

Alcoholism and the Criminal Justice System

Task Force Report: Drunkenness. Report of the President's Commission on Law Enforcement and Administration of Justice. U. S. Government Printing Office, 1967. Price \$2.25, 138 pp.

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This 138 page (9" × 12", double-column) publication includes an annotated version, six pages, of the Task Force's original report and nine other papers listed as appendices. Four of these are descriptive of particular problems and programs (Atlanta, District of Columbia, New York City, St. Louis). The articles by Hutt and Murtagh deal primarily with law and the courts. The articles by Blum and Pittman are concerned with social science aspects of alcohol, drinking, and related problems, especially drunkenness. The final report, by Plaut, describes current community resources for meeting these problems and discusses minimal requirements for a reasonable, initial program. In most sweeping terms, the volume (1) suggests the enormous magnitude of the problem (numbers of cases, time expended by police, courts and jails, costs, extent and duration of cases, general social loss, etc.), making many other health-disorder problems seem almost insignificant; (2) suggests that present means for meeting the problem are utterly futile and, in addition, both reinforce the existence of drunkenness problems and produce other problems; (3) suggests that knowledge, experience, and resources for profoundly better answers are available. Heavily emphasized are recommendations for removing major responsibility for meeting these problems from the agencies for the enforcement of law and administration of criminal justice.

First, some negative blasts which are always easy and provide a source of perhaps innocent merriment to the reader, and then some more positive, even optimistic, suggestions about the potential of such a document.

A major shortcoming of this report is its lack of historical orientation. With the exception of the short paper by Judge Murtagh and five para-

graphs by Hutt on judicial theory, the reader might feel that the problem being discussed originated in the 1950s. This very limited time perspective raises some question about the adequacy of the report as a whole. A basic purpose of the task force was to provide an understanding of the problem and propose a general policy for action. The question "what is the problem?" becomes crucial. The task force can be seen as presenting two major answers to this question: (1) the chronic drunkenness offenders (viewed as a social phenomenon or as a combination phenomenon of social and personality deviation with medical difficulties); (2) the present inefficient location of responsibility for dealing with the problem in the institution of criminal law enforcement.

Without in any way denying the relevance of either of these answers, it is quite possible to challenge their sufficiency. The simplest historical perspective would provide evidence that each answer had been adopted and pursued, frequently in almost identical terms, by very similar type "task forces" again and again over the past 150 years. Even the brief statement of the task force (page 3) gives a delightful example of this non-historical orientation: "Austin MacCormick, a former New York City commissioner of corrections noted recently [1963] the appallingly poor quality of most of the county jails, . . . a disgrace to the country . . . destructive rather than beneficial effect," and so on. I am sure that Austin said this in 1963; I am also sure, having been there, that Austin said this in 1945, and probably earlier. And Austin, not being historically naive, is quite aware that he followed a long, long line of commentators expressing similar views.

For example, the task force and all its consultants are in full agreement that responsibility for dealing with this problem should *not* be lodged in criminal law enforcement institutions; the same was stated at least as early as the eighteen twenties by the Connecticut legislature and by countless groups in the ensuing 140 years.

Admittedly, the description in 1967 of the chronic drunkenness offenders, the manifest "core" of the problem, is superior to that of 1850 and 1890. However, that the description of 1967 is significantly (for policy or action) better than that of 1945 is rather questionable. Shall we have another round in 1975? How long do we pursue surveys and complaints in this revolving door fashion, which may be just as pitiful a performance in its funereal, five-year fashion as is the more swiftly whirling minuet between judge and drunk in all of our cities. Can we not ask for some intellectual recognition of an emotional or "gut" response, to the repetitive, repetitive, repetitive character not only of the

problem, not only of what police, or religious mission, or judge, or city flophouse supervisor do, but also of what the plaintive reformists and reviewers of this "terrible condition" are doing. Surely it must become clear that "the problem" includes the ineffective responses of the "task forces" and those to whom they report as well as the obvious manifestations of drunkenness and the obvious failure of current means adopted for their control. The next "task force" should study "task forces" (whether individual or group, whether sponsored by governmental or other agency) and the apparent impotence of both their products and their sponsors to achieve any measurable improvement. This does not imply much, if any, value to a great campaign of breast-beating and adoption of shame and sack cloth by communities, professions or even generations. To be of any real use, a future review should be made to adopt a broader orientation, not only in terms of historical material on the problem itself but, also, in terms of a study of the processes whereby the problem has been defined. To do this, it must include an analysis of the structure and attitudes of the groups involved in the status quo, and of those proposed as participants in planned change.

Stemming in part from this narrow orientation, certain attitudes, implications and possible consequences of this volume may be selected for pertinent and impertinent criticism. The first is that the task force *Report* and the accompanying papers (Judge Murtagh's paper being a mild exception) maintain a technical, objective and professionally dignified, almost aloof, posture. One wonders if any of the Commission ever saw, heard, touched or smelled a typical American city lockup on Friday or Saturday night, ever attended the travesty of law and justice which occurs in this—the largest category of cases coming before our criminal courts—or ever experienced even indirectly the archaic, hidden, often brutal, frequently disgusting and always futile institutions to which these men are sent—over and over and over. After reading this report one might say that "the Establishment is playing it cool." The only words in the task force's own statement which might suggest even the mildest feeling that "all is not well" are to be found in the inclusion of sentences borrowed from Austin MacCormick already cited and in a quoted sentence by an unnamed reporter who mentioned a "stench of vomit and urine." Sometimes the stench of establishmentarian respectability (scientific, judicial, academic, political, etc.) also deserves mention.

The second general criticism concerns a position adopted both by the *Report* itself and by the accompanying papers. A strong plea is made by all to get the responsibility for "doing something" about these prob-

lems out of the administration of criminal justice and law enforcement. The key phrase in this plea just might consist of the three words "to get . . . out." Without an historical orientation it might be felt that this was an unduly impertinent comment. With such an orientation, however, it is so obvious an aspect of the whole that it would be taken for granted.

Of course, the law enforcement and judicial groups want "out." Their involvement in this activity not only provides disgrace, disgust, etc. etc., but also, and in a *big* way, subtracts from their competence, resources and public image for dealing with problems deemed more important, more exciting and, above all, more appropriate. A very good case can be, and is made for this proposal. In fact, it is so good that other groups adopted it long ago. The medical profession and its various administrative branches (hospitals, private offices, clinics, disease recording systems, training schools) long ago came to the same conclusion. Social and welfare agencies long ago made this discovery and established their position of getting and staying "out." Only a few religious sects (and the jails) can be seen as acting with continuing responsibility in this area. To view this process as "buck-passing" is only incorrect if it is the *only* view. At least the earlier groups had an available "patsy" to whom they could "pass the buck." Now, at long last, criminal justice and law enforcement "want out." But to whom will they hand this very large mess?

The task force and accompanying reports are quite concrete in legal, fiscal, administrative and other arguments for "getting out" but the proposals for getting something or somebody else "in" are not very convincing or explicit and are vague, especially about that sensitive matter—"What would it cost?" Are they suggesting that the medical institution and the social welfare agencies take over? If so, the lack of historical orientation may promise at the least a most difficult program: these were the groups which in one sense can be viewed as having "passed the buck" over to criminal justice and law enforcement some time back.

Having presented these unpleasant criticisms, it is imperative to make some positive, even optimistic suggestions, both about the *Report* itself and its potential historical significance. It is of high quality and may well be a milestone in an area so little marked by any change, let alone progress, for so many generations.

The source of this volume is not a minority religious sect, a brash academician, or a political mass media response to a temporary scandal. It stems from the presidency of the United States; chairman of the reporting commission is the Attorney General of the United States.

Without any knowledge of what occurred, may I suggest that some one or more individuals must have struggled mightily to gain Commission approval for specific inclusion of this problem. The fact that this sort of recognition was gained for such a politically frightening, unpopular, stigmatized, "dirty" subject is, for anyone with an historical perspective, a major accomplishment. The "establishment" may be "playing it cool" in a dignified even aloof fashion but they didn't run away—they "played it." Intellectually disgraceful as the term may be, this could almost be labeled a "break through."

A second important contribution of this volume is the presentation in the appended reports of some programs for "doing something," programs now in action. Furthermore, these programs for the most part are *not* presented as cure-alls, are not alleged to be "for free," and are indicated to be "steps" in an innovating, experimental direction—steps *now available*, steps which are not financially or technically impracticable.

Third, and this is found in the accompanying documents rather than in the Commission's statement, there is at least the implication and sometimes the explicit statement that, although criminal justice and law enforcement should not be the major or determining structure in meeting these problems, *they should not* "get out." The institutional parade of Pontius Pilates marching to the washstand should at long last come to an end. Placing neat and exclusive categorical tags on long-lasting, complex social problems, whether to explain their origin (*e.g.* it's a disease, it's a sin, it's a crime, it's a social deviation) or in order to assign responsibility for action (*e.g.* the police, the hospitals, vocational rehabilitation) is intellectually ridiculous and an almost certain sign that something is being hidden or of bureaucratic empire-building or, perhaps, of both. That executive responsibility has to be located *positively* is generally accepted, but this does not mean that irresponsibility is the delightful consequence for everybody else—not if a problem is to be effectively attacked. Almost all of the accompanying papers recognize the multifaceted origins and the need for many types of research and service, including those of law and law-enforcement, which are requisite for meeting the problems of public drunkenness.

Finally, the article by Plaut deals directly and specifically with a fundamental policy question (or series of policy questions) which is all too frequently avoided, denied or, in some instances, just not understood. The policy question stems from the "problem of definition" referred to above and from the unfortunate popularity of one or two-word labels which imply a single, simple nature of a problem with correspond-

ing single agency responsibility for action. Plaut's article, largely by implication and exclusion, practically refuses to discuss "public intoxication" or the "drunkenness offender." He writes of persons with drinking problems in communities; sometimes he speaks of alcoholics. He has already questioned, perhaps flatly denied, the separation of "offender" alcoholics from other alcoholics in terms of both analysis and policy. But then he turns to what he feels to be a more significant question: namely, are problem drinkers (or alcoholics) sufficiently different from other people with problems, whether in the etiology of the condition or in the type of remedial or preventive service required, that a separate language, separate research, separate community organization, separate treatment and rehabilitation services are required? Although Plaut is concerned primarily with the relation of alcohol problems to mental health problems and the separation (or integration and coordination) of policy, research and service between those two, he also notes that the same question is immediately germane for alcohol problems and other areas of problem, *e.g.* legal, vocational, and welfare. He recognizes the futility if not irrelevance of simple "yes" or "no" answers to this major policy question.

So anxious was the task force to get responsibility for "drunkenness offenders" out of the area of law enforcement and judicial administration that (1) "drunkenness offenders" was made to seem a very "real" and very big category; and (2) heavy emphasis was placed on the need for new and specialized services. This definition and this emphasis, made by such a prestigious group, may present a great potential danger for it suggests a possible return to that powerful and popular fallacy that "most all alcoholics are Skid Row bums," a misconception which blocked all rational progress for generations until an effective attack was waged over the past twenty-five years. The apprehension of many in the alcoholism field that this *Report* may lead to little more than the withdrawal of criminal justice and law enforcement responsibility (with or without appearance of some new agencies) and, as a by-product, reinforce public wishful thinking which will block rational attacks on the problems of alcoholism, is no idle flight of pessimistic fancy. One hundred and fifty years of repeated experience cannot be lightly cast aside. Plaut's article can serve, as an important counter-balance to the somewhat narrow and perhaps overly negative thrust which, at least to some, appears to characterize the task force *Report*.

In an overall sense, this reviewer sees far more gain, and far more promise, than threat in this volume. The consultants' papers and related

materials not only enhance and explain but in many ways improve the *Report*. True, the chronic drunkenness offenders are given all the attention and, since they form but a 5 per cent or 10 per cent segment of the whole (one which elicits all the worst responses of hopelessness, punitive reaction, fallacious reasoning) those attacking alcoholism and other problems of alcohol are naturally apprehensive. But look at the other side of the coin. Those attacking the alcoholisms are always complaining that no one in the establishment pays any attention, that no power group in health, the foundations, research centers, etc., etc. gives anything but the lowest priority (if any) to this field, that only the old Wets and Drys show relevant, albeit archaic and hostile, motivation, that everybody is "covering up," and so on and so on. And now, 1966-1968, the Supreme Court, the Congress and the White House are all (suddenly and without any relevant background of official thought, action, or concern for decades) recognizing relevant problems and calling for action. That they select the highly dramatic, obviously horrendous, and perhaps most unrepresentative of all the aspects of problems related to alcohol or to the alcoholisms should not be surprising. And will this revived interest in the unrepresentative, small fraction of the problem necessarily have the same effect it had in 1840, or 1880, or 1940? There may be some danger, but the situation in 1968 is quite different in several important respects from those earlier years: the power of the sterile, old Wet-Dry fight is petering out (not that it's gone); thanks to AA and a devoted few professionals and lay groups, it is now *known* that the alcoholisms can be rationally and realistically and effectively attacked; advances in many academic and professional disciplines and marked changes in public tolerance of social degradation make it increasingly unlikely that a relapse into "do-nothingism" or dirty and futile punishment could survive very long. The world has changed and with those changes the task force *Report* can be realistically viewed as a great step forward. More power to the Attorney General and others for having produced this really potent tool. The "more power" is needed to make sure that it will not have been an idle step, that it will be followed up with another and yet another so that it will represent significant movement toward effective control of these massive problems. That it also may present an aspect of avoidance and "getting out" in order to attack yet other problems may not be entirely a liability. In that very process, increased recognition of this problem and increasing coordination of all these closely related programs may well find a basis for significant growth and maturity.

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