

BOOK REVIEW

Radical Non-Intervention: Rethinking the Delinquency Problem.
EDWIN M. SCHUR. Prentice-Hall, Inc., Englewood Cliffs, N.J.,
1973. Pp. X, 180. \$2.45 Paperbound.

"Leave kids alone wherever possible"

These are the words of Edwin M. Schur, Professor of Sociology at New York University. According to Professor Schur, individual treatment of the offender has not made juvenile delinquency disappear. The attempts to reform societal inequities appear to provide no cure. We must now turn to radical non-intervention, which redefines the delinquency process. Policies must be adopted that will help society accept a wide variety of behavior and attitudes rather than forcing youngsters to adjust to some closely circumscribed norm. This is not to say that Professor Schur advocates that all anti-social behavior must be tolerated, but rather that in adopting our traditional delinquency policies we have over-reacted in proscribing behavior for the young and have gone far beyond what is necessary to maintain an ordered society.

The nineteenth century reformers wanted a system created to save children from lives of crime and the adult criminal system. Juvenile courts were established with wide-ranging jurisdictional statutes. Conduct illegal for adults was equally illegal for those under eighteen years of age. Also included, however, were a wide range of offenses that were illegal only when committed by children. The existing New Jersey statute is typical. Delinquency includes immorality; idly roaming the streets at night; deportment endangering the morals, health or general welfare of the child; incorrigibility; truancy; growing up in idleness or delinquency; knowingly associating with thieves or vicious or immoral persons or knowingly visiting gambling places, or patronizing other places or establishments, an admission to which constitutes a violation of law. Under this theory, the state acts as *parens patriae*, helping those juveniles whose conduct is thought to be an early manifestation of deviant behavior.

Agreement is widespread that the juvenile justice system, which was allegedly created to save children, usually exacerbates the problems with which it is supposed to deal. The mid nineteen-sixties saw dissatisfaction with the legal protections available to children caught

in the system. The 1967 President's Commission on Law Enforcement and Administration of Justice commented:

What emerges, then, is this: In theory the juvenile court was to be helpful and rehabilitative rather than punitive. In fact the distinction often disappears, not only because of the absence of facilities and personnel but also because of the limits of knowledge and technique. In theory the court's action was to affix no stigmatizing label. In fact a delinquent is generally viewed by employers, schools, the armed services—by society generally—as a criminal. In theory the court was to treat children guilty of criminal acts in noncriminal ways. In fact it labels truants and run-aways as junior criminals.

In theory the court's operations could justifiably be informal, its findings and decisions made without observing ordinary procedural safeguards, because it would act only in the best interest of the child. In fact it frequently does nothing more nor less than deprive a child of liberty without due process of law—knowing not what else to do and needing, whether admittedly or not, to act in the community's interest even more imperatively than the child's. In theory it was to exercise its protective powers to bring an errant child back into the fold. In fact there is increasing reason to believe that its intervention reinforces the juvenile's unlawful impulses. In theory it was to concentrate on each case the best of current social science learning. In fact it has often become a vested interest in its turn, loathe to cooperate with innovative programs or avail itself of forward-looking methods.¹

The more recent National Advisory Commission on Criminal Justice Standards and Goals, in recommending the establishment of a family court, cautioned against any authorization that would order:

[T]he institutionalization of a juvenile only upon a determination of delinquency and a finding that no alternative disposition would accomplish the desired result. A determination of delinquency should require a finding that the State has proven that the juvenile has committed an act that, if committed by an adult, would constitute a criminal offense.²

The legalistic approach in narrowing the jurisdiction of the court still looks to the social scientists who are expected to investigate the "causes of youthful deviance and then prescribe the cures." The belief in a sudden, simple solution is, as the author points out, highly unrealistic. Societies without problems do not exist; nor can they. The norms of a society are examined by adherence and deviance. The social

¹ THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: JUVENILE DELINQUENCY AND YOUTH CRIME 9 (1967).

² NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS, AND GOALS, TASK FORCE ON COURTS 293 (1973).

scientist can not be expected to eliminate delinquency—he can re-define the phenomena, control it, build and “shape” it, but as Professor Schur shows, the moral burden cannot remain with the sociologists. It is for the citizen and the legislator to change public policy.

If we agree that crime and delinquency are very much a part of our society, we therefore commit ourselves to causes and effects. The unfortunate corollary to this approach is that those whose behavior comes under scrutiny must be basically different from the norm. This is unfortunate since most of the empirical research has found to the contrary.

What is the general nature of juvenile offenses? Research in Los Angeles has shown that juvenile fighting, thefts, truancy, running away, and incorrigibility during a specified period of time were far more frequent than assaultive crimes. However, newspaper coverage during that same period concentrated only on violent crimes against persons, creating an unwarranted and unfortunate public misconception about the nature and quality of juvenile crime.

Coupled with misconceptions involving the nature of youthful transgression is an apparent anti-youth sentiment. A backlash has been created by campus protests; civil rights activity; the drug culture; and the moral indignation toward, and criticism of, existing institutions by the young. The young were different, and their attempts to influence society and to seize power before their time could not be tolerated.

In an extremely well-reasoned section, Professor Schur explains the impotence of treating the individual as the panacea for delinquency. The founders of the juvenile court system envisioned a process where erring youth who were still malleable could be treated on an individual basis and have their delinquency corrected. Unfortunately, this approach presupposes internal causes for deviance.

Biological theories were constructed to identify certain physical characteristics in the junior criminal population. Psychological theorists concluded that the delinquent often experiences feelings of rejection. Sociological research has characterized the delinquent as sociopathic. Although recent studies have indicated that well-developed, rejected and sociopathic juveniles are found among the children known to the court, control groups have not been used to validate these characteristics. It is uncertain whether these traits are more common to the delinquent population than to the juveniles unknown to the courts.

Individual treatment of the delinquent requires that these children be identified early. The Cambridge-Somerville Youth Study centered on the use of teachers and police as the identifiers. Judges were

subsequently asked to predict the likelihood of future delinquency. The follow-up, some twenty years later, showed disappointing results: less than one-third of the juveniles who had been identified as definite pre-delinquents ever became involved with the law. Upon examination of the impressional criteria used to characterize "pre-delinquents," one finds that contradictory criterion were used by the identifiers. A pre-delinquent was characterized as likely to be either "bashful" or "bullying," "under-active" or "over-active," or "aggressive" or "passive."

It becomes obvious that scientific identification of those juveniles with a propensity to commit crime is at best inexact and at worst may create the problems intended to be solved. A child singled out as "bad" and labelled as a "delinquent" by the community may well begin to respond to these societal expectations. One may speculate that early "identification" and "treatment" may create the very condition of delinquency that all the helping professions seek to cure. Moreover, the few studies in which separate groups of children were either treated by counseling and probation or were left alone indicate that the intervention of the professional into the lives of children did not have any appreciable effect on the rate of recidivism.

The second major approach to the delinquency problem discussed by Professor Schur is the more liberal view that the delinquent juvenile tends to be caught in a societal web. Therefore, if society is reformed, particularly the social and economic conditions, our youth problems will magically disappear. The general social reformers assume that most problems of youth crime are found among the lower class and the working class. If problems of housing, racism, income inequality, and isolation are solved, these external forces would no longer draw juveniles into lives of crime.

The reformers examined the frustration of the underprivileged child embarking into the middle-class world of the pedagogue. Programs proliferated using the indigenous street work population. Projects were started using workers to direct "gang" activities. The "gangs" were no longer isolated; they participated in citizen groups, recreational athletic leagues, and job placement activities. However, the discouraging fact remained—delinquency was not reduced.

The reformers still cling to the concept that community based programs, better job training for the systems operatives, smaller probation caseloads, and better correctional facilities will improve the system. Their feeling is that the juvenile justice system should be continued and strengthened but the focus should be turned outward.

Those who would treat the individual and those who would re-

form society are therefore in agreement in one respect: they still cling to the rehabilitative ideal which perpetuates the *parens patriae* mentality. In contrast, Professor Schur's analysis of the system is perceptive, and his cure, while not wholly satisfying to the daily practitioners within the system, is mind expanding for both the lawyer and the layman alike. His premise is that the system does not work and that some of its basic assumptions are unsound. Therefore, the resulting responses are harmful.

Generally, the laws affecting children label them not only as delinquents, incorrigibles, runaways, vagrants, idlers, and truants, but also as arsonists, murderers, and rapists. If the laws are drastically limited so as to affect only those juveniles who have committed criminal acts, it is unlikely that youthful behavior will change. However, the number of children caught in this vague dragnet will diminish; they will not be subject to the labeling process and will not receive the concomitant status of the deviant. We could look forward to fewer juveniles attempting to conform to societal expectations of a juvenile delinquent.

The radical non-interventionists call for the repudiation of the myth that the delinquent is somehow different from other members of society. The difference is that he has been identified and processed by the system. It is advocated that society must accept "the widest possible diversity of behaviors and attitudes, rather than forcing as many individuals as possible to 'adjust' to supposedly common standards."

The easy assumption has been that delinquency is highly concentrated among the lower socio-economic groups: the "have-nots." Sociologists have long been aware that the "haves" of our society very rarely become enmeshed in the juvenile justice system. Youth crime in the suburbs is handled by referrals to private agencies, schools, and parents—not to the court system.

To substantiate this assertion, research has been conducted among college students who freely admit to the commission of many offenses which could have brought them to court. However, when compared to a sample of non-students, virtually all of the college students responded that their activities never came under court scrutiny.

The radical non-interventionist points out the ways in which the system creates delinquents. The entire justice system, premised on middle-class values, yet applied selectively in the court process, creates a sense of injustice.

Professor Schur calls for new priorities. Since we can no longer comfortably argue that delinquency is found only among the sick, bad

or disadvantaged, we must accept that youthful misconduct is inevitable and that delinquency is merely behavior. If we accept the less severe manifestations of this behavior, instead of attempting to cure, the results will be better.

Major political decisions must be made to construct a just system of criminal justice in an unjust society. Young people must be shown a legal system that is worthy of respect and a society that will respect them. Conduct that is illegal only for children must be deleted from our laws. The juvenile justice system should not attempt to deal broadly with all youth problems. Rather, a child in court should have his immediate and specific violation considered. Recognizing that all the conduct currently punishable is not in the best interests of the juvenile, a narrow range of proscribed activity must be created for those actions that we do wish to punish.

As Professor Schur admits:

Sociologists have produced no definitive "solution" to delinquency problems. They have, however, alerted us to many misconceptions and blind alleys, and begun to show us the direction that policy might sensibly take. Our young people deserve something better than being "processed." Hopefully, we are beginning to realize this.

*Marcia R. Richman**

* B.A., M.A., Columbia University; J.D., Seton Hall University; Deputy Public Defender for the State of New Jersey, Head of Juvenile Administration.