



# Thomas Jefferson Research Center

Human history becomes more and more a race between education and catastrophe.

H.G. Wells

**THE PRICE OF FREEDOM IS RESPONSIBILITY**

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## SENTENCING: ALTERNATIVES TO PRISON

The Thomas Jefferson Research Center first heard about the work of Dan MacDougald and Judge Asa Kelley in 1970. Several trips to Georgia and interviews with many of those involved with the program convinced us that their work was a major breakthrough in criminology.

MacDougald, assisted by Dougherty County Judges Asa Kelley and Eugene Black, Wilbur McCarty, a psychologist, and several others, had created an innovative new value-centered method of criminal rehabilitation called Emotional Maturity Instruction.

At least five studies found that MacDougald's program was remarkably effective with both juvenile and adult criminals. In 1977 for example, John Fisher, a psychology-criminal justice intern at Albany Junior College (Dougherty County, Georgia), attempted to measure the effectiveness of Emotional Maturity Instruction. He examined the juvenile court files of 3,762 juveniles for the period from July 1, 1970 to June 30, 1976. He found that for 840 juvenile criminals who received Emotional Maturity Instruction, the failure rate was 22.9%. Juvenile criminals who did not receive instruction during the test period had a failure rate of 66%.

The Thomas Jefferson Research Center has repeatedly called attention to the work of MacDougald, Kelley, and others in Dougherty County

(Jefferson Research Letters No. 53, 96, 119, 139, 164, and 180), but most psychologists and criminologists have either ignored Emotional Maturity Instruction or claimed that it did not work.

The dominant view among professionals is that there is no effective way to rehabilitate criminals. Most of them still refer to Lipton, Martinson, and Wilkes, and their massive review of criminal rehabilitation efforts, *The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies*, Praeger, New York, 1975. This study concluded that there was no evidence of successful criminal rehabilitation.

Because of widespread skepticism about the feasibility of criminal rehabilitation, it is a pleasure to reprint the following article from the front page of the Los Angeles Times, June 8, 1983. Copyright 1983, Los Angeles Times and reprinted with permission.

### SENTENCING: ALTERNATIVES TO PRISON

by Edwin Chen,

Times Legal Affairs Writer

ALBANY, Ga. — Mickey Harris had good reason to be downcast as he stood before Judge Asa D. Kelley Jr. of Dougherty County Superior Court. He was guilty as charged of driving without a license while under the influence of alcohol.

This being his fifth such offense, the outgoing, long-haired 29-year-old

motorcycle repairman was facing up to five years in state prison.

But the judge offered him a deal instead.

Harris' alternative was to enroll in a pilot Criminal Alcoholic Program that includes nutritional counseling and 12 weekly consciousness-raising discussions with other offenders on topics like harmony, perception, the human potential and the evils of booze.

### No Ordinary Program

But, as Harris quickly learned, this would be no ordinary alcohol rehabilitation program.

Indeed, he was about to enter one of the most unusual probation programs anywhere.

For one thing, like the 1,600 other Dougherty County residents on probation for nonviolent offenses such as burglary, writing bad checks, illicit drug use and chronic drinking problems, Harris is subject to random, unannounced and warrantless police searches of his home and possessions — day or night.

In addition, to further assist law enforcement ferret out probation violations, Harris and other probationers can be made to undergo breath analyzers and lie detector tests and to give urine and blood samples.

Lastly, Harris must report to the county health department twice weekly to be given Antabuse, a powerful drug that when followed by alcohol, makes one violently ill.

## Withstand Challenges

Surprisingly, these Draconian tactics have not only withstood court challenges but also won the grudging approval of organizations like the Georgia American Civil Liberties Union.

While the state ACLU does not like the Criminal Alcoholic Program's mandatory use of Antabuse because of its "coercive" nature, said Gene Guerrero, executive director, the group nevertheless favors the notion of keeping people out of prison.

"A real penal environment should be used only as a last resort," he said, adding that Dougherty County's probation program is also noteworthy because, "people traditionally have a real punitive attitude here in the South."

Clearly, the option of accepting a tough probation instead of a jail sentence is much more preferable to people like Harris. "It's better than prison," he said recently, several months into his five-year probation.

The problem of what to do with non-violent criminals — not only first offenders but also repeaters who nevertheless seem salvageable — long has perplexed judges. But with many prisons bursting at the seams and a growing recognition that costly incarceration does little to rehabilitate anyone, judges like Kelley are increasingly creating alternative sentences for those who stand before them in hopes of turning them into productive members of society.

Meanwhile, as more and more convicts are ending up on probation instead of behind bars, the trend is putting strains on another vital cog in the criminal justice system: the probation departments.

While 30 to 50 cases per probation officer is considered a manageable caseload, the average caseload is 150 in Detroit and Chicago, 180 in New York and more than 300 in Los Angeles.

### Keeping Them Honest

And inadequate probation supervision is precisely why, Judge Kelley said, he uses local police in his southwest Georgia community of 100,000 to help keep probationers honest.

"That's the secret to the whole pro-

gram," the judge said. "If America is to survive, we must use judicial authority to enforce probation through police. The community's got to assume responsibility."

Dougherty County Dist. Atty. Hobart Hind agrees. "We don't believe things will work unless you enforce the conditions of probation — so they understand what order in society is all about."

Nearly all alternative sentences include both restitution and community service. But some judges, such as Challeen in Minnesota, insist that offenders also must be encouraged to be "responsible for themselves," whether that means holding down a steady job or enrolling in counseling.

"We don't change people much," Challeen said. "People change themselves."

Kelley's use of police to help enforce probation amounts to "kid's play," Challeen said. "He's made a game of it — like hide-and-seek. Forceful methods have never worked."

The heavy use of police in probation enforcement is "clearly a very controversial approach and pretty rare," according to Peter Greenwood, a senior criminal justice researcher at the Santa Monica-based Rand Corporation. "And there's no clear consensus on the effectiveness or the morality of it."

But Kelley, who says he learned a thing or two about prisons and rehabilitation in the late 1960s as Georgia's corrections chief during the administration of Gov. Lester Maddox, said his wide-ranging program is beginning to "make good things happen."

Kelley, a 61-year-old Albany native, is a one-time state senator and former deputy state attorney general. When he became director of the Georgia Department of Corrections in early 1967, he did not even know the meaning of the word "recidivist."

But he soon found out. "Sixty-five to 70% of the inmates came back," Kelley recalled. Quickly, he set out to change the system.

In his first month in office, Kelley ordered "conventional short haircuts" for male convicts because, he said, "long hair is not conducive to

self-respect."

### First-Time Offenders

He also fought to enable some convicts to attend college and to work outside, and ordered an hour of weekly outdoor activity for death-row inmates, who until then were confined to cells except for a weekly bath.

A year into his job, Kelley asked the Georgia Legislature to fund a separate facility for first-time offenders in order to keep them away from hard-core incorrigibles.

By the time Kelley left Atlanta in mid-1968 to become presiding judge of the Dougherty County Superior Court, the former Albany mayor was hailed by the Atlanta Constitution as "a reform-minded man."

One of Kelley's first alternative sentencing programs was a "stress management, character education" program given to all probated offenders, regardless of whether they had drug or alcohol problems.

Known as "Emotional Maturity Instruction," it consists of "direct training of the will, direct and indirect instructions to improve the quality of perception, judgment and wisdom; and the clearing of pollutants" from body and mind, in Kelley's words.

Kelley then persuaded the county commission to fund a Judicial Service Agency, staffed by his law clerk, Dan MacDougald, to help operate the growing program.

By July, 1981, Kelley began requiring many placed on probation to undergo urinalysis for the detection of marijuana.

If tetrahydrocannabinol (THC), the main active ingredient in marijuana, is found, the probationer is given a lie detector test to help police locate dealers — and then is sent to jail for seven days.

The second time THC is detected, the jail punishment increases to 90 days. On the third time, probation is revoked. In one such case, a probationer went to prison for 10 years.

Within six months of implementation, Kelley said, pot use among probationers dropped from 61.7% to 27%, and today stands at 10.5%.

The marijuana detection program survived a constitutional challenge and was upheld by the Georgia

## Supreme Court.

In a separate test case, Michael S. Owens, who was on 15 years' probation for felony possession of cocaine and phencyclidine (PCP), challenged the requirements that he undergo police searches without warrants.

But that tactic, too, was upheld when the U.S. 11th Circuit Court of Appeals last August said Kelley's conditions "were obviously fashioned for the purpose of making probation a meaningful rehabilitative experience . . ."

The federal court said the probation conditions promote rehabilitation "by providing probation supervisors with a practical mechanism to determine whether rehabilitation is indeed taking place."

The court also cited a Georgia Supreme Court ruling which noted that — despite the Fourth Amendment protection against unreasonable searches and seizures — "A person occupies a special status while on probation, during which time his private life and behavior may be regulated by the state to an extent that would be completely untenable under ordinary circumstances."

## ACHIEVEMENT SKILLS INSTRUCTORS

Twenty-one people completed the Center's two-day Achievement Skills Instructor's Class held at the California Institute of Technology, Industrial Relations Center, on June 28 and 29. Jim Carlton, John Urso, and Stewart Rogers conducted this training session.



First Row: Jim Carlton, Ruth Brazil, Esther Eranio, Doris Anderson, Janice Austin, Linda Zimring.

Second Row: Natalie Messinger, Craig Kohland, Ruth Davis, Jack Bicket, Pat Pelletier, Lynn-Marie Schlote, Frank Goble, Gayle Potamkin, Stewart Rogers, Marcia Avent, "Bel" Moore, Allan Sherry, Nan Gulugian, John Urso. Others who completed instruction but do not appear in the photograph are: Laura Alcantara, Ramona Andrus, D'Marie Battle, Elsie Fraser, and June Grube.

## Surprise Police Visits

MacDougald estimated that about 1,300 of the 1,600 Dougherty County probationers have had surprise police visits at least once during their probations.

Dougherty County's newest program, begun in January, is the Criminal Alcohol Program — designed "for crime- and accident-prone personalities with an alcohol problem," Kelley said.

Failure to show up to take Antabuse "gets a participant locked up fast," the judge said.

Antabuse is not uncommon in some commercial alcohol treatment programs. But its widespread use as a tool in probation may be unprecedented, according to alcoholic rehabilitation experts.

"We agree with Kelley's general intention of keeping out of prison people who don't belong there. But the problem with the Antabuse program is that it's so coercive — by putting people between a rock and a hard place," ACLU's Guerrero said.

But for Mickey Harris, the motorcycle repairman, 12 weeks of Antabuse and "Emotional Maturity

Instruction," and five years of possible surprise police visits clearly were still preferable alternatives to the state penitentiary.

"I'd much rather be doing this," he said with a laugh, sipping a soda during a class break one recent evening.

## A YEAR OF PROGRESS

The Thomas Jefferson Research Center's 1982/83 fiscal year which ended on June 30, 1983 was a year of exciting progress. While auditors for Arthur Young & Company are still checking the final figures, estimated 1982/83 income, at \$761,000, is up 74% over 81/82.

Much of this increase is due to growing national recognition that our schools can and must place greater emphasis on character and ethics.

### Character Education Curriculum

The Center placed the Character Education Curriculum kits in an additional 2,080 elementary school classrooms. This compares with 1,173 kits placed during the previous year. New districts involved with the program include Denver, Colorado; Vero Beach, Florida; Chicago; San Francisco and Stockton, California; and many others.

### Achievement Skills

During the last 12 months the Center completed the first draft of the Achievement Skills motivational character-building series for grades 7, 8, 9 and 10. This badly needed program is now being tested in several school districts and preliminary reports are most encouraging.

### Gilmore Parent Seminars

For parents, the Center continued to train instructors for the outstanding Gilmore Parent Seminars. Northrop Corporation offered this program to their employees as a fringe benefit and received very positive feedback. Hughes Aircraft is now offering the program at a special discount to some of their employees.

### 19th Anniversary Banquet

A high point for the year was the Center's 19th anniversary banquet on

November 10 honoring Presidential Advisor Edwin Meese and featuring Charlton Heston as the keynote speaker. This gala event also featured the first showing of the Center's new media show, "Rebuilding America," financed by a generous grant from Chevron, U.S.A. and narrated by Efrem Zimbalist, Jr.

#### The Case for Character Education

Another highly important project in fiscal 82/83 was the completion of the manuscript for a new book, *The Case for Character Education*, by Frank Goble and David Brooks. This fact-filled book explains that systematic character education in our schools is traditional, legal, feasible, badly needed, and beneficial to everyone. The finished book will be available in September, 1983.

#### Safe Schools Project

Dr. David Brooks, director of the Center's Safe Schools Project, conducted 38 community awareness workshops for parents and teachers. More than 2,400 people attended these meetings to learn about youth gangs and practical ways to reduce youth gang problems. Dr. Brooks also spoke at several national conventions, including one at the Harvard Graduate School of Education, for which he received mention in *U.S.A. Today and Time*.

#### Leadership Workshops

In cooperation with the U.S. Depart-

ment of Education and the Center for Leadership Development, the Center conducted six one-day workshops for school superintendents and school board members on character education and management effectiveness.

#### Publication of Research

The Center continued to publicize its overall conclusion that there is something very wrong with the value-free theories of behavior that dominate in the behavioral sciences. The Center also continued to publicize the idea that because of the influence of value-free science, homes, schools, colleges, churches, media, and other institutions are no longer placing adequate emphasis on character and ethics.

This information was communicated by means of the Center's monthly Research Letter, distribution of books, magazine and newspaper articles, teaching materials, lectures, seminars, and radio and TV interviews. The Center now has an active speaker's bureau.

In addition, the Center answered thousands of letters and telephone calls from people seeking information about the Center's work and programs.

One special report that received considerable attention and favorable comments was Frank Goble's critique of the Berman, Weiler report. The Berman, Weiler report entitled "Improving Student Performance in California" was prepared for the

California Roundtable, an organization of chief executive officers from 86 principal California corporations. Although the report correctly identified a serious decline in student performance in recent years, it failed to mention the equally serious decline in student conduct, and the fact that these two aspects of education were interrelated.

#### Research by Others

A very encouraging event during fiscal 82/83 was the publication of two highly significant reports challenging the conventional criminological theory that crime and violence are caused by poverty, racial discrimination, or social injustice. These two reports, which were reviewed in the Center's Research Letters 204 and 205, found that historically, both in the U.S.A. and England, crime rates were reduced when ethical instruction was increased.

#### The Need To Do More

While the results reported above are encouraging and there does seem to be a definite national swing toward greater emphasis on individual responsibility, crime, violence, vandalism, drug abuse, and other symptoms of moral disintegration, however, are still increasing faster than population.

Therefore, while we are greatly encouraged by the Center's progress, it seems obvious that much more must be done.



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