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THE OFFENDER'S ATTITUDE TOWARD PUNISHMENT

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The effectiveness and desirability of various forms of punishment are the subject of a great deal of current debate in the field of criminology. Crucial to a proper solution of the problems in this area is an adequate appraisal of the offender's attitude toward punishment. In this article, Dr. Schmideberg states that a badly distorted conception of the offender's feelings in this respect is widespread today. In presenting her own appraisal of the offender's attitude toward and reaction to punishment, she calls for a reexamination of contemporary thought concerning such matters as "free will" and responsibility, and the idea that criminals harbor an unconscious desire for punishment.—EDITOR.

Ever since the eighteenth century, there has been a powerful movement to humanize justice. This movement has succeeded in abolishing torture and public executions, in limiting the death penalty, in improving conditions in prison, in abolishing the imprisonment of children, in establishing probation and parole, and, generally, in aiming at rehabilitation rather than retaliation.¹

Hand in hand with these efforts has been the trend to restrict or eliminate punishment and discipline in the raising of children, dating back to the days of Rousseau and Pestalozzi and culminating in present-day progressive education with its ideals of permissiveness and non-punitiveness.

There is still undue harshness and injustice in certain areas of correction, but in other areas the trend to improve the lot of criminals has already gone too far, and in any case the issue has become so emotionalized and cliché-ridden that it is high time to re-examine and restate some of the fundamentals.

It has been rightly argued that brutal punishments brutalize the community, and that a democracy should not become a police state; often, however, insufficient consideration is given to the victim of a crime. It has been said that states that have no death penalty have a lower

¹ PLAYFAIR & SINGTON, THE OFFENDERS (1957); WEIHOFFEN, THE URGE TO PUNISH, 130-170 (1956); MENNINGER, THE HUMAN MIND 443-460 (1945); WHITE, CRIMES AND CRIMINALS 157-170 (1933); IVES, A HISTORY OF PENAL METHODS (1914); PARSONS, RESPONSIBILITY FOR CRIME 61 (1909); Overstreet, *Influencing Human Behavior*, NPPA YEARBOOK 10, 11 (1932-3).

murder rate,² but it is not proved which of these two facts is cause and which is effect. It is claimed by some that punishment is not only brutal but also ineffective;³ and every modern criminological book likes to relate, without analysing the complex social phenomenon behind the anecdote, the story of how in England, a century and a half ago, criminals picked the pockets of the crowds watching public executions of pickpockets at Tyburn.

In the attempt to protect the men suffering from the hands of justice—the criminals—the shortcomings of the judicial system and of the police are highlighted, sometimes to such a degree that respect for justice becomes undermined, very much as some psychiatrically-oriented literature dwells on the faults and complexes of parents to

² SELLIN, THE DEATH PENALTY, A REPORT FOR THE MODEL PENAL CODE PROJECT OF THE A.L.I. 23-38 (1959); ZILBOORG, THE PSYCHOLOGY OF THE CRIMINAL ACT AND PUNISHMENT 28-29 (1954); WHITE, *op. cit. supra* note 1 at 175; *Capital Punishment*, 1 ARCH. CRIM. PSYCHODYNAMICS 963 (1955).

³ Barnes, *Shall We Get Tough or Be Sensible in Facing the Increase of Crime?*, 23 FED. PROB. 29 (1959); Brancalle, *Diagnostic Techniques in Aid of Sentencing*, 23 LAW & CONTEMP. PROB. 442 (1958); Guttmacher, *The Psychiatric Approach to Crime and Correction*, 23 LAW AND CONTEMP. PROB. 632, 641 (1958); Waite, *The Legal Approach to Crime and Correction*, 23 LAW & CONTEMP. PROB. 594, 595-96 (1958); ZILBOORG, *op. cit. supra* note 2 at 77; ABRAHAMSEN, WHO ARE THE GUILTY? (1952); SUTHERLAND, PRINCIPLES OF CRIMINOLOGY 355-378 (1942); Karpman, *Crime, Insanity and the Law*, 39 J. CRIM. L. & C. 584 (1949). See also the position of Dr. Karpman at the 1960 American Psychiatric Association Convention, *Time Magazine*, May 28, 1960, pp. 72, 75.

such a degree that their self-esteem and authority are undermined.

Then, again, it is stated with little clinical proof that offenders have an unconscious wish for punishment, and somewhat illogically this is used as an argument against the use of punishment; criminals are called "sick," without a definition of this layman's term, and it is claimed that they are "in need of treatment rather than of punishment," when it is hard to find psychiatrists ready to take them for treatment.⁴ There are many more contradictory, half-proved, emotional arguments current that obscure and evade the fundamental issues. Some of these issues are:

Is a social system without punishment feasible?

Does the concept of punishment and reward reflect a social and moral philosophy?

What is the purpose of punishment and its optimum application; which are the factors inherent in and supplementary to punishment that make it effective?

Has punishment a constructive as well as a deterrent effect? Has it a legitimate function in upbringing?

The confusion alluded to previously is partly due to semantics. The word "punishment" has bad connotations; "punitive" and "rigid" are the most condemnatory expressions in the vocabulary of an "enlightened" person, while "justice" has a noble sound; yet there can be no justice without punishment. Suffering is regarded as necessary and unavoidable to one undergoing psychotherapy, and nobody ever thinks of a therapist as being motivated by conscious or unconscious sadism; but suffering inflicted in upbringing⁵ or in the process of justice is regarded entirely differently, and the unconscious motives of parents and judges are carefully scrutinized.

The fact that individuals have given up their right to private vengeance and vested it in the jurisdiction of the state, with the state having taken over the right and duty to protect its members and to punish and restrain offenders,

⁴ Schwarz and Ruggieri, *Morbid Parent-Child Passions in Delinquency*, 3 J. SOCIAL THERAPY 180 (1957), reprinted in GLUECK, *THE PROBLEM OF DELINQUENCY* 143-152 (1959); Gardiner, *The Purposes of Punishment*, 21 MOD. L. REV. 221, 229 (1958); Abrahamsen, *Family Tension, Basic Cause of Criminal Behavior*, 40 J. CRIM. L. & C. 330 (1949).

⁵ Farrell, Fastov, Schmideberg & Schwartz, *The Lack of Facilities for Psychiatric Treatment*, in *The Psychiatric Treatment of Offenders* (a report in summary of a Conference of Rehabilitation and Therapy), 15 NEW YORK MEDICINE No. 24 (1959).

has always been regarded as a fundamental step forward in cultural development and in the cohesion and formation of society.⁶ Dispensing justice is regarded as one of the most important sovereign rights of the state, and without justice and order, society would disintegrate.

It has been taken for granted, ever since the dawn of history, that punishments and rewards motivate people and regulate behavior. In barbaric societies, men are ruled mainly by fear, physical or superstitious, but even in such societies there is some social cohesion and motivation. Enlightened and civilized countries ever since the Greeks have tried to develop a social or religious ideology that supplements the fear of the law, but it would be unrealistic to assume that ideals could ever supplant it.

With increased prosperity and the spread of education, and with the improvement of the lot of the poorest, motives for lawbreaking stemming from sheer primitivity and dire poverty have been largely eliminated. A higher cultural level and the democratic tradition go hand in hand with a more widespread respect for the law, and because people are more sensitized, even milder punishments have become more effective, and constructive measures help to rehabilitate offenders and prevent recidivism. Better law-enforcement and greater certainty of offenders' being brought to trial endow even mild punishments with greater deterrent value. The degree to which citizens can be made to obey the law without resort to judicial brutality is a measure of civilization and democracy.

Proud as we may be of our achievement when we compare both the lawlessness and the judicial brutality of a thousand years ago with today, it would be unrealistic to assume that we will ever be able to dispense with law-enforcement and punishment. The next aim is to render existing punishments more effective; in other words, to have fewer lawbreakers, and less recidivism. In present-day America the stress will have to be, for quite some time to come, on the reduction of criminality rather than on reduction of the severity or frequency of penalties.

⁶ Guttmacher, *op. cit. supra* note 3 at 639-40; WEIHOFFEN, *op. cit. supra* note 1 at 28-29; ABRAHAMSEN, *op. cit. supra* note 3, also CRIME AND THE HUMAN MIND (1944); VOLD, *THEORETICAL CRIMINOLOGY* 119 (1958); ALEXANDER, *FUNDAMENTALS OF DIAGNOSIS* 238 (1948); FRIEDLANDER, *THE PSYCHOANALYTIC APPROACH TO JUVENILE DELINQUENCY* (1947); FROMM, *ESCAPE FROM FREEDOM* (1941).

The concept of punishment and reward implies a belief in right and wrong, in free will and responsibility. Here again, however, we are up against a semantic dichotomy. "Democracy" and "responsibility" are "good" words, and the average citizen still believes in right and wrong; however, modern psychiatry idealizes a "non-judgmental attitude," though it admits at the same time that values are essential both for the mental stability of the individual and for the cohesion of society. The problem is, how can you have values without judging? It is inherently impossible to have values and ideals without deprecating what falls short of them. What, then, is so bad about judging? This is one more example of the semantic bias: "judgmental" is bad, but "developing a reality sense" is good. Yet what is "reality sense" if not the ability to judge and to act rationally on our judgment? We are perfecting our ability to judge all through life. This is what maturation consists of.

The fear of being judgmental reflects the present ideal of being a "nice guy" at any cost, the wish to be tolerant and enlightened, in contrast to the Victorian ideal of the "righteous man." Also, deep down we all find restraint irksome, and hence we have unconscious sympathy with lawbreakers and with attempts to belittle morality.

The trend to be nonjudgmental emanates in part from psychoanalysis. While it is obviously impossible to apply psychoanalysis to society or to human relations wholesale, some overenthusiasts have tried to apply certain ingredients of psychoanalysis indiscriminately, often with unfortunate results. For example, there is a current tendency, though Freud himself would have disapproved of it, to discredit moral values in order to gain the illusion of being liberal, enlightened and "objective." Yet, even in the very limited, carefully regulated analytic situation applied to carefully selected patients, it is impossible to remain "nonjudgmental" over a long period; so how can such an attitude be transferred to life? We can as little exist without moral values as ignore gravity.

One reason why we are up against so many semantic fallacies and confusions in these areas is that we are still in the throes of an intellectual rebellion against nineteenth century concepts and morality without having sifted and evaluated the intellectual developments, with all their contra-

dictions, of the last fifty years.⁷ The twentieth century "rebels" have become righteous, well-established and dogmatic and, in the course of establishing themselves, they have used many emotional appeals and cliches which will have to be reexamined.

When we come to the question of free will and responsibility, the situation is particularly uneasy. It is vaguely believed, though rarely stated in so many words, and certainly not by Freud, that because our behavior and reactions are determined by unconscious factors, there is no free will. This is a very poor argument. Obviously our behavior is conditioned by our background and upbringing, physical constitution, health, social environment, etc.; but the fact that volition is affected by a multitude of factors, conscious and unconscious, mental, physical, and social, does not disprove the importance of volition as such. Actually, the problem of volition is perhaps the most neglected area in modern psychodynamics;⁸ however, the fact that theory neglects it does not make it unimportant.

No society could exist without its members taking responsibility. As a matter of fact, to do so is considered by most psychiatrists a hallmark of maturity. Free will, on the other hand, because of its associations with a religious or other morality, has been steadily attacked by anti-moralists in the last fifty years. But "free will" itself implies the ability to decide and to take responsibility!

To take responsibility presupposes the ability to make a choice, to decide upon one course of action and to take the consequences. Admittedly, the ability to take responsibility, to exercise judgment and act upon it, may be temporarily or permanently hampered by a variety of factors, physical or mental. However, the assumption that every adult is responsible for his actions, except under special circumstances, must remain the cornerstone of any social system,⁹ and the aim of psychotherapy or any type of rehabilitation is to make the offender more responsible and more sensitive to social levers.

⁷ Schmideberg, *Out of the Mouths of Children*, 3 J. APTO No. 3 (1959); Schmideberg, *Training for Responsibility*, 12 PHI DELTA KAPPAN No. 3 (1959).

⁸ Schmideberg, *A Major Task of Therapy: Developing Volition and Purpose*, AMER. J. OF PSYCHOTHERAPY (1961).

⁹ Farrell, *Teen-Age Crime in Modern Society*, CORRECTION (July-August 1958); Schmideberg, *Further Comments on the Law and Psychiatry*, CORRECTION (March-April 1959); Farrell and Schmideberg, *Psychiatry and the Law*, *op. cit. supra* note 5 at 36, 38.

Punishment is purposefully inflicted physical or mental hurt or social degradation by constituted authority in order to discourage lawbreaking.¹⁰ The psychological effect of punishment is not simply in arithmetic proportion to its painfulness (unless perhaps when it is excessively brutal) but derives largely from the fact that it represents society's condemnation. Injury in wartime or as a result of an accident may be more painful, but it has a different effect from punishment meted out by the courts, because the latter mobilizes inculcated moral and social values.

The purpose of punishment is to control law-breaking, both short-term and long-term, in both the offender and others, and to reassert the validity of the social rules which have been violated. The ideal punishment is one that achieves a maximum effect in a large number of cases with a minimum of brutality. For instance, if probation gets as good results as prison, then probation is preferable, being less hurtful to the offender and cheaper to the community. However, if its results are significantly lower, then more prison sentences should be given. Actually, probation is accepted by most probationers merely as the lesser evil to prison, and its efficacy presupposes the existence of prisons. For this reason, probation, with the majority of offenders, is more effective than a system of voluntary social work. This consideration indicates that we cannot judge the effect of a particular type of punishment in isolation. Rather, we must consider it in the context of the whole social and judicial fabric. One patient who received a severe sentence the first time came out outraged, determined to have his revenge; the second time, he left prison a hardened offender; but after the third sentence—ten years—he was determined to make good, because he realized he was the loser.

For purposes of this discussion we should distinguish between fear of pain, and reaction to social disapproval. The impulse is to avoid what causes pain; to withdraw the hand from a hot oven is instinctive. This can be observed even in animals. Freud named this rule of action the "pleasure pain principle" and regarded it as the most fundamental human reaction.¹¹ Yet here we find another inconsistency; Freud's American adherents seem

to regard an unconscious need for punishment as a fundamental driving force in offenders and neurotics, if not in everybody,¹² yet they have not discarded the primacy of the "pleasure pain principle."

The reaction to punishment is built upon the primitive reflex to pain. Properly, during upbringing the child should have firmly established in his mind the associative link "bad behavior . . . punishment" and should learn that he has to avoid the former in order to avoid the latter. By this process the child learns self-control, discipline, forethought and responsibility and is sensitized to social disapproval. These qualities, which should be established during upbringing, are later utilized by society in its handling of offenders. Failure to establish these qualities in the child is the most frequent cause of antisocial behavior. Children who obey their parents and show consideration for members of their family are likely to obey the courts and show consideration for society. If this fundamental social attitude is poorly developed, it is the task of probation and rehabilitation to encourage it.

Punishment is not invariably effective, partly because the child's impulse to be naughty or his defiance overcomes his fear, and partly because his forethought is still insufficiently developed. He wants to evade responsibility. "My hand did it." "Oh, that was when I was still a baby." (Even when it was yesterday.)

For the adult offender, this wish to avoid responsibility and the consequences of his behavior by the use of denial mechanisms is characteristic. They help him to believe that he will escape punishment or even that he has not really done wrong. For the threat of punishment to be effective, the offender must fully believe that he will be punished; he may refuse to believe it, whether for objective reasons—law enforcement is lax, justice is corrupt, etc.—or for subjective ones—in order to feel free to commit crimes. The objective and subjective factors are usually intertwined. We all try to avoid facing unpleasant facts and possibilities, but excessive denial mechanisms are characteristic of the offender and in particular of the psychopath. Give him an inch of objective shortcoming and he will take a yard of excuses. Law enforcement may be poor, there may be

¹⁰ Rosenberg, *When is Punishment Effective?* (summary of a conference on Psychiatry and Crime), 3 J. APTO No. 2 (1959).

¹¹ FREUD, *BEYOND THE PLEASURE PRINCIPLE* (Hogarth Press, London, 1922).

¹² E.g., Karpman, *Criminal Psychodynamics: A Platform*, 1 ARCH. CRIM. PSYCHODYNAMICS 3-100 (1955); Segal, *Searchlights on Delinquency*, 1 ARCH. CRIM. PSYCHODYNAMICS 577-603 (1955).

corruption, but that does not mean that *he* will escape; there are many injustices and faults in our society, but that does not mean that *he* is innocent. When offenders blame society, the difficulty in finding employment, the ill effects of prison, discrimination against Negroes, they are utilizing "neutralizing" mechanisms¹³ that help them to deny that the fault lies within themselves, and they will use the argument that appeals to their listeners or that bears out the favorite theory of the investigator.

Society, for reasons of humanity and also of economy, wants the *threat* of punishment to be effective, so that punishment will not have to be inflicted in every case. Thus, in education, religion and therapy the attempt is made to break down the denial mechanisms that make the offender immune, in order to sensitize him to warnings. Probation utilizes the emotional turmoil caused by arrest and trial, which breaks through the offender's defenses, to establish a relation.

Not even the most autocratic society is ruled by force alone; it provides an ideology and appeals to loyalty to the ruler, religion (or Communism), patriotism, and above all to a sense of justice. Belief in justice is among the most stabilizing social forces, and if the offender has good cause to doubt the justification of his punishment he will try to make himself immune to it. He tries anyhow to deny or minimize his own guilt, while society tries to counter his denial mechanisms by impressing upon him his guilt. In the melodramatic Middle Ages, a "poor sinner" when taken to execution recanted his misdeeds, admonished the spectators and tried to die at peace with God and society.

Not only "should justice be done, but also it should be apparent that it is being done." For this reason, some dignity and formality are desirable, since it is better to impress offenders with the dignity of the court than to have to take recourse to brutality. For punishment to be effective, there must be a belief in justice, and for that reason it is important that in any fight to modify legislation, to improve justice or the police, or to gain psychiatric treatment or rehabilitation for offenders, the change should not be sought in such a way as to undermine belief in the law or to excuse lawbreaking.

The average citizen accepts punishment for

lawbreaking as part of the social code. Though he does not like it when it concerns himself, he admits its justification. He will carefully weigh whether it is worth his while to break the law. He is afraid of punishment and will say so, and if he incurs it, he is upset, frightened, ashamed and disturbed. Thus the infliction of punishment on the average citizen has the effect desired by society, inasmuch as he will avoid committing further offenses unless there are overwhelming circumstances.

In contrast to this hypothetical average man, however, most offenders are not affected by punishment in the right way.¹⁴ This is most obvious in the case of repeaters, but in a social sense almost every offender is a repeater because even though legally he may be a first offender, he has usually already been in trouble with his family, school, employer, or store detectives, and he has failed to learn his lesson.

One of the most striking things about offenders is that they do not believe they will ever be caught or brought to justice. Even after going to jail, many believe they will never be caught again. They have a magical belief in their own cleverness, luck, or whatever they call it—often in obvious contrast to the facts. One patient expressed to me, as an explanation for committing his offenses, his "sense of gloating" that he got away. I said, somewhat amazed, "But you did not get away, you got arrested several times." In his mind he had managed to deny the fact of the arrests and dwelt only on the occasions when he had escaped. The extent of these denial mechanisms is sometimes truly amazing, and to counter them is one of the aims of therapy.¹⁵ Of course, any weakness in the judicial system, any occasion where the patient did get away, helps to strengthen his denial tendencies. An offender may succeed with the most amazing bluff just because of its very

¹⁴ I am disregarding the openly psychotic patient who is "guilty but insane," who does not live sufficiently in reality to be aware of and rationally influenced by his environment, who is ruled more by his delusions than by fear of punishment. However, even most psychotics are to some degree influenced by the way they are being treated, but they do not have the strength to act normally even if they fear punishment. Psychotically deluded offenders or patients of such low mentality that they really do not know what they are doing constitute a minimal fraction of offenders, and present no real criminological problem since they belong in mental institutions.

¹⁵ Schmideberg, *Treating the Serious Offender*, 1 J. APTO No. 1 (1957); Schmideberg, *Treating the Unwilling Patient*, 9 BRIT. J. OF DELINQUENCY 117 (1958); Schmideberg, *Making the Patient Aware*, J. NPPA (1960).

¹³ Ohlin, *When is Punishment Effective?*, *op. cit. supra* note 10.

brazenness, and such success increases his sense of omnipotence and narcissism. Upbringing and community attitudes increase or counter these trends by encouraging or discouraging narcissism, denial of consequences, and belief in one's ability to get away. Fear of God's omniscience and of eternal punishment reinforces the fear of the law; so does the inculcating of moral standards, the developing of self control, and impressing on the child the justification and likelihood of punishment.

The fact that religious and authoritarian communities also have crime is no argument against the effectiveness of these inhibiting factors, since other factors exist to counter them. Behavior is the end result of a multitude of factors, social and individual, positive and negative. But on the whole, glorifying lawbreakers and the defiance of authority, giving publicity to the offense rather than to the punishment, and promoting the ideal of success at any cost are more likely to produce lawbreaking than are ideals of law obedience and submission.

The claim of many offenders that they do not really mind jail is largely based on denial mechanisms. With recidivists it is often difficult to elicit any emotion, yet the most effective way to evoke it is by appealing to their fear of court and prison. Sometimes a patient claims that he does not mind prison ("it isn't as bad as all that"), and that he has gotten used to it. But, if I succeed in taking him by surprise, for instance by getting him to talk about the particular prison he has been in, or some particularly unpleasant incident in it, he usually shows a strong reaction. A patient with a number of convictions claimed that she did not mind jail. Then she got arrested again and I visited her in prison. I was amazed to see how distraught and broken she was. I told her, "You said you didn't mind prison." She answered, "I must have forgotten what it was like." It reminds me of the London blitz when people would reminisce about their various *funny* escapes. However, when a bomb had hit their own or their neighbor's house, they were usually pretty well shaken.

In the same way that he attempts to avoid his actual feelings about imprisonment, the criminal tries to overcome and deny anxiety. Many offenders have told me that what frightens them most is the experience of anxiety and more still to let others witness it. An ex-Dartmoor convict had a nightmare that he was back in prison; but what

frightened him most was that he experienced terror when he awoke, since this made him vulnerable.¹⁶

Thus we have to distinguish: 1) Fear of punishment; 2) Admitting this fear to oneself; 3) Admitting this fear to others; 4) Acting rationally on this fear.

The reluctance to admit it to oneself is to some degree a question of self-esteem. Many psychopaths take senseless risks to prove they aren't "chicken."

The offender is reluctant to admit his fear to others because he does not want others to have an emotional hold over him, which they would then exploit to socialize him.

The offender's attitude toward punishment differs from that of the ordinary citizen in that he is not normally deterred or influenced by the possibility of punishment. Though it is often believed—and he himself likes to claim it—that he is unaffected by punishment, he is actually afraid of it. But he manages to deny his fear, and therefore it fails to socialize him. The "hardened" criminal is one who has succeeded in blocking out his anxiety, so that he is not amenable to normal social pressures.

The issue under discussion is complicated by the fact that punishment—in our social system, usually jail—is a complex phenomenon; it is a social disgrace for those still trying to belong to society, while the others do not care. Physical discomfort, fear of fellow prisoners, and separation from family cause unhappiness to those who are still to some degree socialized, while to those on the lowest level, prison provides a roof and security. Some offenders are just resigned to prison and used to it as a mode of life. A patient who spent many years in jail told me that when he was in prison he would wake up in the middle of the night with a nightmare, dreaming that he tried to escape, and was greatly relieved to find that he was in his own cell. This was not "wish for punishment" but fear of being on the run.

There are many reasons why patients may wish to be back in prison: they have spent a large part of their lives there; they have formed attachments there; they "know the ropes" and in prison they can avoid the struggles and disappointments of free life.

The "unconscious wish for punishment" has

¹⁶ Schmideberg and Sokol, *Insensitization in the Psychopathic Personality*, 1 J. APTO No. 2 (1957).

become a cliché, glibly used in place of thoughtful explanation.¹⁷ Criminals do not have an over-strict conscience which may demand being punished; rather, they have an insufficiently developed conscience.

If a neurotic has a strong need for punishment he can find many ways of causing himself pain, but his conscience will stop him from breaking the law in any serious manner. It is unfortunate that a theoretical confusion has arisen between the neurotic character, on the one hand, and the anti-social personality or the psychopath on the other. These types are opposites and require different handling.¹⁸ The main reason why offenders break the law is that they want to commit crimes, because they are anti-social, and because they hope not to get caught. The fact that they do sometimes get caught does not prove that they wish to get caught; but with a minimum efficiency of law enforcement this is inevitable if they commit offenses frequently enough.

There may be many reasons why, in the commission of a crime, elementary precautions are not taken, and the likelihood of getting caught thus increases. As a matter of fact, even a law-abiding person may have many reasons for poor work performance or for failing to look when he crosses the street. It may be anything from over-tiredness, a physical defect, emotional defiance or "testing luck," to an unconscious denial of danger, a failure to think rationally, or a tendency to concentrate on some details and overlook others.

The assumption that offenders break the law because of an unconscious wish for punishment seems to me unsubstantiated and too general an explanation. It would, however, even if correct, be no argument to abolish punishment or even to

¹⁷ Salzman, *What is the Evidence for the Assumption that Offenders are Motivated by an Unconscious Wish for Punishment?* 3 J. APTO No. 3 (1959).

¹⁸ Dept. of Clinical Services, APTO, *Differences Between the Offender and the Neurotic*, 15 NEW YORK MEDICINE No. 24 at 20-22 (1959); Plutchik, *Implications of a Neurosis-Delinquency Continuum*, 3 J. APTO No. 1 (1959); Jenkins, *Distinguishing Two Major Types of Delinquents*, 4 J. APTO No. 1 (1959).

avoid it in the case of the individual offender. Punishment may or may not deter. If there is efficient law enforcement and a belief in justice, mostly it does. The aim of psychotherapy¹⁹ is to sensitize the offender to social pressure, to develop a normal attitude toward punishment, and to teach him to foresee consequences and be motivated rationally by such foresight. The aim is to adjust him to the legal framework, not to take the framework away.

There are many offenders who are sufficiently afraid of punishment, yet who cannot go straight. Normal life consists of more than the mere decision to avoid crime. If a man is unable to earn his living he will ultimately have no choice but to break the law, no matter how much he may dread the consequences. He may be untrained, unused to working, unwilling to work, psychologically unable to work, or unable to get a job as an ex-convict. Recidivism is a complex phenomenon, due largely to an unwillingness or an inability to lead a social life.

An important task of psychotherapy is to give constructive help to offenders to counter the feelings of helplessness and despair which largely account for their anti-social attitudes, and to help them adjust socially. The effectiveness of punishment in the avoidance of recidivism will be greatly enhanced by combining punishment with constructive rehabilitative measures. Punishment is not necessarily an alternative to rehabilitation or psychotherapy; rather, it is often a necessary incentive.

¹⁹ Schmideberg and Orr, *Psychiatric Treatment of Offenders*, 43 MENTAL HYGIENE No. 3 (1959); Schmideberg, *The Treatment Philosophy of APTO*, 3 J. APTO No. 1 (1959); Schmideberg, *Psychiatric Study and Psychotherapy of Criminals*, 5 PROGRESS IN PSYCHOTHERAPY (1960); Ochroch, *The Treatment of Offenders: Special Therapeutic Techniques*, 15 NEW YORK MEDICINE No. 24 (1959); Ochroch, *Special Difficulties in Working with Adolescent Offenders*, 3 J. APTO Nos. 1 and 2 (1959); Dept. of Clinical Services, APTO, *Criminal Psychiatry as a Sub-Specialty*, 15 NEW YORK MEDICINE No. 24 at 22 and 33 (1959); Dept. of Clinical Services, APTO, *Differences Between the Offender and the Neurotic*, 15 NEW YORK MEDICINE No. 24 at 20-22 (1959).