The Patuxent Experiment

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On July 1, 1977, as the result of a bill passed by the Maryland Legislature and signed into law by Lieutenant Governor Blair Lee on May 26, 1977 (House Bill 907), the Patuxent Institution went out of existence as it was known heretofore. Consequently on that date 33 inmates whose original sentences had expired and who were being held under the indeterminate sentence statute were released. Thus the experiment in intensive correctional treatment of mentally abnormal criminal offenders and protection of society from them, begun on January 4, 1955, came to an end. The indeterminate sentence, which provided for incarceration of the inmate until, as the result of treatment, he no longer presented a threat to society, and which was the heart of the Patuxent program, was herewith repealed. With it went the elaborate legal procedures, amounting to a second trial, for the change from the original sentence to the indeterminate sentence, procedures devised and rigorously followed to insure the constitutionality of the Defective Delinquent Statute. The change in the qualifications of the director from those of a psychiatrist to those of an "administrator," made a year earlier, de-emphasized, at least to a degree, the Institution's commitment to psychiatry in handling the criminal offender. Instead of being an innovative and relatively independent program for the protection of society from the mentally abnormal dangerous criminal by treatment and incapacitation, devised in line with a rationally developed model, the Patuxent Institution has now become just another intensive treatment program into which some of Maryland's convicted criminals can be transferred by means of a special classification process while they are under sentence for their offenses.

This statement should be interpreted neither as a criticism of the reforms mandated by the Legislature nor as a pessimistic view of the future potential of Patuxent. It is just a statement of fact as to what has occurred. As to the future of Patuxent, as is pointed out further in this article, in spite of the loss of the double mandate that it had heretofore, Patuxent will remain a treatment facility for mentally abnormal and dangerous criminal offenders, a facility which is provided with professional staff capabilities far superior to most other programs of this nature in this country and which can continue its use, experimentation and refinement of the multiple methodology treatment model that it developed.

In terms of a broad perspective on the handling of convicted criminal offenders, it is justified to observe that neither the creation nor the

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termination of the original Patuxent program was based on hard research
data justifying such a program or showing that the program was a failure.
Rather, the Institution was created in line with the then prevalent “fads”
regarding the etiology of criminal behavior and its treatment, and the
program was terminated similarly in response to a different set of popular
beliefs which had replaced those of 20 years ago.

In 1970, at the time of the centennial commemoration of the founding of
the American Correctional Association, the then president of the
Association, Dr. George Beto, recognized as one of the outstanding
correctional administrators in this country, canvassed the past presidents of
the Association, including the present writer, about their views on
corrections in the past 100 years. My response at that time was that these
had been 100 years of idealism and dedicated work by many, but that much
of the work had been based, as far as reforms and programs were concerned,
on unwarranted assumptions regarding the nature of criminal behavior and
the ways of eliminating it, without any justification by data or research. This
is true as regards the rise and demise of the Patuxent Institution as well.

Etiology of Criminal Behavior
and the
Thrust for Correction

The Early Beginnings

When almost exactly 100 years ago, in his L’Uomo Delinquente, Caesare
Lombroso asked for a new scientific discipline of criminology which would
study the causes of criminal behavior so that, the causes being known, they
could be removed, and in that way criminal behavior could be eliminated
much more effectively and rationally than by punishment, he formulated the
basics of the development which ultimately led to the theory and the climate
of attitudes responsible for the creation of the Patuxent Institution. The
correctional proposition voiced by Lombroso had begun, even some 75 years
earlier, gradually to influence the handling of offenders in the western world;
Lombroso only gave it explicit and dramatic formulation. Ever since the
1870’s the promoters of the cause-removing plan for control and prevention
of criminality have exerted greater influence upon the system of criminal
justice. The correctional proposition became identified with the liberal and
progressive thinking of the period and was supported not only by those
directly addressing themselves to the issue of crime control, but also by most
of those who considered themselves enlightened and progressive members of
the society. The resistance of the conventional crime control system, based
on criminal law and punitive sanctions, did not yield easily to the intrusion
of the correctional ideology. The traditionalism of the population and the
vested interests of those working in the criminal justice system proved to be
difficult obstacles to overcome. Besides, the correctional proposition itself
was not ready, either theoretically or practically, for an operational
take-over of crime control. Nevertheless, slowly but surely the correctional
method of handling offenders gradually replaced the punitive system.
Probation, parole, various kinds of treatment programs in the institutions,
the juvenile courts, to mention but a few developments motivated by correctional ideology, were introduced, changing the face of the old way of dealing with the criminal offender. Protection of society by incapacitating the criminal offender, now primarily through incarceration, which always accompanied the old punitive system, also continued, side by side with the correctional treatment measures.

By the middle of the present century, the correctionally oriented personnel in the criminal justice system had become very influential carriers of the correctional ideology, with solid vested interests in their approach to the handling of criminal offenders. Their influence served as a powerful motivational force for the maintenance and further expansion of the treatment model, or, as it is frequently referred to, the medical model for handling the crime problem. In the 1950’s and early 1960’s strong voices were heard, recommending changing even the title of the legal basis for handling the crime problem, namely, changing the name of the penal code to “correctional code.”

Needless to say, the correctional movement did not represent a homogeneous theory or an integrated operational model. As a matter of fact, very soon after the initial formulations of Lombraso, the etiological theories of criminal behavior became diversified. The anthropological and sociological schools of thought very early produced two different orientations in criminological research and theory. Various psychological, sociopsychological and later psychiatric approaches to criminal behavior provided the bases for quite differing interpretations of that behavior and, of course, for very different treatment and prevention models. This is not the place to review in detail the historical developments of criminological and correctional thinking or treatment proposals. What will be attempted here is a characterization of the specific period of interpretation of criminal behavior which dominated the thinking of those dealing with the crime problem in the United States immediately preceding the creation of the Patuxent Institution and was unquestionably responsible for it.

Sociological Criminology in the United States: Cultural Factors

In terms of a broad perspective, the history of approximately half a century or perhaps sixty years of American criminology can be seen as divided into several rather clearly identifiable periods. The beginnings of American criminology consisted in an eclectic transplanting to this country of Continental European thinking in the field. The well-known publication of translations of a number of Continental European classical works on criminology at the end of the 19th century and the beginning of the 20th can serve as a good characterization of this early period. Several books on criminology, mostly textbooks, which appeared in the United States at that time clearly indicate such an eclectic approach without too much originality. At the confluence of various developments in the burgeoning social sciences and emerging policies in the structure of American institutions of higher learning, the discipline of criminology appeared as a subject matter of the likewise freshly developing discipline of sociology. Until very recently, almost the only academic location for any teaching and research in
criminology in this country was in the sociology departments. With the growth of the discipline of sociology, criminology in the United States divested itself of the eclectic imitation of its European beginnings and emerged as a powerful research thrust demonstrating originality and adaptation to conditions in the United States. A first step in this direction was the emergence of the so-called Chicago school of sociology, or ecological sociology, at the University of Chicago. This school of thought and research found the reasons for delinquent behavior and ensuing youth crime and adult criminality in the peculiar nature of the deteriorated and underprivileged areas of our modern cities. Statistical surveys of juvenile delinquency and criminality pointed very clearly to the concentrations of criminals and criminal behavior in these segments of American cities. The existence of a criminalistic subculture in these high delinquency areas or neighborhoods was offered as an explanation by Ernest W. Burgess and Clifford R. Shaw and by the authors of innumerable replications of the Chicago studies in other cities. Not only did people absorb this criminalistic subculture, which resulted in criminal behavior among youths growing up in these areas, but criminals who developed in other types of neighborhoods apparently tended ultimately also to locate in these criminalistic pockets of modern civilization. To be sure, awareness of the concentration of criminality in the deteriorated and subcultural areas of the cities was nothing new. It could be, and has been, traced to the cities of antiquity, the middle ages and early modern times. The innovation brought in by American sociologists was the systematic treatment of this phenomenon by means of modern research and methodology and interpretations germane to the conditions typical of American urban conglomerates. The findings derived from these studies constituted what internationally became known as specifically "American criminology." Its main characteristic was its strong, almost exclusive cultural orientation. The conditions which produced criminality in the high delinquency areas were the results of social processes within the society and apparently of nothing else. Therefore, to those responsible for control and preventive measures for criminality, the weaning away of the individual offender from the criminalistic subculture and the elimination of the delinquent subcultures by means of "area projects" suggested themselves quite logically. The theory of high delinquency areas and criminalistic subcultures was not the only major product of this early phase of cultural criminology. The differential association theory of criminality, and the concepts of careers in crime (Sutherland, *Professional Thief*, 1937) and of white collar criminality (Sutherland, "White Collar Criminality", *American Sociological Review*, 1940) were other permanent contributions to criminological thought, having profound etiological and "cause-removing" implications.

**The Period of Psychiatric and Psychological Interpretations and Implications for Correction**

After having produced many research reports and publications, this first powerful and original thrust of American sociological criminology somehow died down in intensity by the end of the 30's, just about the beginning of
the Second World War, and a very different period began. A different perspective on criminal behavior and its etiology gradually surfaced, focusing attention on the individual offender and on his personality. This period of American criminology lasted for about ten years. It is characterized by the relegation to second place of the cultural interpretations of delinquent and criminal behavior and the rise to prominence of psychogenic interpretations, advanced primarily by psychiatrists, psychoanalysts, and psychologists. These interpretations concentrated on the individual and the growth and structure of his personality as the main locus of criminogenic factors, rather than on the social factors present in his community or in the society at large. The rationale for this change has never been the subject of a major open debate, although some discussion along these lines did take place. The change was simply a shift in the interests and the focus of attention of those concerned with the problems of crime and delinquency. Why did this change occur? Perhaps a greater distance from these events is needed to be able to form a dispassionate historical perspective. It should be noted, of course, that psychogenic interpretations of criminal behavior did not start in the United States in the 1940's. These are as old as criminology, or as human society itself. The above-mentioned eclectic period of American criminology had a generous sprinkling of them. The work of William Healy, as early as *Individual Delinquent* (1915), reflected this interpretation. *The Roots of Crime*, by Alexander and Healy (1935), represented a deliberate attempt to write a treatise on psychoanalytical criminology. And Healy's *New Light on Delinquency and Its Treatment* (1936) is a classic of psychogenic interpretation of delinquent behavior. Still, it is proper to speak of the 40's as a period of "psychiatric criminology" because of the relative prominence of this interpretation during these years: the sudden preoccupation with this type of interpretation and the high hopes pinned on it for the understanding and solution of the crime problem. Hypothetically, the following factors might be suggested as being responsible for the change. Through the draft and voluntary enlistments, beginning with World War II, the armed services extracted from the general population between 10 and 15 million youths from the most criminality-prone age brackets. This segment of the population left the jurisdiction of the conventional criminal courts and other law enforcement agencies. Their offenses, both the purely military and conventional crimes, were handled by the military authorities through various courts martial and nonjudicial punishments. The diagnostic and treatment personnel of the military establishment characteristically was made up of psychiatrists and psychologists rather than sociologists. The medical profession and psychology were older and more traditional disciplines than sociology, and the military establishment addressed itself to them for help with its problem of personnel. The offenders were away from their families, neighborhoods and communities; thus the cultural characteristics of the home communities were not readily accessible, and there were less opportunity and incentive for the cultural interpretations of the 20's and 30's. The causes of criminality had to be looked for and were found in what was at hand, namely the individual and his personality. Considerable literature based on this approach resulted.

Perhaps another factor in this popularity of the mental health approach
was the migration to the United States in the 1930’s of a large number of intelligentsia from continental European dictatorships, among them many psychiatrists and psychoanalysts. Upon their arrival in the United States these professionals were much more apt to continue their psychiatric and psychoanalytical interpretations of criminal behavior than to delve into the cultural conditions of American communities with which they were not really familiar. The criminological literature in this country from the mid-30’s well into the 40’s readily illustrates this situation: psychoanalytical analyses of criminal behavior dominate the scene.

These psychiatric interpretations of criminal behavior clearly followed the general thrust of the discipline of criminology in the sense of its general purpose of discovering the reasons for such behavior, followed up by programs for their removal. In addition, since psychiatry is part of medicine and psychiatrists are the product of medical schools, the explicit medical model for handling criminal offenders gradually came to be accepted without question. By the end of the 40’s, criminals began to be regarded more and more as mentally abnormal persons. A number of criminologists who had backgrounds in psychiatry and psychoanalysis did not hesitate to state that all criminals are mentally abnormal people. In a book published early in this period (1942), Stone Walls and Men, Robert M. Lindner, one of the most influential psychoanalytic criminologists, although his background was in psychology rather than medicine, did not hesitate to declare that all essentially criminal behavior is a symptom, actionally expressed, of internal maladjustment and conflict. Criminal behavior which does not have this mental abnormality base is just “simple law-breaking” and really not criminality. The 1940’s saw the publication of such studies as Lindner’s Rebel Without a Cause (1944), Crime and the Human Mind by David Abrahamsen (1944), The Psychoanalytical Approach to Juvenile Delinquency by Kate Friedlander (1947), Crime and the Mind by Walter Bromberg (1948), Searchlights on Delinquency, edited by K. R. Eissler (1949), Children Who Hate by Fritz Redl and David Wineman (1951), and many others, not to speak of innumerable articles written from a psychoanalytical and psychiatric point of view on criminal behavior.

The Patuxent Institution was conceived and established, then, at the peaks of these two long-term developments in criminology: the belief in control of crime by the removal of its causes, or correction; and the psychiatric and psychoanalytic interpretation of criminal behavior with the corresponding implications for its treatment – individual depth therapy and group therapy.

The Patuxent Institution
as a
Product of Its Time

The direct link of the Patuxent Institution with these developments can be clearly seen from the exploration of criminological issues by the Maryland State Legislature in the years immediately preceding the passage of the Defective Delinquent Statute of 1951. In 1947 the Maryland State Legislature created a Commission to Study Medico-Legal Psychiatry. The Report of this Commission, which included most of the eminent
psychiatrists and psychologists in the State, was followed by the Legislative Council Committee on Medico-Legal Procedure in 1949, and a Committee of Psychiatrists and Psychologists appointed by the Board of Corrections. The Report of the Legislative Council's Committee (Research Report Number 29) proposed legislation which, in essence, became the Defective Delinquent Statute in 1951. From the point of view of the perspective maintained by this writer, the statement of "Opinions of Leading Maryland Psychiatrists and Psychologists," which was signed by Drs. Guttmacher, Whitehorn, Finesinger, Lindner and Parkins, is especially indicative of the ideology underlying the creation of Patuxent Institution. It reads as follows:

. . . special groups of offenders whose criminality results from mental abnormalities. In these groups are to be found many of our most serious delinquents. Moreover, these offenders have a special tendency to repeat their offenses, since they arise primarily from persistent mental abnormality rather than from the desire of the individual for immediate gain. These individuals show little response to ordinary penological reformatory measures, since such measures do not go to the root of the basic difficulty.

It is impossible within the present article to give a sufficiently detailed description of the Patuxent Institution, its inmate population, its staff and its program, not to speak of the changes made in the course of the 22-year period of operation, for a reader who does not already have some previous knowledge of the Institution. Such a reader is referred to a number of descriptive publications which are available and especially to the reports of evaluational studies which have been made. An excellent and very recent reference for a description of the historical origins of the Defective Delinquent Statute and the Patuxent Institution, its structure and its programs is the Report of the Contract Research Corporation entitled The Evaluation of Patuxent Institution, and prepared for the Department of Public Safety and Correctional Services, February, 1977. The present writer would like to express his indebtedness to this Report for a convenient assemblage of data pertaining to the Patuxent Institution and its history. Here the most essential facts are presented to provide an explicit basis for the observations made in this article.

The Patuxent Institution is a maximum security facility for approximately 500 inmates, built in line with the Defective Delinquent Statute, Article 31B, passed by the Maryland Legislature in 1951. The statute defined the defective delinquent

. . . as an individual who, by the demonstration of persistent aggravated anti-social or criminal behavior, evidences a propensity toward criminal activity, and who is found to have either such intellectual deficiency or emotional unbalance, or both, as to clearly demonstrate an actual danger to society . . .

It should be noted that, in view of the conventional terminology of American criminology, the term "defective delinquent" was an unfortunate
choice. In American criminology the term “delinquent” is used primarily to
denote juvenile delinquents; the population intended for the Patuxent
Institution, however, was that of adult criminals. The term “defective” is
conventionally used to denote persons who are deficient in their intellectual
capabilities, who have a low IQ. The statute was not interpreted, however, as
especially applicable to mentally deficient offenders. As a matter of fact, at
its very first meeting in March 1955, the Advisory Board made it very clear
that in its interpretation the Statute was not directed toward mental
defectives who basically cannot be treated and who should be housed in a
different institution. Thus the terminology of the statute was very
unfortunate. While in the State of Maryland the meaning of the terms was,
of course, clear to the professionals dealing with the Institution, in the
national criminal justice community the term led to endless
misunderstandings, and its meaning in connection with the Patuxent
Institution had to be explained in every case. It is important to note that
throughout the period of twenty years, from 1931 (the Herman W. Duker
case) until 1951, when the Defective Delinquent Statute became law, the
term “defective delinquent” was only one of the terms used in the search for
the identification of the type of offender for whom a new program was
sought. Its appropriateness was questioned by many.

The procedure for being adjudicated a defective delinquent, in its essence
and without reference to detail, was as follows. The person had to be
convicted and sentenced in a court in Maryland for a serious offense,
primarily a felony involving violence, although the statute did make
reference to two or more previous convictions in a criminal court for any
offenses punishable by imprisonment. A request for the determination of
whether the convicted offender was a defective delinquent could be made by
the state’s attorney who prosecuted the case, by the defendant himself or his
attorney in his behalf, and by the court on its own initiative. A request for
such an examination could be made at any time after the sentence, as long as
the person was serving the sentence in a penal institution. The requested
determination of defective delinquency was to be made by the professional
staff of the Patuxent Institution upon appropriate examination. If the
recommendation of the Patuxent Institution was that the defendant be
judged a defective delinquent, the court summoned a hearing which could be
a jury trial if appropriately requested. The usual rules of due process of law
were to be observed, including the right of the defendant to secure his own
psychiatric evaluation. If the court or the jury found that the defendant was
a defective delinquent, he was to be committed to the Patuxent Institution
as a defective delinquent for an indeterminate period without either
maximum or minimum limits. The above procedure was tested in the courts
for constitutionality and was found to be constitutionally sound.

After having been confined for two years as a defective delinquent, the
offender could file a petition for review in the appropriate court. Again the
person could request a jury trial. If the jury or the court determined that the
person was still a defective delinquent, he was returned to the Patuxent
Institution and the next request for a review could be made after three years.

An important element in the program of the Patuxent Institution was the
institutional Board of Review. It was to give representation to the
psychiatrists, psychologists, sociologists, physicians and custodial officers of the Institution. The Professor of the University School of Law and the member of the Maryland Bar who were members of the Advisory Board were to be members of the Board of Review. The institutional Board of Review was to review and thoroughly re-examine every person held in custodial care as a defective delinquent not less frequently than once in every calendar year. The Board of Review could recommend that the defective delinquent remain so classified, or recommend leave of absence or parole from the Institution; or it could recommend to the court that the person had sufficiently improved to warrant his unconditional release from custody as a defective delinquent. The court was to act on such a recommendation as it saw fit.

Another important component element of the Patuxent Institution was its Advisory Board. Its composition was prescribed in the Statute. It included professors from Johns Hopkins University and the University of Maryland in sociology, law and psychiatry; representatives of the Maryland Bar; representatives of agencies of the Maryland Criminal Justice system, etc. It met regularly at least four times a year, with the chief administrators of the Institution in attendance, and played an important role in the determination of policies. When the Legislature removed the Institution from the Department of Corrections in 1961, a Governing Board of five members was created, two of these being members of the Advisory Board. Finally, in 1975, the Governing Board and Advisory Board were merged into one Board.

The Treatment Program at Patuxent

Keeping in mind the purpose for which the Patuxent Institution was created, the treatment program appears as the major issue in judgments of the functioning of the Institution, its success or failure. Again only a brief statement is possible here.

The authors of the Defective Delinquent Statute provided amply for treatment and diagnostic personnel. The Director and two of the three Associate Directors were specified as psychiatrists. Three additional psychiatrists or clinical psychologists plus at least four social workers, one of whom was supposed to be a psychiatric social worker, were mandated. In addition, a resident physician and a resident dentist were provided for. The Statute suggested that additional psychiatrists, psychologists, social service workers, and sociologists might be provided in the budget from time to time. This was done by the Legislature. When, in 1975, this writer, as chairman of the Advisory Board and member of the Governing Board, testified before the Legislature, he could point to the fact that the total professional staff holding Master's or Doctor's degrees at that time totalled 41. At certain times the professional staff of the Patuxent numbered as many as 11 psychiatrists including the Director, and 14 psychologists, a number of the latter holding Ph.D. degrees. The number of social workers, many of these being psychiatric social workers, at one point was 19. For an institution with an inmate population of about 400, approximately 100 more on parole, and about 100 in the process of being diagnosed, this represented an enormous
staff capability for treatment and diagnosis, by far exceeding anything offered at any other adult correctional facility in this country. At the time of the above hearings a figure of one psychiatrist per 4000 inmates in U.S. federal institutions was cited as the result of a survey conducted somewhat earlier. Thus the capability for treatment in terms of personnel was unquestionably provided by the State of Maryland.

Needless to say, the treatment methodology varied through the period of 22 years, but by and large it consisted in individual depth therapy, group therapy, the use of certain drugs, and a progressive tier system which classified the inmates into four tier groups with gradual progress in terms of improvement to the highest tier, from which alone the inmates could be released on parole and from the Institution as such. Milieu therapy was always striven for. Selection of custodial personnel suitable for a therapeutic community and in-service training of that personnel were practiced, even if with varied intensity in the course of time. Release on parole under the supervision of the Patuxent staff rather than that of the regular State parole system, with an informal possibility of recalling the parolee to the Institution in the case of problems, was gradually developed. A halfway house for the parolees, albeit small, was established in Baltimore, and in 1975 a prerelease center for 40 patients was established on the grounds of the Institution. Needless to say, educational and recreational programs were developed to adequately take care of the inmates' needs. A modest vocational training and work program was also available.

The above description shows that the Patuxent Institution not only had ample qualified personnel, but also made use of the majority of the treatment methodologies being developed in the country during the period.

It must be recognized that the treatment program faced a number of difficulties throughout the 22 years. It appears that the major difficulty was the inability to secure adequate psychiatric staff, which, in accordance with the design for the treatment program, was to be the backbone of the Institution. Except for the Director, who stayed with the Institution for 22 years, no fully qualified full-time psychiatrist became identified for an extended length of time with the institutional program. That is not to say that some extremely competent and capable psychiatrists did not serve on the Patuxent staff from time to time for limited periods. The primary reason for this problem was the salary levels provided in the budget. They were too low to attract successful psychiatrists from private practice or other types of employment, especially as inflation widened the gap between the salaries offered and the incomes of psychiatrists on the outside. As the personnel searches and the discussions in the meetings of the Boards brought out, a position in an institution for criminal offenders in general is not very appealing to the psychiatric profession, and when this lack of appeal is combined with a financial sacrifice, the prospects of attracting qualified candidates become dim indeed. The Institution had to resort to employing psychiatrists on a part-time basis, and psychiatrists who had not yet qualified for independent practice, e.g. psychiatrists educated abroad.

Another obstacle, perhaps not of the first magnitude but hampering the daily routines of a concerted treatment program, was the almost continuous need for the psychiatrists and especially the Director to testify in court.
hearings determining the status of offenders referred for diagnosis as defective delinquents. Since many courts required the presence and testimony of the Director himself at such hearings conducted all over the State, this responsibility became a major obstacle to his total involvement in the supervision of the treatment program and likewise affected the rest of the psychiatric staff. The burden of that aspect of the diagnostic function was obviously not fully anticipated in the original plans.

Unfortunately a very considerable span of the time during which the Institution was in operation under the original statute was marred by inmate unrest, national in character. Although it must be said that Patuxent managed to avoid any major disturbances, there were a number of minor riots, hostage-takings, attacks on personnel, destruction of property and escapes, very much in line with what was happening in other institutions at that time. While one could surmise that in an intensive treatment institution, these disturbances would present a natural challenge to the program, to be met without too much difficulty, it must also be conceded that these types of disturbances, especially in the nature of a national epidemic, do tax the personnel by the need for repressive control measures.

Evaluation of Patuxent: Treatment Aspects

As to an overall evaluation of Patuxent’s success in treating mentally abnormal and dangerous offenders, it must be recognized that such an evaluation is a very difficult task, especially if it is attempted as a simple and straight-forward answer to the popular and unsophisticated question: did the experiment work? Was it worth the money and effort? Such an answer has to be carefully qualified, and thus it becomes, of course, very complicated from the popular point of view.

It must obviously be kept in mind that the Patuxent population was highly selected. Regardless of what the criticisms might have been of the adjudications of certain particular individuals to the status of defective delinquent, it must be recognized that as the result of the procedures established and followed for the selection of Patuxent inmates from the entire offender population, by and large the most difficult offenders from the control point of view became concentrated in that institution. Recommended by prosecuting attorneys, judges, and their own lawyers, as well as by the personnel of the institutions to which they were originally committed, reviewed by the professional staff of the Patuxent Institution, and then again reviewed by the courts with the aid of additional experts when it was felt needed, these offenders unquestionably represented a concentrate of the most difficult crime-control cases. While this general characteristic of the Patuxent population is quite obvious, no measure of the extent to which this population represents more of a recidivism problem than the balance of the Maryland offender population or the population of any other institution, such as the penitentiary, has been developed or could readily be developed at the present time. All conclusions based on recidivism rates obviously do not have a sound research basis. Therefore a statement that Patuxent is a total failure because the recidivism rates are not dramatically different from those of the graduates of other institutions is as
little justified as the statement that Patuxent has proved to be a tremendous success because it syphoned off the worst criminals from the Maryland penal and correctional system and still managed to return a goodly portion of these to society with a record slightly better than that of other institutions.

In addition to the difficulty based on the differences of the offender populations involved in such comparisons, there are other difficulties confronting the evaluation procedure. Since the population of Patuxent is obviously not homogeneous in respect to the responsiveness of the offenders to treatment, all of the evaluation efforts are confronted with the potential presence in the Patuxent population of totally intractable offenders, who therefore are not being released and who, if lumped together in, e.g., calculations of the time spent before release by the tractable offenders, completely obscure the true picture as a spurious factor. Any evaluations of the Patuxent treatment program obviously require maximum sophistication in research designs. Not all the personnel so far involved in such evaluations possessed the necessary qualifications for this type of research, and most of them did not have the time or the facilities to organize and execute properly the evaluation research projects.

It is generally recognized by now that the recidivism rates alone are not the only measure of success or failure of offender-treatment programs. There are many other indirect measures. To the knowledge of this writer, no systematic evaluation of the Patuxent program in terms of criteria other than recidivism has ever been conducted.

Now that some of the difficulties of the evaluation of the Patuxent treatment program have been sketched, it should be also recognized that one of the obvious gaps in the operation of the Patuxent program has been the absence of an ongoing evaluation of the program with a concomitant quantification of recorded data, a process which would have made some of the evaluations requested in the 1970's more feasible and the hard data more readily available. The so-called agency management statistics have never been developed, except for the elementary data on population movements needed by any security institution. While spot stabs at evaluation of the program have been made by some of the staff members and interested outside experts, it was not until the 1972 request by the Advisory Board that a major analytical and quantitative survey of the operation and its tangible outcomes was undertaken by the staff.

While it was always understood that the Patuxent Institution as an experimental venture was supposed to conduct research with regard to the dangerous mentally abnormal offenders and their treatment, the Defective Delinquent Statute did not explicitly provide staff for the performance of this function, nor the necessary statistical laboratory facilities.

Another way to assess the contribution of the Patuxent experiment in its 20 years of operation consists in asking the question: has the Patuxent Institution contributed anything radically new to the methodology of treating or even simply dealing with the mentally abnormal dangerous offenders of the type it has housed? Unfortunately the answer must be in the negative. No radically new methodology was developed or reported by the staff involved in this treatment program. What was done, as has been already described, was to use a number of well-known techniques such as
depth mental therapy, group therapy, the progressive classification system ("the graded tier system" as it has been referred to in the Patuxent Institution, and let us not forget that it was invented by Crofton in the 1850's under the name of the Irish Prison System and widely used since), the unit treatment teamwork of a group of professionals and custodians with a group of offenders, parole under the close supervision of the Patuxent staff, placement in a halfway house, leaves of absence, etc. If the Patuxent methodology in dealing with its population had to be analyzed and characterized, it probably could best be described as a combination of currently known methods of institutional treatment. This multiple methodology treatment model should be given credit as a demonstration of an interesting approach for dealing with this type of offender. The Patuxent contribution, which holds promise also for the future, is this utilization of the total arsenal of already known treatment methods for incarcerated offenders, with the inclusion of the newer community-based treatment technique in a flexible and experimental way.

If the above question is pushed further, the issue arises whether it was the fault of the Patuxent Institution personnel that nothing radically new was invented during 20 years of opportunity, or whether the situation indicates that the limits of this type of institutional treatment of dangerous mentally abnormal offenders have been reached and nothing substantially new can be discovered. If the ineptness of the personnel is to be blamed, the answer is simple. It is more likely, however, that the second alternative is true. Perhaps we simply cannot expect further major innovations in methods of institutional treatment of offenders. One possible value of the Patuxent experiment is that negative one: over a period of 20 years the staff, which by far exceeded the traditional staffing of conventional treatment programs, could not come up with anything drastically new — a finding in itself.

Probably it should be said that a truly professional in-depth evaluation of the effectiveness of the treatment provided by the Patuxent Institution still remains to be done, making use of the most recent available methodology in quantitative research, and carefully defining the variables involved.

**Evaluation of Patuxent: Protection of the Society**

While the effectiveness of the treatment programs of the Patuxent Institution was widely studied and discussed in the 70's, relatively little verbal attention was given to its second mandate: the protection of society by continued incarceration of dangerous offenders, who were not deemed to be safe for release by the Institutional Board of Review under the indeterminate sentence. Of course, the treatment program also offers protection by presumably making nonoffenders out of offenders.

It is interesting to note that in many hearings and debates on the Patuxent Institution, even its most outspoken critics, when pressed for an answer, usually conceded that there is always a certain number of dangerous offenders, perhaps much smaller than the number presently being kept in maximum security institutions, who should not be released from custody or be placed into any kind of community-based facility. This was always a winning point for the defenders of the indeterminate sentence. If we are
dealing with truly dangerous offenders, the safety of society and justice for the potential victims of future attacks demand that such an offender be released only when the best available expertise agrees that his dangerousness has sufficiently subsided. This issue boils down to the question: can dangerousness — that is, the future conduct of a previous offender — be predicted with sufficient accuracy? If we go back to the documents which reflected the best professional opinion at the time of the establishment of the Patuxent Institution, such as, e.g., Research Report Number 29 of the Maryland Legislative Council’s Committee, previously cited by this writer, we find that the psychiatrists and psychologists involved were certain that the continuance of criminal behavior is predictable. This is another issue on which views seem to have changed in the course of the past 25 years. In recent Patuxent debates the opponents have frequently stated as a fact that the future conduct of a criminal cannot be predicted and that therefore any preventive incarceration of dangerous offenders is contrary to the constitutional rights of the individual and the principles of humanitarianism. In all probability both sides are right to a certain point. Absolute certainty in predicting human behavior is probably impossible. But identification of the populations within which a certain kind of behavior, including violent criminal aggressive behavior, is highly probable seems to be very feasible. The issue then becomes one of values: should one first protect the potential victims, or avoid unfairness to a criminal by continuing his incapacitation even though one cannot be absolutely certain that it is necessary? The proponents and defenders of the indeterminate sentence aspect of the Patuxent program defend their views on two strategic points: (1) the decision to continue detention is supposed to be based on the best available expertise of the time and carried out with the utmost objectivity; (2) the person being detained has demonstrated his dangerousness by previous criminal offenses. Is the proper consequence of repeated serious violent crime a set amount of punishment (in the case of the United States, imprisonment), or is it release upon the most carefully made diagnosis that the danger has ceased to exist?

**Disenchantment with Patuxent**

Considering the difficulties with the evaluation of treatment effectiveness of the Patuxent program, this writer maintains that the Patuxent Institution went out of existence as it had been visualized by its founders not as the result of objective findings with regard to the effectiveness of its operation, but as the result of the change in the additudinal climate toward correctional treatment of criminals in general which has taken place in the United States in the last decade or so.

Although many things illustrating and explaining this change could be mentioned, for the purposes of this presentation and in an attempt at conceptualization the following three major developments will be discussed: (1) the disenchantment with the correctional model or medical model for handling the crime problem; (2) the disenchantment with the role of psychiatric interpretational models and specifically psychiatric treatment models for handling criminals; and (3) the emphasis on the constitutional
rights of the individual, including the rights of the convicted offender, and
concern for the protection of these rights.

The disenchantment with correctional programs which aim at removing
the causes of criminal behavior as the basic method for controlling crime is
widely recognized by now. It has spread over the entire western world, not
just the United States. The reasons for this disappointment have been rather
generally identified by now. One major reason is the awareness of the
presumably steady increase in criminality and juvenile delinquency in the
United States and in many other countries. This increase, reflected in various
kinds of statistics, has been taking place at a time when western society was
gradually substituting so-called correctional measures for the punitive
sanctions of the crime control system based on criminal law. The conclusion
that this change is responsible for the increase in criminality is, of course,
too loose and too broad and made on the basis of too facile and uncritical
handling of the evidence to be considered a solid scientific finding, but it is
nevertheless being asserted by many. A second major reason is the loss of
credibility of correctional programs whose claims of success in rehabilitating
offenders have been found to be either grossly exaggerated or completely
unjustified. A group of contemporary authors who have attempted to assess
the impact of correctional programs have arrived at the same conclusion,
namely, that correctional programs do not correct. Such authors as Norval
Morris, Robert Martinson, James Q. Wilson, David Fogel and Ernest Van den
Haag are widely quoted to this effect. As early as April 1975, the Director of
the United States Bureau of Prisons indicated the skepticism of that Bureau
about evidence for the effectiveness of correctional treatment, and offered
instead, as the main goal of the system, the effective administration of
punitive sanctions with the continued availability of correctional measures
for those who choose them. Thus the justice model rather than the medical
model has become the slogan of the day.

Thirdly, an issue of importance in the case of the Patuxent Institution is
the recent skepticism about the effectiveness specifically of imprisonment as
a correctional measure. Again a number of arguments are being mustered in
support of this skepticism. In the 1960's more and more voices were raised
to point out that most of the current etiological theories of criminal
behavior — such as the differential association or identification theory, the
theory of criminalistic subcultures, the theory stressing the role of the
self-image of the offender, etc. — point to the probability that the
assembling of criminal offenders for long periods of time in our penal and
correctional institutions is just about the worst thing that can happen to the
offenders, an experience that often encourages or in some cases initiates
their criminal careers. Hence the slogan, prisons and jails are schools or
factories of crime.

Another argument, and again a very cogent one, is the observation that
incarceration under the very unnatural conditions of a total institution such
as a prison can hardly be considered to be proper preparation for functioning
as a law-abiding citizen in a free society. Ways of properly relating to the
members of one's family, to co-workers and supervisors in an employment
situation, and to the neighbors in a conventional community can hardly be
learned or practiced in a prison setting. Whatever the arguments,
imprisonment gained a very bad name in the 60's and 70's. Any institution, but especially one which could potentially keep offenders for life, was per se condemned in the eyes of many Americans.

Similarly, the roles of the psychiatric approach to criminal behavior and of psychiatric treatment models came under fire. The above-described, relatively brief period of dominance of psychiatry and psychology in the field of criminal justice ended rather abruptly in this country at the beginning of the 50's. A vigorous revival of cultural interpretations of delinquency and criminality began about that time. The well-known interpretational model of anomie – that is, a disorganization within the society resulting from the lack of coordination between the culturally instilled goals and aspirations on one hand, and opportunities to realize these in the given social structure on the other – was forcefully introduced into American social science by Robert Merton. Merton himself explored the possibilities for interpretation of delinquent and criminal behavior in terms of this model. The work of Albert Cohen, Delinquent Boys, which appeared in 1955, signaled the revival and further development of the Chicago ecological school of the 30's. It was followed by innumerable research projects and analyses of a similar nature, culminating in the appearance of Cloward's and Ohlin's Delinquency and Opportunity in 1960. This work further explored the role of differential opportunity structures, especially in the cases of minorities and impoverished segments of the population. The concept of alienation from the conventional law-abiding society and its value system on the part of youths who lost their confidence in the adult world when confronted with the impossibility of reaching the culturally instilled goals, and sought and found joint solutions to their problems by resorting to illegitimate means, meant a return to a purely social or cultural interpretation of criminality. This shift in emphasis removed the focus of interest from the individual offender to the broad social, cultural and economic conditions in the society. At the risk of some exaggeration, impressionistically one might say that the psychiatric and psychological interpretations of crime which dominated the 1940's all but disappeared from the main stage of criminological thinking in the 60's.

The program of the Patuxent Institution in the late 60's and in the 70's, a program completely built on the psychiatric and clinical-psychological interpretation of human behavior which was committed to the treatment measures appropriate in terms of these theories, therefore stood as a peculiar and isolated phenomenon, a remnant of by-gone days, amidst vast federally funded programs directed toward social and economic conditions within the society and couched in terms of opportunity structures and alienation interpretational models. Both in the days of President Kennedy's Juvenile Delinquency and Youth Crime Act (1961-1965) and in the period of the Law Enforcement Assistance Administration funding (1968-1977), the dominant frame of reference was one of improper social conditions and, in the latter case, of faulty and inadequate law enforcement.

Another major factor in the opposition to the incarceration of the offenders in the Patuxent Institution under an indeterminate sentence and at the pleasure of expert decisions of the professional staff was the unprecedented rise of concern for the rights of the individual. This was the
concomitant phenomenon of the discovery in the mid-60’s of the deplorable situation in which minorities and impoverished groups in the United States found themselves. The realization that the rights of the individual under the Constitution were systematically being violated in this country led to great concern about these rights and broad-scale action to safeguard them. It so happened that it was not the social scientists, sociologists, psychologists, psychiatrists, social workers, etc., who for a long time functioned as the helping professions for the poor and underprivileged, who brought about the change in the 60’s, but rather it was the legal profession which was instrumental in reestablishing the basic principles of the U.S. Constitution and the Bill of Rights through the courts and the law enforcement capabilities of the federal government. This fact in large measure explains the remarkable turnabout in popular attitudes toward the traditional efforts of the liberal intelligentsia and professions to help the poor and unfortunate. It was this liberal intelligentsia that backed the move to replace punishment of offenders with correctional measures, supported the juvenile court movement for juveniles, endorsed probation and parole, etc. This stance was well known and appreciated. More recently, when the civil rights and privacy of the individual became the main concern, and the right to do “one’s own thing” was elevated to the level of supreme value, the perspective changed. The need to protect the underprivileged from the do-gooders who are trying to change him, to “modify his behavior” in accordance with their precepts, and who are resorting to administrative power to keep criminal offenders in their clutches for the alleged purpose of correcting them, has now become a major issue. As far as the criminal offenders are concerned, it would not be an exaggeration to say that in the 1970’s the popular slogan became to save these people from their saviors. In a complete reversal of the attitudes prevailing for two centuries, those who consider themselves progressive and liberal have begun to ask for quick, definite and equal punishments for criminal offenses, rather than for prolonged treatment programs at the discretion of professional applied social scientists which invade the area of civil rights and liberties of the individual even though he be an offender.

Locally, in the State of Maryland, these professional and theoretical skepticisms about the Patuxent program came to be reflected in the 1970’s in an ever-increasing barrage of attacks upon Patuxent and demands for its closing. Various civic groups and individuals voiced these concerns, which, by and large, re-echoed the above-described national and international questioning of indeterminate programs, the effectiveness of corrections generally, and humanitarian issues. The cost of the program locally became a perennial bone of contention, since the Patuxent cost per inmate was considerably higher than in other State institutions. Was Patuxent’s contribution to the society and the inmates worth this difference in cost? A Maryland Coalition Against Patuxent was formed by some of the more consistent critics. Some legislators annually introduced bills in the Maryland Legislature to abolish Patuxent or to modify its program; their actions resulted in extensive hearings, at which both the opponents and the defenders of the program aired their views. By and large the staff and the Board of Patuxent Institution successfully defended the program. The Board made an extensive study of the operations of the Institution, exonerating it
from accusations made by some of the critics, and a number of court cases brought against the Institution because of its alleged unconstitutionality and the absence of treatment which it was supposed to provide were won. Still the criticism continued.

In 1976 the Maryland House of Delegates voted a bill to repeal the indeterminate sentence. The Senate postponed its decision until a study of the Institution by an independent outside source could be made. The Department of Public Safety and Correctional Services contracted the Contract Research Corporation to make such a study, the results of which were made available to the legislature in February 1977. The main recommendation of this study, that is, the abolition of the indeterminate sentence, was then acted upon favorably by the Legislature, together with some modifications.

Summary

At an international colloquium in Bellagio in 1975, Professor Inkeri Anttila of Finland, former Minister of Justice of that country, President of the Fifth United Nations Congress on the Prevention of Crime and Treatment of Offenders in Geneva, and life-long professor of law and criminology, stated that all her life she had campaigned for replacement of punishment by correctional measures but that now she has arrived at the conclusion that the treatment model, or medical model, is not appropriate in handling criminal offenders. In saying this she reflected the change in the views of many that took place in recent years. In a very broad sense Professor Anttila voiced the main reason for the termination of what was once considered a most progressive and noble experiment — the Patuxent Institution.

The climate of public opinion which saw in the Patuxent program a panacea against dangerous criminals in the late 1940's and the 1950's has changed to skepticism with regard to any correctional program. Secondly, special skepticism about any psychiatric, psychoanalytical or psychological treatment of criminals has become apparent; demanded instead are changes in the social conditions which produce disappointment, alienation and attempts at antisocial solutions of their problems by the citizens and especially by the youth of this country. And, thirdly, the general public has become concerned with the rights of the offender and invasion of his privacy. Many citizens have come to oppose the professional — and, by that token, administrative — control of offenders in an institution like Patuxent, and instead favor programs in which the civil rights of the individual against any encroachment are guaranteed and protected in terms of legal principles.