

PENAL
ABOLITION
the practical choice

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CHAPTER



THE VISION

People frequently say, rather impatiently, "All right, we agree this system is a mess, but what do you propose that's better?" In fact, they often think this is a stumper. Years ago, I wrote a pamphlet to answer this question, which included eight different alternatives to prisons:

- Supervision — bail supervision, probation and parole
- Diversion
- Community service work orders
- Fine option programs
- Restitution
- Victim offender reconciliation programs
- Community resource centres — housing alternatives
- Immediate temporary absence passes (TAP)

That pamphlet played an important role in helping Canadian Quakers arrive at a consensus on prison abolition. But there are plenty of better alternatives — I later revised the pamphlet and expanded it to describe 23 different alternatives. The first section of this chapter presents those alternatives.

But as we know, prisons are still alive and well despite the superiority of every one of these 23 alternatives for most offenders, their victims and the community.

We discussed some of the reasons for this in Chapter III, but our second section talks about the specific weaknesses of existing alternatives in finding a place in our retributive justice system.

Nowadays, in most public talks, I no longer talk about the 8 alternatives, or the 23; instead I speak about transformative or healing justice as the spirit behind all true alternatives. So our third, and most important section of this chapter, describes transformative justice: what it is, how it works and why it is practical.

Finally, the question that haunts all of us is the serial killer, the dangerous few, that hideous deranged stranger who may appear from nowhere and take and obscenely destroy the life of a loved one. The fact that five out of six murders are by our acquaintances or loved ones (CCJS, 1992c) does not detract from our terror of this stranger. So we have to address this question if we are to be heard on how to deal with the other more than 99 per cent of offenders, and our last section discusses what to do about the dangerous few.

23 EXISTING ALTERNATIVES TO PRISONS

Alternatives to prisons are not a visionary future ideal being discussed by a few creative reformers. There are 23 different alternatives, all in practice, most of them working in Ontario today. In general, their use only needs to be sharpened and expanded. Some, like probation and parole, date back to the nineteenth century, but most are relatively recent and represent a growing recognition by the community that we deserve something better than prisons.

One of the difficulties alternatives face, which we will discuss in more depth in the second section, is that they are expected to meet a number of conflicting goals. Quite naturally, some alternatives focus on one goal more than another. We have grouped alternatives in this section by how far they use external control versus how far they expect offenders to assume responsibility. While limits have to be set on particularly destructive or dangerous behaviour, the only alternatives that can positively reintegrate offenders into a healthy community are those that give the offender responsibility instead of imposing external controls entirely. The list below proceeds from highly restrictive alternatives to those giving an offender most responsibility.

- 1) Housing alternatives: maximum intervention, community resource centres, halfway houses, bail residences and therapeutic residences.
- 2) Community supervision: bail supervision, probation and parole.
- 3) Restoration models: a) financial restoration — civil court, fines, restitution — and b) service restoration — fine options, community service work orders.

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- 4) Treatment: rehabilitation programs.
- 5) Legal remedies: a) Legislative — decriminalization, capping; b) police discretion; c) court — discharge, alternative sentence planning; d) prison — immediate temporary absence pass, early parole.
- 6) Cooperative solutions: conflict resolution, victim offender reconciliation, diversion.

1. Housing Alternatives

Community resource centres (CRCs) are used in Ontario for persons serving the last part of their sentences who are able to obtain jobs in the community. Though still serving their sentence, and subject to control in every way, they go out into the community to work and are allowed some freedom on weekends and evenings once they demonstrate reliability. Run by social agencies on behalf of federal or provincial corrections, and funded entirely by corrections, these centres help de-institutionalize people gradually.

A bail residence is like a CRC, it is also run by a voluntary board and funded by the Ministry of Corrections, but it exists for people who are waiting for trial on a charge in order to provide a suitable, supportive community residence for those who have none during their pre-trial period.

Halfway homes also offer 24-hour support, residents stay voluntarily, and in the true halfway home rules are set by residents and staff to meet the residents' and home's needs, not in response to correctional regulations. Halfway homes can be a turning point for people who have never known a caring home before.

Therapeutic residences are residential drug, alcohol or psychiatric treatment programs. An offender can go to one to receive treatment for the problem that caused the offence. Obviously, it makes more sense to cure addicts than to punish them and further lower their self-image through prison. UN sources estimate that three-quarters of the world's prison cells are filled with untreated addicts.

2. Community Supervision

Probation goes back to the remarkable efforts of a Boston cobbler, John Augustus, who spent much time in the courts. He became so involved in the plight of drunks and poor that he paid many fines for them. By 1858, he had bailed out 1152 men and 794 women and girls. He also befriended over 3000 other friendless women. For all of this loving service, he was subjected to a great deal of caustic criticism — the world has not changed much, unfortunately.

The greatest difference among probation, parole and bail supervision is when they occur in the legal process:

- Bail supervision keeps people out of jail with responsible supervision while they are awaiting trial, before guilt or innocence has been decided. It is astonishing that, on average, people spend more time in prison before trial than after conviction. Without bail supervision, the poor go to jail while those with resources get out on money bails, and months of punishment occur before trial. Studies have also shown (Friedland, 1965) that staying in jail while you wait for trial increases your chance of being convicted and of serving time after conviction. Bail supervision reduces all these gross inequities.
- Probation is an order of the judge after conviction. It is a decision that this person, now found guilty, should be placed in the community, with supervision and guidance, to avoid future trouble.
- Parole, last in order, comes when someone has served part of a prison sentence. It is a way of releasing him/her gradually towards independence into the community. At its best, it provides the community some protection and the parolee a helping hand in making a difficult transition.

Community supervision programs have their weaknesses: powers of supervision can be abused, or large case loads build in neglect. But over the decades, community supervision programs are the longest established alternative to prisons and have proved themselves in thousands of lives. Many have been helped by them towards a better future instead of being pushed down the destructive slide of prisons. Supervision programs relate people to other community services, including welfare, drug and alcohol counselling, housing assistance, personal counselling and educational and job upgrading.

3. Restoration Models

All restoration alternatives focus on what the offender can give back to the community, or to the victim, in compensation for the crime. However, most do not include the offender very significantly in the process of deciding what that will be; much of the potential gain is lost if the offender does not accept the reasonability of the restoration. Instead of building responsibility and integration, it builds deeper resentment and alienation in such cases.

Financial Restoration

Three alternatives use financial restoration: civil court remedies, fines and restitution.

Civil Courts: An alternative that may be more helpful to many victims is to pursue the problem through the civil courts, asking for financial damages. Since most court cases relate to property and money, financial remedies make a great deal of sense, especially since criminal courts often forget about compensating victims in any way. In civil courts, victims can play a more central role and offenders may also be heard. The end result of a civil court procedure will either be dismissal of the case, which can also happen in criminal courts, or a financial settlement for the victim.

Fines: Fines are a court ordered punishment, which requires that money be restored to the community through the court, in order to right the balance of justice. Although flat fines are very discriminatory against the poor, income-related fines adjust the fine to the person's ability to pay. A fine of one day's pay for the convicted person is a good example of an income-related fine.

Restitution: Restitution is a court order to repay the victim for money or property taken or damaged. Unlike fines, they restore money or other help directly to the victim. It is astonishing how recent this idea is, considering that they are the ones who lost it. One difficulty with restitution, however, is that it is harder to relate it to the means of the offender. It is counterproductive to order an indigent offender to restore a large sum of money, which the offender has no legal means of obtaining. But restitution orders that examine all aspects of the situation can be positive. Restitution gives the victim back his or her crime. Many legal processes remove the victim from the action and leave a tangle of legalities, no compensation and no emotional support for the victim. What follows the original victimization is sometimes worse than the crime itself. Restitution turns attention back to the victim and offers some compensation. Most importantly, court processes frequently get into processes that partially blame victims: restitution recognizes the wrong, a basic healthy need of all victims.

Restitution also gives offenders a chance to earn and repay honestly what was stolen or destroyed and a sense of proportion related to the action. The lack of connection between a small theft and months spent in prison deprives most offenders of any sense of justice or responsibility. They are left with a deep sense of having been wronged themselves. Restitution relates what they did to what they must do.

Service Restoration

Two alternatives offer community service as restoration: community service work orders and fine option programs.

Community service orders are usually combined with a probation order as part of a court order. They require offenders to perform a certain number of hours of voluntary community work, without pay. They may shovel snow for seniors, clean

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parks, paint community centres or use specific skills. Community service orders have some serious defects. They have often been used to widen the net of social control by adding many hours of required free work to minor offenders who often come from groups that have had little opportunity to work at paid jobs. For not meeting their required "volunteer service," they can be sent to prison. Thus the alternative actually causes incarceration for people who would never have been sent to prison without it. But at their best, community service orders instill good work habits, constructive use of leisure time, a sense of responsibility and may sometimes even lead to a future career. New relationships and a more positive self-image can develop and the cost is about \$6 a day, compared to \$100 a day for one day in a provincial prison.

Fine option programs were started in Manitoba and Saskatchewan, mainly for Native people because, for so many of them, "\$50 or 5 days" is no choice at all since they do not have the \$50. These programs are not limited to Native people, however. Fine option programs offer people ways to earn money to pay off their fines; without them, we are still really running debtors' prisons. Across Canada, on average, 50 per cent of prisoners are still there for nonpayment of fines. Through fine options, people can gain work experience and contribute to the community.

4. Treatment

Treatment programs focus on the offender as an ill or needy person. Sending an alcoholic to Alcoholics Anonymous or to a community alcohol treatment program makes more sense than sending them to prison. Obviously our mentally ill should get treatment not punishment, but our major jails have whole sections for the mentally ill with no facilities for treatment. One conservative jail superintendent said to me, sadly shaking his head, "We have to lock them up 24 hours a day because we can't integrate them into our few programs for others. If a person was not crazy to begin with, they would be after a week of what they are getting."

Besides treatment for obvious illnesses, like addiction and mental illness, therapeutic approaches offer life skills training for those who need it and job readiness training for long-term unemployed. Treatment approaches identify a specific problem in an offender's life and connect him or her to a potential solution. What happens next depends on the qualities and relevance of the treatment, as well as the readiness of the offender, but at least it is a step far more useful than punishing people for the life problems they have.

5. Legal Restraint Remedies

A wide variety of legal alternatives to prisons exist, and through them the legal system restrains its own role and allows the offender and others more responsibility.

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These alternatives are the most frequently used. Their steps operate so quietly, automatically and easily that very often we are unaware of them. In general they use a minimum of intervention. This restraint is based on the principle that once the problem has been identified, most minor offenders will respond best to minimum interference in their lives.

Although its very simplicity makes use of legal restraint an appealing alternative, its use of individual discretion, especially by police, courts and prison officials, lays it open to discrimination against poor and minorities. Legal restraint can be applied at four points in the legal process: legislative, police, court and prison.

Legislative Remedies: Decriminalization, Capping

Decriminalization is an alternative to prisons and courts that takes some behaviours out of the criminal code. Where there is no actual victim, socially offensive behaviour can be dealt with by social norms, civil courts and decriminalization.

Capping is a legislative remedy for the overuse of prisons, which has been used successfully in several American states. Canada has one of the higher rates of incarceration in the Western world, yet Canadian courts continue to incarcerate minor offenders. Capping sets maximum limits on the number and proportion of our population we are willing to jail. Legislation can be written to release offenders on the basis of the amount of time they have served, the minor nature of their offence, the degree of security risk they are seen to pose or other variations on these themes. Capping simply requires courts and prisons not to hold more than a certain number or proportion of the population in prison.

A variation at capping would give every judge a monthly budget for required spending in sentencing and figures for how much each week of incarceration and each week on each possible alternative will cost. This option requires judges to think of the financial cost, even if they continue to ignore the social cost of destroying lives and increasing danger to the community by overuse of prisons.

Capping is the only alternative I know guaranteed not to widen the net and reduce excessive imprisonment, as far as the legislation requires. It has been effective wherever it has been used. Capping is to the addiction of prison use what anti-alcohol implants are to alcoholics. It doesn't change the sickness in our society that wants to use such things, but it restrains their use while we get a better grip on ourselves.

Two separate studies of large groups of offenders who were released by US Supreme Court rulings before their sentences were finished, showed that these offenders had a lower rate of return than those who served their whole sentences

(Knopp, 1976: 39-41). Thus it can be argued that capping reduces crime by reducing the crime-creating effects of prisons on people.

Police Discretion

Large numbers of offenders are simply not charged by police. The police have the discretion not to charge people in many situations. What constitutes "disorderly conduct" is obviously partly a matter of perception, and police can let minor offenders go with a warning, as most of us know from traffic encounters.

If it weren't for police discretion, the proportion of our population who have records would be much higher. The difficulty with this alternative is that police discretion, especially when not subject to any outside review, is greatly influenced by an offender's manners, social class and in many cases race. Caught in identical situations, a well-mannered, Anglo-Saxon, middle-class person is much less likely to be charged than an argumentative Native person who is a street alcoholic. A rowdy party at a major corporation's executive Christmas celebration will result in the mildest of police interventions, if they should be called at all; the same event, more controlled, at a hostel for the homeless, will almost inevitably result in arrests and charges.

Social class bias operates in the choice of who gets alternatives throughout the justice system, as it does in most areas of life. Nonetheless, police discretion does save unnecessary stigmatization for minor offenders who require nothing more than a few words to avoid a particular behaviour in future.

Court Remedies: Discharge, Alternative Sentence Planning

Courts have a number of ways of restraining their full legal right to give out maximum imprisonment, such as discharges and alternative sentence planning.

Discharges are an alternative available to courts, which are parallel to police discretion except that court discharges come after a person has come to court and acknowledged responsibility for the charge. In giving a discharge, the court erases most aspects of the criminal record and expresses faith that the act will not be repeated. Discharges minimize stigma, which can start people on the downward slide into the vicious prison-court cycle.

Alternative sentence planning is a community service offered by a private agency through the court. In order not to widen the net, agencies providing alternative sentence planning accept referrals only where they believe the person would otherwise be incarcerated. The agency develops a plan that combines any of the

alternatives mentioned here, applying them to this offender and this situation. It then recommends whatever combination of treatment, supervision, housing, restoration and participant planning seems best. The court can then give an order incorporating these recommendations.

Prison Remedies: Immediate TAP, Early Parole

Immediate temporary absence passes can be recommended by courts and implemented by prisons for employed persons with sentences in an effort to allow them to keep their jobs. The sentence can be served on weekends, and possibly evenings, while the offender works during weekdays. There needs to be good court-prison coordination on this, as a court will often recommend immediate TAP but the prison system does not implement it in time to save the job. Maintaining a job is a vital link in offenders becoming a constructive part of the community, and thus reduces repeat offences.

Prison systems, with help from active community agencies, can release minor offenders more quickly with early parole by planning for parole as soon as the person enters the institution. Since most offenders get short time, without such planning parole can't be implemented before their sentence is served. Thus many of the least serious offenders benefit least from parole.

6. Cooperative Solutions

Cooperative solutions involve offenders in planning resolutions. Although the value of this sounds obvious, offender involvement in planning response to the problem is a part of only three existing alternatives: community conflict resolution, victim offender reconciliation and diversion.

Community conflict resolution programs allow problems to be dealt with in the community where they originated. They provide a possible resolution for conflicts before they reach the stage where crime occurs. Thus they don't need to label victims and offenders, but recognize the universality of conflicts that need the outside help of trained mediators.

Many matters that end up in court are issues of mutual dispute, which mediation can help resolve far better than the courts. By creating an atmosphere where both parties feel heard by the mediators, disputants are more able to listen to each other. In this atmosphere, communication occurs that usually enables them to find mutually satisfying solutions to seemingly impossible conflicts.

Victim offender reconciliation brings victims and offenders together in order to understand facts, heal feelings and find mutual resolution. Victim fears and anger are dealt with far more constructively than court processes allow, and the

offender is given a better understanding of the human costs of behaviour than the legal system can accomplish.

The victim must, of course, be willing to participate in such a process. Meeting with offenders often relieves fears and anxieties and allows victims to express anger and hurt to the party directly responsible in a safe environment. At the same time, their compassion is usually aroused by the reality of the offender's life problems. Offenders find such meetings cut away the impersonality of modern urban life and bring them face to face with the real people hurt by their behaviour. Both parties are challenged to take responsibility for the situation and find mutual resolutions.

Diversion programs divert the problem before it ever reaches the courts. Most diversion programs deal with first offenders. The idea of diversion is to spare the most affected people the whole criminal process — which is in many cases the process of making a person feel and become a criminal. Instead, he or she is told about diversion and given the choice of working with the diversion centre or choosing the court route. The accused person and the diversion worker begin by accepting responsibility for the alleged offence and go on to plan the most appropriate response. A number of options are discussed: educational, work, compensatory, etc. The client is then encouraged to go out into the community, explore these options and come back to the diversion worker with options for discussion. Court processes stigmatize, inspire guilt and deprive the accused of creative initiative. Diversion, when well applied, has the opposite effect — it encourages initiative and helps accused persons work through guilt by taking responsibility for their negative behaviour.

SPECIFIC WEAKNESSES OF EXISTING ALTERNATIVES

In Chapter III, we discussed how protection of turf, projection of social ills onto scapegoats, shoring up of our status system and the search for security in an unstable world all contribute to maintaining a thoroughly counterproductive criminal justice system. In this section we want to point out some of the specific weaknesses of existing alternatives to prisons. These weaknesses add to the four previously mentioned — turf, projection, status and security-seeking — in preventing the wider use of alternatives to prisons, every one of which is cheaper, more effective and better from all sensible viewpoints than prison for nearly all offenders.

First of all, the system isn't much of a system because its parts don't work well together. There is a constant struggle in most countries between courts and corrections. This struggle happens because of the different views they have, owing to their day by day experiences.

Courts see accused people in their worst possible light. The entire court process focusses on the worst act the accused person has done. Only briefly, if at all, does the court look at the overall context of his or her life, background, character and other deeds. The court hears the testimony of police and prosecution witnesses about how terrible the deed is and how much damage was caused. This phenomenon is shown in its most extreme form when the horrors of the deed blind juries to the crucial question of whether this accused person is actually guilty. Rage supplants rationality and a penal mentality takes over. Moreover, the accused person is disempowered by the court process. Often she or he cannot speak at all, and if they do speak it is defensively in tightly circumscribed ways, mainly about the alleged criminal act, and not about other aspects of their life, values, contributions, struggles and experiences.

Furthermore, people who do not get charged with reoffending don't reappear in court, so the court never sees its success stories. Instead, judges see repeaters. Anyone who messes up on an alternative or comes out of prison to be charged again reappears in court. Thus judges get the impression that human nature is ungrateful and nonreformable. It is no wonder that judges are programmed by this biased selective experience, which is further reinforced by the extremely hierarchical procedures of the court system. So judges who may begin with a fairly sensible view often become increasingly punitive and less open to community alternatives.

Prisons, on the other hand, see the prisoner disempowered, but at least they see him or her much more as a whole person. Badly as they deal with them, prisons have to face families of offenders and see the offender in some measure as part of society with wives, mothers, children and friends. Like Shylock, prisoners have eyes, ears, hands and mouths like the rest of us, and prisons are forced to face this common humanness, much as they resist it. Moreover, prison authorities know the futility of the remedy they are applying firsthand, its high costs and the virtual impossibility of effectively rehabilitating while institutionalizing and punishing.

The result of this clash between the views of court and prison authorities is that most alternatives are created and funded by corrections to provide budget saving options to entice the courts from overcrowding their prisons. The courts continuously pounce on these intended alternatives and use them to add on punishment to prison sentences or restraint to those who would be liberated without restraint. Thus the community's real welfare is crushed in the war between the forces of its so-called justice system.

At a minimum, in overcoming this obstacle we need continuing intensive education of judges and community. Costa Rica has an innovative approach whereby judges are assessed by their degree of use of prisons, and those that use prisons most are required to take courses on community alternatives and their benefits. Judges also need to be exposed regularly — preferably as inmates for a few days —

to the true benefits of prisons, so that they understand experientially the merits of this option. The community too needs a much deeper understanding of these choices so that better use of community options can be made.

In addition to the battle of the system over effective use of alternatives, alternatives themselves have five significant defects: net widening, economic discrimination, punitive qualities, lack of adequate funding and failure to serve people in the cracks.

1. Net Widening

Net widening occurs whenever an alternative meant to keep someone out of prison is used to extend control on someone who would have been released anyway. A shoplifter who would have been discharged is given long hours of community service plus restitution, and the net has been widened twice. A person charged with theft who has strong credentials to be released on his own recognizance is given bail supervision, and the net is widened again. Meanwhile, relatively minor offenders who could have profited from bail supervision, community service or restitution orders continue to go to prison. Net widening defeats the whole purpose of alternatives.

2. Economic Discrimination

Alternatives such as fines, when not related to income, are blatantly discriminatory against the poor. Statistics Canada (Turner, 1993: 29) estimates that about one-third of admissions to provincial prisons are for inability to pay fines. This is reminiscent of the old debtors' prisons described by Dickens in nineteenth-century England. Fines, restitution orders and other alternatives have to be income and means-related or they become yet another way that the poor are stigmatized and attacked by the so-called justice system. I know personally of a tragic number of crimes that were committed in an effort to pay back unrealistic restitution orders. True alternatives have to relate the alternative to the means of the offender.

3. Punitive Qualities

Closely related to net widening and economic discrimination are the punitive qualities of many alternatives. One corrections official returned from a trip to California some years ago thoroughly disheartened. He described barracks with 50 bunks in them and a guard at each end with a gun being called halfway houses. Such things are merely cheaper prisons in the community. Many halfway houses

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alternatives are the punitive turned from a trip to the barred barracks with 50 called halfway houses. Many halfway houses

have bed counts, bars, alarm systems and file systems that make some prisons seem inflexible. Community work orders can be treated as integrative or destructive. An alternative whose basic object is "sanction", that is revenge, is no different from prison except in cost and degree. We have to be clear about what it is we want in alternatives and why we want them. True abolition does not want to scrimp and save on revenge. It seeks something profoundly better for all of us.

4. Lack of Adequate Funding

A key reason for the limited use and limited success of many alternatives is the lack of funding. We send a man to prison for three months, at a cost of \$9000 because we won't fund the bail program adequately enough to look after him better in the community for \$5 a day, or \$450 for the whole three months.

But adequate funding of alternatives goes beyond such minimum commitments. Alternatives need funding that allows adequate training of staff, adequate salaries and reasonable case loads. A few years ago provincial parole case loads stood at 150 persons per worker, which clearly gave no time for serious support or intervention. Halfway houses, which demand the most gruelling 24-hour support and require highly trained, resourceful personnel, have the lowest pay in the field, and average one-half to three-quarters of a starting policeman's pay. Do we really prefer to arrest and lock up our young people instead of caring for them adequately in halfway homes? A serious commitment to alternatives requires adequate resource levels for them.

5. Failure to Serve People Who Fall between the Cracks

Everywhere around us, people and agencies are doing nice jobs in tightly defined areas, while people are dying in the cracks between. In fact, prisons house many people who fall more accurately into someone else's responsibility: the mentally ill, the alcoholic, the drug addict, the unemployed poor. But when people dare to have problems in two or more areas, no one wants to serve them. They are called "dual diagnosis clients," and are shrugged off as a problem no one will touch. They become living human footballs, kicked from one resource to another.

This unwholesome attitude afflicts alternatives that fall short of being true alternatives. I believe true alternatives have the following characteristics or components: respect, the integration of people, democratic processes, advocacy and honesty.

A true alternative shows respect for clients and staff alike. It focusses on integrating them into the wider community in every possible way. Its democratic

processes reject labelling, stigmatizing and authoritarian controls as far as possible. One alleged helping agency I was director of was afflicted with staff who thought clients should use separate washrooms, be restricted to certain areas, wait in numbered order in the waiting room and generally keep their places as people receiving the beneficent counsel of these superior helpers. Help like this just does not help.

True alternatives demonstrate nonviolent problem solving by helping their client group advocate for their rights on such issues as illegal police violence and wrongful convictions. Finally, true alternatives refuse to buy a place in the criminally unjust system by using a policy of silence about the denial of rights and the demeaning of clients. A true alternative to prisons is one administered and staffed with a total commitment to these five core values. Until we have true alternatives in place, prisons will be merely a more costly expression of the spirit of hierarchy and oppression that many of these pseudo-alternatives manifest.

TRANSFORMATIVE JUSTICE: THE SPIRIT BEHIND ALL TRUE ALTERNATIVES

At last we come to the crucial question: What do we want in place of the present system? So many books I have read are excellent on tearing down the old but weak on envisioning the new. Thanks to Native people, thanks to the whole field of mediation, thanks to the Mennonites who have creatively led the way in building victim offender reconciliation, we already have models of the future with us today.

Very simply, transformative justice is a better approach for all parties involved in the triangle of crime: victims, offenders and community. It prioritizes responding to the challenge of crime creatively in a way that transforms the problem of crime into an opportunity.

When I began using the phrase "transformative justice", I thought I had coined it myself. As a phrase, it is possible that I have. But the concept is so logically the next step for those seeking a healthier social approach that I find the word "transformation" used fairly often. For instance, in the preface to *Criminology as Peacemaking*, Pepinsky and Quinney state: "A criminology of peacemaking... seeks to alleviate suffering and thereby reduce crime. This is a criminology that is based necessarily on human transformation in the achievement of peace and justice. Human transformation takes place as we change our social, economic and political structure" (Pepinsky and Quinney, 1991: ix). Quinney himself goes on to argue that crime is suffering, and the suffering of crime can only be ended by true justice, which requires transformation.

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Table 1 Comparison of three justice systems

Type of System	Sees Crime As	Sees Problems Beginning	Goal
Retributive Justice	A violation of the state	With the crime	Punishment, deterrence, protection and rehabilitation
Restorative Justice	Violation of people and relationships	With the crime	Restore wholeness to victim and responsibility to the offender
Transformative Justice	Violation of people and relationships that offers an opportunity for transformative healing for all	With the causes of the crime	Treat crime as an opportunity to find healing for both victim and offender

There are actually three approaches to the problem of crime: retributive justice, restorative justice, and transformative justice. Table 1 clearly illustrates their differences.

What this table illustrates is that restorative justice is the first big step away from the destructive aspects of retributive justice. There are actually four players in the justice paradigm: victim, offender, criminal justice system and community. The retributive justice system frustrates victims, offenders and every true need of the community. It meets only the needs of a parasitic criminal justice system for its own status, rules and maintenance.

Restorative justice tries to meet more needs of the four players. It works within the existing system and tries to placate the self-aggrandizing demands of the present criminal justice system. It offers the community a much more wholesome approach to maintaining the social order, and above all it offers victims a far better

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chance than retributive justice to meet all their healthy needs. It offers offenders a less vengeful response, one that enables them to take some responsibility for their own behaviour and its consequences.

What then does restorative justice lack? In my view, it fails to recognize the causes of most crime in the original victimization of most offenders. It ignores structural causes of crime and assumes the world was a benign place before this terrible criminal ruptured the social peace with her or his dreadful crime. In fact, crime is one manifestation of the many inequities and wrongs in a flawed community. Crime offers the community an opportunity to observe some of those flaws and deal with their causes. By failing to consider this, restorative justice fails, in my opinion, to meet some crucial needs of the offender and the community.

Misery Justice

Another way of looking at the three kinds of justice is to look at the kind of community they envision. Retributive justice is based on a philosophy that you can only create justice by taking away. If one person has more than another, misery justice always looks at ways of taking away from the one with more, not giving more to the one deprived. Thus misery justice never looks at improving the lot of victims, but only victimizing offenders so they will be equally miserable. In the same spirit, if any prisoner is said to like prison because a heated though wretched cell is better than freezing to death on the street, we must take heat and food away from all prisoners to make sure they are as miserable as the most miserable frozen wretch on the street.

Applied to welfare this glorious myth is often heard too. It runs like this, "I know a John Smith who works 40 hours a week at a sweatshop and earns less than Sarah Jones on welfare." The complainant concludes that welfare should pay less than the worst and most exploitative sweatshop. Such misery justice thinkers never consider the option of improving the lot of the sweatshop employees, because misery justice never thinks that way. It is only aware of one option: to create justice by taking away, to make all equally miserable.

Our entire present justice system is predicated on the incredible blind myth of misery justice. It is unaware of any options than those of equal deprivation and misery, or of the possibility of healing and wholeness and comfort for victims. It is certainly oblivious to the possibility of drawing on the wider community. Misery justice is myopic justice, myopic to the point of blindness.

The next kind of justice is what I call zero sum justice, which is based on the myth that resources are limited to those of the victim and offender. Perhaps the easiest way to understand the three kinds of justice is to consider the case of a boy with a new bike whose neighbour has no bike. Misery justice of course creates

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Table 2 Three Types of Justice Models

Revenge Model	Restricted Model	Transformative Model
Retributive or misery justice	Zero sum justice: Restorative justice or welfarism	Justice of plenty or transformative/healing justice
Justice by deprivation creating misery for both	Justice by dividing limited resources of victim and offender equally	Justice by involving whole community in transforming tragedy into healing and growth
Harms both victim and offender	Restorative Justice tries to heal victims Welfarism tries to heal offenders	Sees healing of all: victim, offender and community as goal and draws on all to achieve it

justice by taking the bike away from both boys and leaving both miserable. Zero sum justice says we only have the resources of this one new bike from which to create justice, so we will sell the bike, and buy two second-hand bikes that only half-work to create justice! Zero sum justice, like the limited concepts of restorative justice, assumes we create justice by getting the two affected parties together, but no one outside gives any help or resources, except perhaps as mediators. There is no community in zero sum justice. Restorative justice throws the two parties together with only their limited resources and ignores the deeper deprivations of offenders and victims alike and the community's role in both creating and resolving the problem.

Finally the third justice, which is transformative or healing, is the justice of plenty. Here the bicycle problem is resolved when the wider resources of the families and the community are drawn on to enable the boys both to obtain serviceable bikes. The crime problem is solved when the community works with the victim and offender to resolve the woundedness of both and, through them, the woundedness of all. The justice of plenty has plenty of healing, enough for everyone, because the creative resources of the wider community are powerful and large enough to transform a problem into a growth experience, one which can prevent other woundings.

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Moore (1992) argues that there is another alternative of zero sum justice, instead of restorative justice. He calls it welfarism, and in this alternative the focus is on using limited resources to heal the psychological ills of the offender. The victim is ignored except as he or she is interested in the healing of the offender, and the offender is treated as sick whether they want it or not. The narrow concept of restorative justice has in common with welfarism that each has only the energy to work on healing one of the parties; restorative justice focusses on healing the victim while welfarism focusses on healing the offender.

Two Kinds of Victims

A major difficulty in the field of criminology is that people choose sides as if it were a baseball match; either you are for victims or you are for offenders. They fail to see two important facts:

- 1) The healing of both victim and offender is connected to some extent in one another's lives from the time of the crucial act, whether they like it or not.
- 2) There are two kinds of victims, and people of good will have spent centuries fighting over which ones to sympathize with. In fact, both are drawn differentially from the lower classes and disadvantaged, and both deserve our sympathy and our support:

Table 3 Two Kinds of Victims: Structural and Street

	Type of Injustice	
	Distributive Injustice	Street Crime
Victimizer	Poverty, racism, sexism: power elite	Street criminals
Victims	Disadvantaged groups: poor, racial minorities, women, handicapped, many criminals	Crime victims, more often poor, weak, minorities
Theories that want to help these victims	Radical reformers Welfarism Transformative justice	Law and order groups Restorative justice Transformative justice

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The point of the above table is that only transformative justice sees the need to use the whole resources of the community to heal all concerned — victims of both distributive injustice and street crime. We can now see that the 30-year war between psychologists and sociologists over whether crime was caused by psychological causes like broken families and emotional deprivation, or sociological causes like poverty, racism and unemployment was a waste of energy because crime is caused by both. In the same spirit, it is the hope of this volume that we may hasten the day when we understand that healing either set of victims without including the healing of the other is a false direction.

Five Needs of Victims

Transformative justice recognizes and responds fully to all five core healthy needs of victims and offenders. It is the only system that treats victim and offender as primary to the solution — and both in need of healing. While recognizing the wrong to victims of crime, it refuses to accept the simple labels of good and bad for people, for it is also prepared to recognize the unhealed wrongs in the life of the offender, that often lead to offences. And because of this profoundly wholesome approach, it meets most effectively the community's need to build a society which cares for and includes all. The only player transformative justice neglects is the status quo justice system. For if the needs of the victim, offender and community are to be met, the status quo is going to have to change in our criminal justice system.

Before describing further how transformative justice works, we need to examine the five core needs of victims, needs shared by all of us — including offenders — in the many traumas and tragedies of life. The five basic needs are (Daubney Committee, 1988: 14): answers, recognition of the wrong, safety, restitution and significance

Answers

Victims need answers to the many questions that haunt them when life sends some traumatic event to disrupt their lives. "Why me?", is the basic question that underlies all these situations. But victims also want to know answers to puzzling questions like, "Why did you take a cheap kitchen tool and leave so much more of value?", "Why did you smash my mother's picture?", "Were you following me for a while, or did I just walk by at the wrong moment?". They are haunted by such questions, and trying to find answers is the first step in their search to recreate an orderly, safe universe for themselves.

A friend of mine works with victim-offender healing for the most serious offences, such as violent rape and murder. He deals with victims of violent rape and with family members whose loved ones have been murdered. He highlights his

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discussions with victims with this critical query: "Are there any unanswered questions you have which, if you could feel completely safe in asking the person who did this to you, could be an important part in your healing?" Nearly every victim responds affirmatively, relieved to have this natural need recognized, and the process of searching for true healing begins. All victims have a need for answers; few victims have fulfilled that need.

Recognition of the Wrong

If there is a core need in the early healing process it is to have a wrong recognized. This may seem obvious, but society often denies this even to the most extreme victims. "Why didn't you have an alarm system?", they are told, or "You live in too isolated a place." Such a response, which blames the victim, is our way of trying to protect ourselves from a terrible truth: bad things do happen to good people. Bad things also happen to careful people.

But if we can redefine the tragedy to find the flaw in the victim, then our fragile wall of protection survives a little longer. The terrible reality is that it is usually not the victim's fault. While we can, with hindsight, point to events that might have altered the tragedy, none of us can anticipate every possible tragedy. Victims are tragically often denied the recognition of their wrong. Bereaved parents are told they should have guarded their children better. Persons who take heroic stands on principle for good causes are told they should be more flexible, or should get therapy. The most basic right and need of victims is denied: that they have experienced unmerited, cruel wrong. They need the comfort of knowing others recognize it is not their fault.

Safety

Victims need to feel they will be protected from further harm. A trauma tears away one's sense of safety. We are going along, doing the best we can to pursue life positively, when suddenly something terrible and unexpected rips away our safe, secure lives and pierces us to the heart. We want desperately to feel safe again. At the very least, we need to feel protected from a recurrence of the same tragedy.

Restitution

When crime or some other trauma has violated our lives, we want things fixed up again as good as new. Restitution is like the comfort we got from Mom, who took us in her arms and rocked us till we felt better when we had hurt our knee. It didn't mend the knee, but it did restore our sense of fairness in the universe.

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Even minor property crimes cause victims to feel differently about the world — the old security is gone. Restitution is more than a matter of a dime for a dime, and a fixed door for a broken door. Restitution is a restoration of order to the universe. When rape or murder occurs literal restitution is impossible, but compensation to the victim can still be applied in some meaningful way. At the very least, a deeply sincere expression of contrition means something. Income needs to be replaced and medical costs covered.

Recently I attended a conference of another kind of victim: wrongfully convicted persons. On the stage with Hurricane Carter, himself a 20-year victim of wrongful conviction, were six other persons he called the 115 Club. He called them the 115 Club because collectively they had served 115 years in prisons for crimes the state now admitted they had no connection with. When asked about restitution, several of them said there could be no financial restitution for the things their children, their spouses, their parents and they had suffered. But that evening I witnessed meaningful restitution. As Hurricane Carter introduced each one of them and briefly described their suffering an audience of 300 professionals rose to their feet and applauded continuously in a crescendo of deeply respectful applause. That standing ovation recognized wrong and it provided true restitution: heartfelt admiration from people who knew the damage of the retributive justice system, to people who had endured all and triumphed in spite of it.

That experience gave me the answer I had long been seeking to the question, "How can there be restitution for victims of murder or rape?" Restitution is not a matter of putting things back as they were; rather it is restoring victims' faith in being part of a beloved community, a community that can always find ways to share God's love for the victim, whatever has befallen them. This is true restitution.

Significance

The last need is to me the most wonderful of all, for it shows the magnanimity of the human spirit. Victims can never have the world back as it was before, and in this sense they can never be adequately compensated. Nor will society ever recognize their wrong as deeply and totally as they themselves have experienced it. Victims can never get a full answer in this world to the deepest question, "Why me, God?". The world will never be as safe a place, even if the victim is protected in every conceivable way and the perpetrator is dead. One's sense of safety once violated can never be fully restored. Most victims eventually come to terms with this and they get what answers they can and try to turn towards the future. They accept whatever recognition of their wrong they can get and swallow their indignation over the censure they receive as victims. They take extra measures of protection and learn to live with a reduced feeling of safety. They accept whatever restitution comes their way, turn stoical faces to the world and march forward. They know the world will never be the same again for them.

But now a wonderful human quality comes to the fore. If I cannot have my life back as it was before this, I can at least try to make the world a better, safer place, a place where others are less likely to suffer what I have experienced. My suffering, the suffering of my family, will not be in vain, for others will gain from it. This urge to create meaning or significance out of our own tragedies is one of the noblest urges in the human spirit. From it victims have founded schools, social services, scholarships, fought for safety measures for the community. There are no limits to what the human spirit can create when we try to create significance from our experience of victimization.

TRANSFORMATIVE JUSTICE AND VICTIM NEEDS

Transformative justice and restorative justice make as their central goal responding to these five core needs of victims. But transformative justice openly acknowledges that these needs must be met for victims and offenders both if healing is to be complete, and society to find opportunity in the tragic challenge of crime. Even retributive justice tries in a clumsy way to address these five needs:

- For answers, retributive justice offers a formal trial procedure
- For recognition of wrong, it recommends deterrent sentencing
- For safety, it recommends incapacitation — protection of society through incarceration
- For restitution, it offers the sour medicine of revenge or punishment
- For significance, it recommends rehabilitation as the final outcome

Unfortunately, each of these responses is deeply flawed. The trial procedure is a battle of will, money and power that has almost nothing to do with truth or answers. Sentencing's many inequities have been the subject of commission recommendations for 150 years and rarely give victims any deep sense of fair recognition of their wrong. Incapacitating offenders makes the community and victims less safe, not more safe, because prisons turn out more angry, bitter men and women. And rehabilitation is, as we have seen, the least likely outcome of the entire legal process.

How Transformative Justice Works

Transformative Justice works through a new kind of courts, to be called transformative justice courts. Unlike traditional courts, where the court authorities tower over victim and offender, leaving both disempowered and alienated as in Figure A, transformative justice courts put victim and offender at the top of an inverted triangle, with court officials below, to help them, as shown in Figure B.

Figure A Traditional



Figure B Transformative



As these figures show the judge and the victim accurate diagram would them, so that direct co formalized ways: lawyer victim and offender in ir courts is flat. Everyone primary, the victim and t

Moreover, there is n fact, in every way the between them. This criti justice: the most vital co

Figure A Traditional restorative justice courts

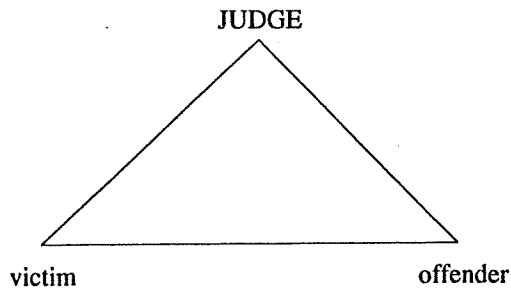
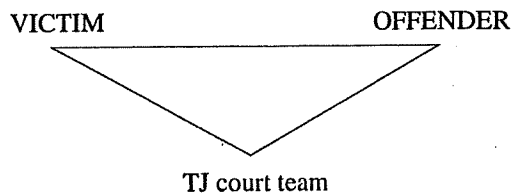


Figure B Transformative justice courts



As these figures show, the gap of power and communication is wide between the judge and the victim and offender in traditional courts. In fact, a fuller, more accurate diagram would show a whole variety of officials who intervene between them, so that direct communication is almost impossible except in the most formalized ways: lawyers, Crown attorneys, policemen, etc. All clearly outrank the victim and offender in importance. In contrast, the triangle in transformative justice courts is flat. Everyone is working together, but the people whose needs are primary, the victim and the offender, are at the top of the triangle.

Moreover, there is no link in traditional courts between victim and offender. In fact, in every way the entire process operates to prevent any communication between them. This critical gap is one of the most important defects of retributive justice: the most vital connection in the triangle of justice is missing and, in fact, is

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consciously obliterated. The very best lawyers always tell their clients not to communicate with the opposite party — keeping them separate is a major component of the existing system. If they could talk to one another, something human might happen, and where would retributive justice be then. The transformative process would operate as follows.

1) Selection

Every victim and every offender would be offered a choice between the traditional court system and the transformative courts. Legislation would require that this choice be explained fully in writing and orally. Transformative justice courts would only be used where both victim and offender chose them. Having the choice would reduce the fear of innovation as well as the existing system's resistance to their loss of turf. However, research (Umbreit, 1994; Center for Restorative Justice and Mediation, 1995) shows much greater satisfaction to both victims and offenders from victim offender reconciliation approaches, so that with word of mouth the transformative justice courts would soon catch on widely.

2) Personnel

Every transformative justice court would have three specialists:

- A mediation specialist to maintain the best spirit of mediation is followed
- A trauma and grief specialist to see that the needs of both principal parties are respected and responded to through the process
- A community resource specialist to locate community resources that can respond to the needs the principal parties identify

3) Stage One: Victim Support

In this stage, ground rules are established to provide physical and emotional safety for victims, and answers to their questions are sought. The wrong they have experienced is fully and unambiguously recognized. Finally, victims are supported through their grief process to understand their normal needs in grief. These needs parallel the five victim needs, but include also recognition of the universality and normality of trauma, the right to set their own time for the process, and an abundance of patient, empathetic listening.

4) Stage Two: Offender Support

In this stage, the same needs are met for offenders. Safety must be established and their wrongs recognized. The recognition of wrongs by either party does not deny the wrongs of the other. Offenders too need answers to the questions about their undeserved wrongs including the great, "Why me?". They need help in entering the grief process, and accepting their normal needs to respond to it.

5) Stage Three: Restitution

Victim and offender agree on the most appropriate restitution this victim can have in relation to this crime. They also agree on how the situation can be used to

enable the offender to gain that contributed to the offense.

6) Stage Four: Significance

Victim and offender had may enable them to connect with others, to prevent the wrong from happening again.

7) Stage Five: Implementation

Having gained safety at some solutions, both victim and offender have developed. Staff would help them recommend changes that the courts would support then.

In practice, there would be a lot of work. For one thing, there is a lot of victim exists. There are a lot of situations, but we would have victims or offenders — victims who have committed offenses.

All victims and offenders described above: answers to their questions are sought. A process that steps is one which is healing. There is a clear offender present.

Some may say these are the words, but they do not provide the therapy that require therapy trauma, all of us need support. Described above form a good of appropriate support system.

WHAT TO DO WITH

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enable the offender to gain some restitution for any wrongs they have experienced that contributed to the offence.

6) Stage Four: Significance

Victim and offender work together to consider how the experience they have had may enable them to contribute some significance — to make a better world for others, to prevent the wrongs they have experienced from happening to others.

7) Stage Five: Implementation

Having gained safety, recognition of their wrongs, support in grief and arrived at some solutions, both victim and offender are supported by the whole team, but especially the community resource specialist in implementing the plan they have developed. Staff would help them find resources and connect with them. Where they recommend changes in laws or social agencies, the transformative justice courts would support them in communicating these ideas effectively.

In practice, there would be a number of modifications and variations to work out. For one thing, there are many cases where an offender is not located but the victim exists. There are other cases — such as destruction of public property — where the victim is diffuse or impersonal. There are creative answers for all these situations, but we would have to explore different kinds of responses: stand-in victims or offenders — using groups of victims of a like crime with groups of offenders who have committed that crime.

All victims and offenders need to deal with trauma and with the issues described above: answers, recognition of their wrongs, safety, restitution and significance. A process that enables every victim to be supported through these steps is one which is healing, and one that should not be restricted to cases where there is a clear offender present to work with them.

Some may say these steps are therapy; they are therapeutic in the best sense of the word, but they do not presume that either victim or offender has basic personality flaws that require therapy. Rather, they recognize that whenever we experience trauma, all of us need support in working through the grief process. The steps described above form a good social support process, which could serve as a model of appropriate support systems for other traumas in our society.

WHAT TO DO WITH THE DANGEROUS FEW

Obviously, the challenge of what to do with the few truly dangerous persons in our society, serial killers and uncontrolled violent serial rapists, is a topic for another book. However, we feel the need to respond briefly to this issue here

because fear of the dangerous few, and the anger we all feel towards them, fuel so much of what is destructive in our response to the 99 per cent who fill our prisons, who are less like the shadow figures who haunt our nightmares than they are like ourselves.

To begin with, we have to accept the fact that there are no magic answers or perfect solutions for the dangerous few, any more than we have found a way to eliminate traffic accidents, industrial accidents, family breakup or many other hazards of modern life. The potential for violence exists in people, and many social factors continue to create a few violent, dangerous people. Much more often, though, these factors cause people not generally dangerous and not predictably dangerous to break out into a once-in-a-lifetime act of extreme violence.

Although there are no magic answers, there are positive directions that can reduce the number of truly dangerous people we produce and the number of isolated violent acts. To find those directions, we need to take the following steps:

1. Understand our fears
2. Prevent the causes of violence
3. Separate and treat the dangerous few
4. Intensive supervision in the community
5. Research
6. Victim support
7. Reexamine our fears

1) Understand Our Fears

The first step in dealing with the dangerous few is to understand the problem in context. It is natural to fear the maniacal sex offender lurking in a dark alley. It is natural to project many of our fears in modern society onto such people. Yet, without denying the reality of such dangers, it is important to understand that such people who have perpetrated crimes of horrifying violence represent no more than one to two per cent of the prison population. They are not what our courts and prisons are about, and it is vital not to let our entire system treat the vast majority of nonviolent property offenders on the basis of our fears of the violent few. University of Toronto criminologists Doob and Roberts found in 1983 that Canadians believe the violent crime rate seven times higher than it actually is (Canadian Sentencing Commission, 1986: 99).

Campaigns for the safety of women often focus on street lighting, more police, longer sentences for street violence. Yet every study we have shows that the great majority of violence towards women occurs in the home. Roberts (1994: 15) reported that relations and acquaintances account for almost 90 per cent of homicides

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where there is a known suspect. He also cites Wilson and Daly's 1994 study indicating that a married woman is nine times as likely to be killed by her spouse as by a stranger (Roberts, 1994: 15).

Another way of setting our understandable fears in context is to consider the likelihood of our suffering violent death from an industrial accident, from a drunk driver or from homicide. Chances of violent death from these sources are as follows: six times as likely from industrial accident as from homicide, and 2.5 times as likely from a drunk driver than from homicide (Scott and McDonald, 1986). Even within homicide risks, we are far more in danger from family and friends than from any stranger: eight times as many homicide victims are killed by family and friends as by strangers (CCJS, 1992c).

The risk of sexual violence, which brings such universal fear, is not from the dangerous few nearly so often as from our friends and family. The Badgely Committee conducted a national survey of over 2000 Canadian adults that showed that over one-third of the males and over one-half of the females had been the victim of at least one unwanted sexual act. Most of these events occurred during their childhoods. These figures suggest that sexual assault is a widespread phenomenon, a part of our culture that a high proportion of males engage in at some time, as well as many women perpetrators. Projecting all the blame onto the dangerous few prevents us from dealing with the cultural roots of sexual violence.

Another way of looking at the homicide story comes from Thomas O'Reilly-Fleming's work on lifers. He cites a 1981 study of persons serving sentences for first degree murder in Canadian penitentiaries that found that 50 per cent had never been previously convicted of any crime of violence and 67 per cent had served no previous penitentiary term. (McCormick and Visano, 1992: 299). An even more startling report by Walford presents these amazing figures on police charging practices in Canada before and after abolition of the death penalty. The following table presents police charges in all homicide occurrences in Canada:

Table 4 Police charging before and after abolition of death penalty

Type of Charge	Before: 1965-71	After: 1977-1988
First degree murder	6%	38%
Second degree murder	28%	52%
Manslaughter	65%	9%

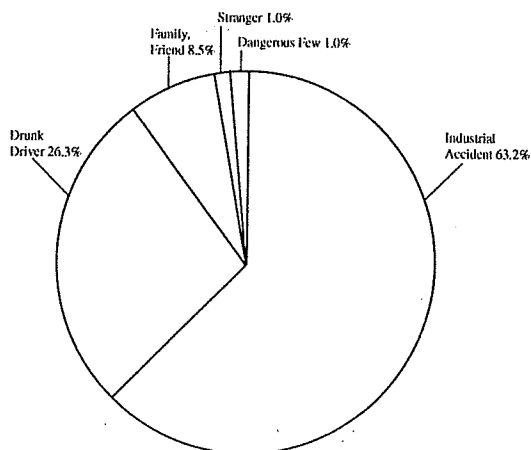
(McCormick and Visano, 1992: 303)

This startling table says two things: first, the capacity of a revenge system to make things more revengeful from a law intended to liberalize is overwhelming, and second, the definition of who is dangerous enough to receive a life sentence with a 25-year minimum is certainly subject to arbitrary change.

Finally, even among those tragic homicides by strangers, many are not by homicidal maniacs but are isolated actions by a person driven to extremity once. This may not console the bereaved, but it is still important to recognize that the majority of stranger homicides are not by serial killers. The dangerous few represent a tiny proportion of our social hazards, as the attached graph illustrates. Their violence, though terrifying, is a tiny tip of the risk of violent death in our society; and they are a very small proportion of our prison population.

So our first challenge is to place the violent few in a realistic context and recognize that although their actions are terrible and terrifying, they are not a major source of violence, compared to others, in our society.

Risks of violent death



Sources: Scott and McDonald, 1986; CCJS, 1992c

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Prevention of the Causes of Violence

The violent few are the tip of the iceberg of our social violence. As with other problems, it is much easier to prevent the growth into violence than to cure the behaviour once it is out of control. Differences in rates of violence from society to society demonstrate that in our socialization of children, we define how acceptable violence is. Recently I watched a television special in which a mother tranquilly and proudly watched her nine-year-old son practicing shooting at things with a pellet gun. Such attitudes beget in the child a conviction that violence is normal, acceptable and even desirable. When society teaches that violence is acceptable or even glamorous, the most disturbed are more likely to express this in ways beyond those socially sanctioned. So if we are going to tackle the problem of the violent few, we need to look at some fundamental issues.

Sex Role Training

The high proportion of families where women and children are physically and/or sexually abused indicates that we have a long way to go in establishing clear social norms against family violence. Research indicates that the dangerous few are almost always victims of childhood violence themselves, passing the cycle on in more extreme forms to others beyond their family circle. More frequently, respectable middle-class families live with abusive patterns for years; the social acceptability of such patterns forms a society in which truly disturbed individuals are more likely to become violent. Even mental illness and social pathology follow socially patterned forms of expression. In a society where abuse of women and children is as sadly normal as it is in ours, pathology is more likely to take extremely violent forms.

Family Crisis Intervention

Many of the future clients of justice agencies could easily be identified in the second or third grade. An ounce of aggressive, preventive social work on an intensive basis at this point could save so much in punitive and treatment dollars later on. More important, it could save untold suffering in human lives and in our communities. After a deep involvement with a high-profile offender, I asked myself: at what age does a person cease to be a vulnerable child and become a monster in the eyes of society. Whatever the answer, we owe it to ourselves as well as to that person to try to intervene before we define a human being as a social monster.

Industrial
Accident 63.2%

Reduction of Overt Media Violence

The National Coalition on Violent Entertainment estimates that this generation of television viewers will see 500 times more assaults, 500 times more rapes and 300 times more murders than the previous generation. This increases both our fears of violence and the mistaken belief that violence is acceptable and normal behaviour. A study by Dr. Gerbner of the Annenberg School of Communications has shown that excessive television viewers are more punitive in their philosophy and values because they receive a distorted view of reality. Moreover, over 2000 separate studies link media violence to negative effects on children (Maude Barlow in Scott and McDonald, 1986: 36).

Gun Control

While it is true that it takes a human finger to pull a trigger, the ready access to firearms is a demonstrable factor in countless suicides and accidental family deaths, as well as a lighted fuse in the hands of the dangerous few. Tight gun controls prevent even more deaths from family fights, where a gun and explosive anger leave a lifetime of grief and sorrow for some and death for others.

These are only a few of the most obvious ideas for social prevention of the root causes that help to create the dangerous few. The important thing to remember is that the dangerous few grow up in our society; they are an integral part of our socialization processes. We can and we must modify those processes in constructive new directions.

Separation and Treatment

We recognize that persons who have committed a series of dangerous, violent acts need to be protected from their impulses as much as the community needs protection from them. Such a separation must be in an environment completely different from our prisons. To be productive, and to avoid further damaging the majority of nonviolent young offenders, the dangerous few need a small, humane, secure environment in which treatment or re-education is the focus. What research exists suggests that self-help groups with strong outside resource persons are most helpful in retraining values and behaviour.

Intensive Supervision

Persons with a very violent past, and an indication of a continued predisposition to violence, should not be released to the community as walking time bombs

straight from maximum security, 24-hour lockup situations. Indeed, our so-called "Special Handling Units" in both Canada and the USA could not be better designed for making a human being violent. Caged, degraded, tormented and isolated, these men emerge straight onto the street in a condition so enraged and de-socialized that the miracle is that many of them do not commit violent crimes again.

If we insist on continuing to cage our fellow human beings, the least we owe ourselves, let alone them, is that there be a gradual phasing down of security and a gradual reintegration into the community when these individuals are no longer deemed a major risk. But even if release from prison is made more sane and gradual, why can't we put as much imagination and commitment into their supervision and support as we do for people with other problems?

Some years ago, I met a young man in Winnipeg who was one of two people paid full time by community services to live with a severely retarded, emotionally disturbed, chronically institutionalized young man. It was cheaper and rightly considered better to pay two people full time to give him hourly support to enable him to live in the community than to perpetuate his lifetime institutionalization. Why not hire such intensive help to give the community the support it deserves when and if the time comes for reintegration of persons formerly considered of the dangerous few?

Research

Fay Honey Knopp (1984) has researched the wide scattering of experimental programs around the USA attempting to deal with sexual offenders. Her research also touches on the dangerous few. For the most part, outside of her efforts we devote pitifully few resources to learning anything important about these groups. Lurid stories about their crimes and victims, yes; but information about what creates them and how we could prevent such paths, no. We recommend that the governments of our world, which devote so many counterproductive dollars to current destructive responses to crime, prioritize research on the causes of the dangerous few and preventive measures that could be taken. Surely this is a significant problem; its fear inspires so many social and physical measures, which drain our resources from constructive uses. We seem mesmerized, content to let the fear they inspire drive us down paths that are not only counterproductive for the dangerous few but destructive for the vast majority of nonviolent offenders and, indeed, for everyone who lives in our society and their future generations.

Victim Support

Despite all the lip service that is given to victim needs, victims of violent crimes and their families are not responded to in a healing way by our society. We

need universal victim support services and self-help groups, preferably linked with agencies working with offenders. For ultimately the answers both victims and offenders seek are bound up in one another. Victims can then be helped to deal with their anger and grief in the context of understanding their causes. In this way victims can be constructive parts of the solution to their own grief, that of offenders and the wider concerns of society.

Re-examining our Fears

In preparing this section of the book for print, I read, for the first time, an important article by Menzies, Chunn and Webster, "Risky Business: The Classification of Dangerous People in the Canadian Carceral Enterprise" (McCormick and Visano, 1992: 61-93). After 20 years of working and reading in the field, there are not many things that change my thinking dramatically, but this article did exactly that.

The authors have done practical and research work at Metfors, the most prestigious centre in Ontario for evaluation of the mental condition of those charged with offences. After describing many heroic efforts to construct scales predicting "dangerosity," they concluded ruefully that no experts had any better than absolutely random success. Three variables — age, prior violence and prior number of psychiatric hospitalizations — predicted a small amount of dangerousness for up to two years and then faded. But in view of the failure of all their professional efforts, they were dumbfounded at being deluged, after publishing that failure, with requests from all over North America for their predictive tool. This says something about how wistfully and even blindly we cling to the belief that dangerousness is limited to a few human beings, or to labelled human beings, and can be predicted and controlled. We do not want to consider the reality, documented by many of the above findings, that dangerousness exists in all of us and can emerge when the circumstances are right.

Such a reality frightens even a bold spirit like me, for there is a possibility that the public, in contemplating it, may decide to throw a much larger pool into the indefinite cages called long-term prisons in the hope of catching a higher proportion of potentially dangerous persons. Such a step ignores the fact that dangerousness lurks in all of us, and that locking up a person increases their anger and decreases their control, thereby increasing their potential for dangerousness.

So a more realistic conclusion is that we may be wrong to label any one irredeemably dangerous, and we need to look deeper for true solutions, ones that respect the social causes and the true origins of dangerous behaviour. I know of no better way to conclude this section than with this ringing challenge:

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rk at Metfors, the most ental condition of those efforts to construct scales to experts had any better , prior violence and prior amount of dangerousness re of all their professional blishing that failure, with tool. This says something lief that dangerousness is ngs, and can be predicted cumented by many of the nd can emerge when the

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What is to be feared most is not the random and rare assaults of predatory psychopaths and unwell beings, but the systematic ideological and structural conditions that create these people and throw them into our midst, just as they foster the celebration of war and weaponry, the economic partitioning of the planet into north and south, the industrial poisoning of the biosphere, the co-existence everywhere of outrageous affluence and poverty, the subordination of women and minorities in private and public, in the workplace and homeplace, and the kind of criminogenic criminal justice system that makes this society, for virtually everyone, a very dangerous place to live. (McCormick and Visano, 1992: 81)

