evaluation of the use and misuse of behavior-modification procedures in the criminal justice system. “The APA urges a reconsideration of the valuable educational methods of behavior change and at the same time, development of procedures to protect the rights of inmates against the arbitrary and misguided forms of treatment.”

Bandura feels the behavior-modification process is misunderstood by the public. “They see salivating dogs, shocks, clockwork oranges. They misunderstand the process,” he says.

But why does the public have this misunderstanding? Again, here is McConnell: “In effect, we have but two means of educating people or rats or flatworms—we can either reward them for doing the right thing or punish them for doing the wrong thing. Most people believe it's more humane to use reward. Surely we would all agree that rewards are usually more pleasant than punishments, and that love seems a nicer way of influencing people than hate. But blind love is even more dangerous than blind hate for we can all identify hate and reject it but love is something we've been told is good, good, good. . . .

“We should reshape our society so that we all would be trained from birth to want to do what society wants us to do. We have the techniques now to

do it. Only by using them can we hope to maximize human potentiality. . . . Today's behavioral psychologists are the architects and engineers of the Brave New World.



LEAA

Santarelli: LEAA withdraws support.



APA

Bandura: Rigorous public scrutiny.

“One can look at the behavior-modification process in two ways—as social control or a therapeutic process.” Bandura says. But he admits that in too many institutions contingencies are designed to run the institution successfully, rather than help the inmate. It thus becomes perverted as merely a management device. “Being locked up should be sufficient punishment,” Bandura continues. “Imposing more is foolish. Society has no moral or legal right to force an individual to change. If I am black and am put in prison because I'm opposed to the political and social system in this country I sure as hell wouldn't want behavior modification forced upon me. I objected to the laws, the system of justice and I

acted against them knowing in advance what the consequences would be—I'm in jail. I would object strenuously if they wanted to use behavior modification on me.”

What types of behavior-modification programs, if any, should be run in prisons? Attorney Arpiar Saunders of the National Prison Project who represented the Springfield inmates in a successful law suit to have Project START abolished is not convinced behavior modification will ever work in prisons. “Prisoners will be too dubious about the programs even if they are voluntary,” he contends. He also feels that because it is a prison setting the contingencies to be used are far too limited for the program to be successful. Bandura feels contingencies have to be something the prisoner wants and that he must be able to run his own program as much as possible. “There are risks in granting more responsibility but we must take those risks.”

What kind of safeguards, if any, can be developed to prevent prisons from setting up poor behavior-modification programs or from abusing prisoner's rights? Cohen and Bandura feel that public policy committees should be set up to review each program but few behavior modifiers have bothered thus far. Cohen recently founded the Behavioral Law Institute, to be composed of behavioral scientists and lawyers, in an attempt to bring some enlightenment to behavior modifiers, lawyers and judges. They are developing a “white paper” which he hopes will help judges who hear cases involving behavior modification, lawyers who try cases involving it and scientists who are setting up their own programs.

But the public and lawmakers may not buy any at all:

Senator Sam Ervin (D-N.C.) said on February 19 on the floor of the Senate: “I have long been of the opinion, particularly with regard to biomedical and behavioral research which can so drastically affect the lives of individuals that when such research is conducted under the aegis of the Federal Government, it should be subjected to the most rigorous review in order to protect the basic constitutional rights of persons affected by such research. . . .

“All this comes at a time when basic questions concerning the sanctity of an individual's personality remain to be answered. Until these questions have been answered, and until strict and comprehensive mechanisms guaranteeing informed consent and the individual privacy, self-determination, and dignity of human subjects of experimentation have replaced the Federal Government's present slipshod methods of funding such projects, such experimentation should be stopped.” □