

## Patuxent: Controversial Prison Clings to Belief in Rehabilitation

*Patuxent was sired by violence. Its dam was the Maryland legislature. It was conceived on the psychiatrist's couch. The affair was chaperoned by the Department of Corrections. The bastard nature of Patuxent could not be concealed indefinitely.*  
—NATHAN T. SIDLEY, forensic psychiatrist at the Woburn, Massachusetts, 5th District Court

Patuxent Institution in Maryland is one of the longest-running stories in American corrections. It has been publicized, evaluated, and criticized continuously throughout its 22 years of existence. "It has, in all probability, been the most sued institution in America," says psychiatrist Jonas Rapoport, former board member and a leading Patuxent proponent.

As an experimental institution set up by the state to try to rehabilitate the most difficult elements of the criminal population, Patuxent has been washed over by successive waves of penal philosophies. Established during the peak of optimism about the power of psychiatry to heal society's ills, the place was heavily publicized as a glowing embodiment of humane ideals. The tide turned in the late 1960's as civil libertarians mounted ferocious attacks on the medical model for dealing with criminals and, in particular, on the indeterminate sentence that gave Patuxent its unique leverage over its inmates. Once a beacon for corrections, Patuxent was denounced as a "Clockwork Orange" prison, deluged with lawsuits, and the object of continuous assault by a large coalition of civil liberties groups called the Maryland Coalition Against Patuxent.

In a major revision of its mandate last year, the Maryland legislature defused the Patuxent controversy by abolishing the indeterminate sentence and eliminating involuntary commitment to the institution. Now, anyone who does not like it there can be transferred to a regular prison on demand. Patuxent is now bobbing along, relatively isolated, in the wake of the latest wave—the massive disillusionment with attempts at criminal rehabilitation.

Patuxent's problems in many ways are entwined with the problems of the psychiatric profession, which generally regards itself these days as under siege. Psychiatry oversold itself; now it is suffering from perceived arrogance and au-

thoritarianism. Its problems are sharply evident at the interface with the law: although psychiatrists are increasingly involved in forensic work their proper role vis-à-vis the courts is not at all clear, and medical and legal aims are often contradictory—a prisoner's rights are quite different depending on whether or not he is adjudged mentally ill. Browning Hoffman, professor of psychiatry and law at the University of Virginia, has described Patuxent as embodying an "unpalatable" combination of "the healing art" and political power—and a continuous border dispute between "low-Mach" psychiatrists (referring to their quotient of Machiavellianism) and "high-Mach" politicians.

Patuxent was established under a 1951 statute calling for a special facility to house "defective delinquents." (Those were the days before euphemisms swept through the prison system.) A defective delinquent, said the law, was an individual who engaged in "persistent aggravated anti-social or criminal behavior," showed "a propensity toward criminal activity," and had "either such intellectual deficiency or emotional imbalance, or both," as to be an "actual danger to society."

The concepts underlying the law were several: that there existed a definable subpopulation of mentally disturbed (but nonpsychotic) criminals; that dangerous ones should be put away until such time as they no longer were dangerous; and that the best way to induce them to change was to put them in a combined prison-hospital setting that made available the wisdom of modern psychiatry.

The prison is founded on a simple form of behavior modification—a graduated tier system (known in the last century as the Irish prison system) through which inmates—or "patients" as they are still called—must pass before they can be released. Tier one is made up of stark prison cells. In the next three tiers residents have gradually increased privileges and

amenities and are allowed more personal possessions, and the cells in the upper two have doors instead of bars. Patients are assigned to four "units" (which cut across the tier system); each unit is overseen by a team including several psychologists and social workers, so each prisoner is in continuous contact with the same team as he works his way up the system and through his "program," which combines education, vocational training, and therapy. The successful prisoner eventually ends up at the "pre-release" center, a separate building on the grounds that resembles a low-budget dormitory.

What makes the Patuxent program unique is the emphasis on structuring the entire milieu to reinforce positive behavior. Disciplinary decisions, for example, are made jointly by custodial and professional personnel, so prisoners cannot manipulate the system by trying to pit the authorities against each other. Therapy is at the core of the system, rather than peripheral to the prison routine. And, because Patuxent has its own parole system and Institutional Board of Review, parole violators can be snatched back to start again where they left off.

A visitor to Patuxent may well wonder why there has been so much fuss over it. The institution, after all, has never been the scene of any outrages like those in other prisons—aversive conditioning with drugs and electroshock, or psychosurgery. But it was the indeterminate sentence that struck terror in the hearts of prisoners and led to public denunciations.

By 1976 with the institution in imminent danger of being shut down by the legislature, the state contracted with a private consulting firm, Contract Research Corporation, to do the ultimate evaluation of Patuxent. After 6 months and \$130,000, CRC came up with a fairly broad indictment of the operation. It found the personnel more dedicated than effective, the programs flawed. It found no evidence that therapy actually reduced recidivism. It quarreled with Patuxent's recidivism statistics and found that Patuxent graduates did about the same as criminals released from other institutions. It asserted that dangerousness (a basic criterion for whether or not a prisoner is released) cannot be reliably predicted. It concluded, "The model on which Patuxent Institution was founded, while consistent with the state of knowledge in 1950, is not validated by the experimental and corrections literature. Neither the prediction of dangerousness, the effectiveness of psychotherapy treatment programs in reducing recidivism,

## Cancer Meeting Under Boycott

Organizers of a boycott of the upcoming International Cancer Congress in Argentina have met with a significant but not decisive response from cancer researchers. Officials of the Geneva-based International Union Against Cancer, the convenor of the conference, are going ahead with plans to hold it in Buenos Aires this October.

From 400 to 500 American scientists have signed a petition saying they cannot attend the conference unless it is held elsewhere, according to Henry Rappaport of the City of Hope National Medical Center in Duarte, California. Rappaport, the prime mover behind the boycott, says that a similar petition circulated in France and Belgium has attracted some 250 names.

The call for a boycott, based on a desire to protest the political repression of scientists and others in Argentina, has come up for decision in two scientific groups. A recent meeting of scientists awarded career professorships by the American Cancer Society voted unanimously to boycott the meeting. The executive committee of the American Association for Cancer Research was deadlocked on the issue and held a ballot among its 2500 members as to whether it should propose the names of official delegates to the meeting. The motion passed by the narrow margin of 601 votes to 527.

The Buenos Aires conference is being supported with a \$250,000 grant from the National Cancer Institute. Gregory O'Connor, NCI associate director for international affairs, says that the boycott does not seem to be having a significant effect on attendance so far; advance registration is higher than for any previous conference in the series. But, says O'Connor, "I have the sense that the boycott will be effective in that a number of our top scientists will not be going and I think this will be a loss to the Congress."

The idea for the boycott started when an Argentinian scientist told Rappaport about the treatment his family has received from Argentine authorities. Rappaport, who narrowly escaped execution by the Nazis when he left Austria some 40 years ago, decided to protest holding the cancer congress in Buenos Aires. He spoke to Henry Kaplan of Stanford, who lined up Emil Frei, director of the Sidney Farber Cancer Institute, and reverse transcriptase finders David Baltimore and Howard Temin. The five wrote a letter to *Science* (21 October 1977) inviting American scientists to sign a petition which noted reports that scientists and others in Argentina have been arrested, often tortured and sometimes executed without trial. "We cannot in good conscience condone such actions, nor can we participate in an International Cancer Congress, however worthy its cause, if it is held in Argentina," the petition declares. It calls upon the International Union Against Cancer to hold the Congress elsewhere.

Secretary general of the IUAC is Gerald Murphy, director of the Roswell Park Memorial Institute. Murphy, who says he can speak only in a personal, not official capacity, believes that organizers of the boycott "are addressing themselves to a serious issue, but the conference has got nothing to do with the issue." The IUAC, Murphy observes, is a nonpolitical body. Its hosts in Argentina are voluntary societies. Murphy knows of no financial support for the conference from the Argentine government, nor is any government speaker addressing it. The IUAC has not yet received the petitions asking for the conference to be held elsewhere; Murphy does not know whether or not it would be technically feasible to do so.

NCI's O'Connor says he consulted with the U.S. State Department among others before deciding to continue the NCI's support of the conference. "My own opinion is that I am advising people not to boycott, for two reasons," O'Connor says: "Once you start bringing political considerations into scientific meetings, it's hard to know where to stop. Second, the very people you want to help will suffer most. They are looking forward to the meeting, which is a unique opportunity for many people in Latin America."

Proponents of the boycott argue that attendance at the conference is inevitably a political act implying approval of the Argentine government, regardless of the IUAC's claim of being nonpolitical. The closeness of the vote among the American Association for Cancer Research indicates that there is no easy solution to this perennially vexing issue.—N.W.

nor the basis for the indeterminate sentence is substantiated by the state of empirical research knowledge in the mid-1970's."

In other words: we have learned nothing about treatment of criminals since 1950, except for the fact that we know less than we thought we did.

The liberals were closing in on Patuxent because of the indeterminate sentence; the conservatives had begun to turn their backs because of the expense—\$13,500 a year, or double the cost of keeping someone in the regular system. John Wylie, a Patuxent psychiatrist, says the bilateral drying up of support for Patuxent has been evident even in cocktail party conversations—"half the people think I'm obnoxious for treating killers; the other half attack me for trying to control them."

The state, however, was not willing to abandon altogether its only formal commitment to rehabilitation, so it was salvaged by being defanged. In accordance with the CRC recommendations, the term "defective delinquent" was abolished, as was the indeterminate sentence. Prisoners referred to and accepted by the institution were allowed to be transferred within 90 days.

With these changes, the entire mandate of the institution became radically altered. The first criterion for admission to Patuxent is no longer "danger to society" but "treatability." Defective delinquents in the new law became "eligible persons." Such persons were defined as convicted criminals with at least 3 years remaining in their sentences, who had an intellectual deficiency or emotional imbalance, who were "likely to respond favorably to the programs and services at Patuxent," and who could be "better rehabilitated" there "than by other incarceration."

As soon as the new law passed, Patuxent released 33 prisoners who had been held beyond the maximum terms for their offenses; approximately 80 others petitioned for transfers. On the other hand, says Patuxent's associate director, psychologist Arthur Kandel, several former inmates who fought to get out of Patuxent and are in other jails are clamoring to get back in now that indeterminate stays have been eliminated. Whereas before, people were suing to get out, Kandel says he expects "to find ourselves in court soon defending decisions not to let guys in." He adds, "pretty much anyone with a brain in his head is going to want to get into Patuxent." This is because, in addition to the relatively cushy surroundings, Patuxent patients have the supreme privilege of

coming up for parole review every year, instead of every 4 years as in the rest of the state system.

Kandel and other Patuxent officials are scornful of the CRC report and lament losing the indeterminate sentence—"a tremendous motivator." Yet, what they have lost in absolute power they have more than gained in additional discretion. The court no longer determines who goes to Patuxent; all discretion is now with the staff, which can also effect the transfer of prisoners who will not cooperate and would otherwise spend years in tier one. Now that the criterion for admission is not dangerousness but treatability, the staff is free to turn down rapist-murderers on the grounds that they cannot be changed. "Predicting dangerousness is easy," Kandel maintains. Treatability is much more difficult to predict. The staff could even turn down so-called psychopaths or sociopaths (who now comprise about "99.9 percent" of the Patuxent population) because, according to the literature, psychopaths are virtually untreatable. On the other hand, under the new law "we could take a kleptomaniac."

From now on, the institution expects to be applied to by the "life and life-plus" people looking for "easy time" and abundant possibilities for parole. Yet, if it so desires, it can admit younger, even first-time offenders, on the grounds that they could benefit from the programs.

In a meeting with several Patuxent officials, *Science* asked their response to the findings of a 15-year project at St. Elizabeths hospital in Washington, D.C. (*Science*, 3 February 1978). The St. Elizabeths people concluded, after an exhaustive study of the thought processes of hundreds of hard-core criminals, that there was remarkable uniformity—the "criminal personalities" were narcissistic, thrill-seeking, amoral, and virtually all their behavior was profoundly antisocial. The investigators, Samuel Yochelson and Stanton Samenow, contended that such people require total restructuring of their characters, a process that requires years of intensive psychotherapy and follow-up.

Psychiatrists who have worked at Patuxent agreed that the St. Elizabeths characterization was highly relevant to their patients. They did not, however, share what one called the "somewhat nihilistic and cynical" view of Yochelson and Samenow. Yochelson's depiction of the criminal is of a man who has full control over his actions and in effect "chooses" to be a sociopath from an early age, which the Patuxent psychia-

trists felt does not take into account the extreme emotional volatility and immaturity that characterize Patuxent residents. Also, whereas Yochelson dismisses the concept of mental illness, the Patuxent psychiatrists are firmly wedded to the medical model. The majority of criminal behavior, says psychiatrist John Wylie, "is obviously a psychiatric problem. . . . The assertion that serious criminal behavior and repeated episodes of physical violence aren't mental illness is bullshit. To say a person isn't mentally ill is using a person."

The 1½-hour-a-week group therapy sessions, which Kandel calls "the backbone of our program," follow the fairly conventional psychodynamic approach, eschewing more recent ones such as meditation and psychodrama. The therapy, says another Patuxent psychiatrist, Michael Bisco, is basically analytically oriented—that is, attempts are made to get the prisoner to achieve some insight into his nature and the causes of his behavior. With the more psychopathic patients, he says, "it's the old donkey story"—you have to get their attention first. This requires considerable direction and control on the part of the therapist and an ability to see through evasiveness and manipulation. If this is successful, he says, "sometimes they can act like fairly neurotic people"—which is a definite improvement. The borderline psychotics do not do well at Patuxent, but many of the neurotics develop significantly happier ways of relating to the world.

There are no data showing whether Patuxent people really are different from residents of other state penal facilities. All convicted criminals are routinely sent to a diagnostic center in Baltimore, but the "diagnosis" is little more than taking a criminal history to determine what facility to send them to. Those referred to Patuxent are the only prisoners to get detailed examinations. A social worker gathers background about the prisoner from him, his family, and other sources. A psychologist administers a battery of tests to determine, among other things, intelligence and possible brain damage. Finally, there is a psychiatric interview to determine "mental status." Formal psychiatric diagnoses are not made; instead, the typical patient might be described as impulsive, emotionally volatile, showing poor judgment, denying his guilt, and manifesting a defiant, superior attitude.

Perhaps the main thing that characterizes the Patuxent patients is that they are the "losers" in crime. They get caught a lot. Psychiatrist John Lion of the Univer-

sity of Maryland calls them "the unstable, aggressive ones, the criminals who are not well-organized." Middle-class criminals, he says, do not land in Patuxent because their lawyers keep them out of jail. Nor is Patuxent where you find the classic "pure" psychopath—the superficially charming, intelligent, cool-headed operator, the kind who might end up as a professional hit man or in any number of legitimate professions. "Good psychopaths are used car salesmen," says Wylie. Many do well in politics.

Therapy at Patuxent is arduous and exhausting for the psychiatrists, psychologists, and social workers. Yet they firmly disagree with those who claim that therapy is impossible with people who are involuntarily incarcerated. On the contrary, they maintain, the most important single positive factor in working with these people, all of whom have great difficulty dealing with authority figures, is the "authoritarian setting"—that is, jail. "They're like one's teenaged children," says Kandel. "They're all immature." They resent authority, but by the same token they require it. A formally attired "doctor" ultimately makes more headway than a hippie type who tries to seem like one of the boys and is perceived as easily conned.

Even though the elements of coercion have been removed from Patuxent's style of operation, it appears destined for continuous probing and analysis. There is no way to scientifically determine whether the institution fosters good citizenship because no one knows what the fate of former inmates would be if they had been incarcerated somewhere else. Patuxent claims a 37 percent recidivism rate, compared with about 60 percent in the rest of the state. CRC, using its own computations, states the rate is at best only slightly better than the rest of the state. Many variables cloud the picture: Patuxent inmates generally have committed more and more serious crimes to begin with. Average length of stay is longer. The average age on release—33—is higher than from other prisons, and it is well known that criminal activity has a way of decreasing with age. Parole supervision is tighter, which could mean that Patuxent graduates have more incentive to tread the straight and narrow; it could also mean that new offenses are caught and recorded where they would not be by the state parole system. It is not within the expertise of any field to calculate the cost-effectiveness of an institution like Patuxent—there are too many factors that cannot be quantified and the whole topic of how criminals

should be handled is too value-laden. At present, the importance of civil rights for prisoners (the current thrust, according to Alvin Bronstein of the National Prison Project, is toward preventing "debilitation" caused by bad living conditions and idleness) has superseded concern with the more positive notion of "rehabilitation."

Although Patuxent cannot prove through statistics that its programs do more than prevent debilitation, Rapoport and others believe the public is of a mind to overlook the fact that it *has* changed lives for the better. "I think Patuxent was a very brave experiment," he says. "The basic concept of attempting to treat seriously dangerous, anti-social individuals under some form of coercion is a valid concept. Regardless of what statistics show, Patuxent has accomplished a great deal in terms of 'quality of life' for those who succeeded in getting out of the institution.\* The country has to be willing, if they want to protect themselves in the long run, to make

certain sacrifices in terms of human rights, and in terms of cost."

That last assumption is not widely accepted these days. And so, as Lion asserts, Patuxent is operating pretty much "in a vacuum" with little chance of going beyond an "experimental, voluntary status."

Yet, as Lion goes on to say, Patuxent "is one of the few places where people grapple with the most difficult issues in society—anger, violence, retribution. . . ." The current retrenchment, in which emphasis has shifted from punishing the person to punishing the crime, is part of what Lion sees as public failure to confront the really tough questions: How much should society spend on trying to change criminals? How much effort

\*Rapoport says a program, run through the University of Maryland, for repetitively violent and sex offenders illustrates the unquantifiable changes made. Some patients who have gone through the program show no difference in psychological tests before and after; nor have their therapists perceived any change. Nonetheless, the lives of many have improved in terms of jobs, education, and family relationships.

should be invested in rehabilitating an individual before giving up on him? Are there not some people who pose such a menace that humanity would best be served by executing them? "No one's tackling these questions," asserts Lion. And furthermore, society is unwilling to take a few rudimentary steps—such as gun control and increased auto safety—that would significantly reduce the level of violence in the country.

As Peter Lejins, of the University of Maryland wrote, in a recent issue of the *AAPL Bulletin*, "Patuxent Institution went out of existence as it had been visualized by its founders not as the result of objective findings with regard to (its) effectiveness . . . but as a result of the change in the attitudinal climate" that has affected corrections in the past decade.

As long as society as a whole continues to ignore the big questions, a place like Patuxent is likely to remain an anomaly rather than an example.

—CONSTANCE HOLDEN

## Virginia Refinery Battle: Another Dilemma in Energy Facility Siting

The intense controversy that has flared over a proposal to build a large oil refinery in southeastern Virginia on a tributary of Hampton Roads and the lower Chesapeake Bay is witness to the widely acknowledged fact that the nation lacks an effective policy for the siting of major energy facilities. Absent such a policy, proposed projects may involve needlessly acute conflicts with environmental and resource values, and, as a consequence, invite opposition that leads invariably to long delays for the projects if not to their cancellation. The controversy in Virginia over the refinery poses a stark dilemma for the officials who must pass on the project and reveals with particular clarity the weaknesses of the existing system of energy facility siting. Unless corrected, these weaknesses could lead to much worse trouble in the years ahead when production of oil and natural gas is ready to begin in newly developed provinces of the Atlantic and Pacific outer continental shelf (OCS).

For the Virginia project, 1978 could be

the make or break year. The outcome may depend on whether the Chief of the U.S. Army Corps of Engineers—a key authority for an undertaking of this kind—decides to go with the Department of Energy, which supports the project, or with the Environmental Protection Agency (EPA), which does not.

The refinery, with an initial capacity to process 175,000 barrels a day of high sulfur Middle Eastern crude oil, would be built by the Hampton Roads Energy Company (HREC), a newly created firm backed financially by Cox Enterprises, Inc., an Atlanta-based communications company.

HREC has been engaged in the tortuous process of obtaining all of the necessary state and federal permits for the project since early 1975. Proposed for a 620-acre site on the Elizabeth River, in the middle of the Norfolk-Portsmouth metropolitan area and within several miles of the rich shellfish grounds of the lower James River, the refinery project has inevitably given rise to troublesome

issues related to air and water quality and the protection of estuarine resources.

At this point, HREC has obtained all of the state permits required of it, although the validity of the effluent discharge permit granted by the State Water Control Board (SWCB) is being strongly challenged in both state and federal courts. The company still has to obtain a permit from the Corps of Engineers for the channel dredging and other work that would be necessary in building a marine terminal where crude oil from incoming tankers would be received and refined products would be loaded aboard outgoing tankers and barges. If one makes the risky assumption that the SWCB permit will be upheld, the Corps of Engineers decision now pending represents the one big remaining hurdle facing the project.

But this is a very high hurdle indeed, and there are few, if any, people familiar with the project who would bet confidently how the decision will go. In truth, the decision-maker in this case, Lieutenant General John W. Morris, the Chief of the Engineers, faces an agonizing choice.

On the one hand, General Morris must consider the nation's energy supply needs as perceived by the Department of Energy (DOE), which says that the increasing dependence of the United States on petroleum products refined