

2 N.S.W. PENAL PRACTICE

In section 1, the historical outline, we attempted to explain in a general way the development of imprisonment, and outline its increasing centrality in western criminal justice systems.

In this section the focus shifts from the general to the specific, to the nature of penal practices in N.S.W. in a concrete sense. We divide this section into two parts (a) Early N.S.W. Penal Practice and (b) Contemporary N.S.W. Penal Practice.

Unfortunately the obvious similarity between early and contemporary penal practice bears testimony to the inherent brutality surrounding prisons and the lack of any major change in penal practice over the past century and a half in N.S.W.

As Babington says:

Any history of prison conditions is of necessity an abject chronicle of brutality, corruption, thoughtlessness and neglect." (The English Bastille pl.)

(a) Early N.S.W. Penal Practice

N.S.W. started its colonial period as an English penal colony. The original inhabitants, the aborigines, were brutally disposed by the early agents of English imperialism. Prof. C.D. Rowley has fully documented in his three volume study, and particularly in Vol 1 The Destruction of Aboriginal Society, this massive theft of a continent and the brutality with which it was carried out. Genocide, deliberate shootings, the distribution of poisoned flour, the abduction of women, the separation forced on their children, the spread of disease, the destruction of the animals upon which the aborigines depended for food and warmth, and acts of wanton barbarity such as castration, were common in N.S.W., and have fully documented. As Rowley notes "in some places these things have been so recent that people, Aboriginal and others, who remember them are still alive."

Convicts were used as a form of slave labour to develop and build the colony. Convicts provided a cheap and disciplined source of labour for the crown, landowners, and entrepreneurs, and the existence of such a slave labour force meant that there was less need to adjust to the Aboriginal as a worker, the

Aboriginal was seen as having no economic value, and thus was a prime target for extermination by rapacious settlers and the crown.

The following descriptions of the lives of convicts in this period are taken largely from historical accounts:

"The pattern of a convict's stay in New South Wales was usually determined on his arrival, when he went through a kind of screening. On arrival the convicts were mustered before the Chief Superintendent of Convicts who determined where and in what manner each convict would be allocated. In determining this the financial status, social rank and capacity of the convict to labour usually had more influence than the nature of his crime or length of sentence. Those few who had some education were often put to work as clerks in the commissariat or the governor's administration; skilled tradesmen were placed in relevant government service while unskilled labourers were sent to work gangs; government farms or to the wharves."

A contemporary writer described the system as it operated in 1809:

"When the Government's requirements had been met the remainder of convicts were allocated as 'assigned servants' to private employers, usually free settlers or military and civil officers with farms or businesses. This allocation was carried out in Sydney by the Superintendent of Convicts and in country areas by magistrates. When the demand for labour exceeded the supply of men employers had to draw lots, the magistrates having the power to decide which settlers stood most in need."

The daily routine of a convict depended on the nature of his employment. But there were certain features of the system which affected almost every man and woman. George Thompson, writing from New South Wales in May, 1792, described the condition of convicts working on the Government farms at Toongabbie:-

"About four miles from (Parramatta) is another settlement - Toongabby (sic) - where the greatest number of migrants are, and work very hard (there is also a good crop of corn standing, and promises well). Their hours for work are from five in the morning till eleven; they then leave off till two in the afternoon, and work from that time till sunset. They are allowed no breakfast hour, because they have seldom anything to eat. Their labour is felling trees, digging up the stumps, and rooting up the shrubs and grass, turning up the ground with spades or hoes, and carrying the timber to convenient places. From the heat of the sun, the short allowance of provision, and the treatment they receive from a set of merciless wretches (most of them of their own description) who are their superintendents, their lives are rendered truly miserable. At night they are placed in a hut, perhaps fourteen, sixteen or eighteen together (with one woman, whose duty is to keep it clean and provide victuals for the men while at work), without the comfort of either beds or blankets, unless they take them from the ship they come out in, or are rich enough to purchase them when they come on shore. They have neither bowl, plate, spoon or knife but what they make of the greenwood in this country, only one small iron pot being allowed to dress their poor allowance of meat, rice, ec., in short, all the necessary conveniences of life they are strangers to, and suffer everything they could dread in their sentence of transportation. Some time since it was not uncommon for seven or eight to die in one day, and very often while at work, they being kept in the field till the last moment, and frequently while being carried to the hospital. Many a one has died standing at the door of the storehouse waiting for his allowance of provision, merely for want of sustenance and necessary food".

With the exception of punishment, the most frequent complaints about convict conditions concerned food and housing. The Government clothed as well as fed the convicts, but issues of clothing from the government stores were irregular and often seemed to consist of whatever was available in England at the time the last supply ship left. If the convict system fell short of providing adequate food and accommodation for the transportees, it offered next to nothing in the way of education or recreation if, indeed, such matters were even contemplated. Governor Bligh was questioned by the Select Committee of 1812:-

"In what manner were the convicts accustomed to pass their time during the hours of leisure? I really do not know of them applied their time to very rational amusements, any further than to go of messages, or to work so far as it was necessary, for their receiving some rewards to purchase articles they might stand in need of.

Were they for the most part spent in idleness and drunkenness, or in industry?

I believe the most of them were extremely idle, and the giving them that indulgence I consider as a great injury to the colony, for all descriptions of convicts sent to that country should be kept fully at their labour; and they should be so classed before they were sent out of England as to be perfectly fit for it."

In later decades prisoners at Port Arthur had their moments of relaxation; in wet weather and on Sundays the working gangs were permitted to read books in the Day Room, or play dominoes, marbles, and other games.

A few convicts were educated men but the majority were illiterate and little was done to educate them. Some instruction was introduced at Macquarie Harbour and Port Arthur, and at Point Puer (near Port Arthur) child offenders attended school and were allowed regular play-time, swimming and reading. Much later, at Norfolk Island, convicts received instruction and were encouraged

to enjoy reading and music, and similar favours were granted at the Fremantle convict establishment.

Minor offences which did not warrant severe penalties usually resulted in summary corporal punishment of up to twenty-five lashes.

In later years, the lash sometimes gave way to a stint on the treadmill or in solitary confinement, if these facilities were available, and in the penal settlements a variety of seemingly sadistic and degrading punishments were employed.

Notwithstanding the bulk of Australia's original settlers were convicts, and that there are very few Australian family trees who can "boast" having no convict blood, conditions in our gaols change slowly, if at all, over the following century.

Daily Prison Routine 1918

Vance Marshall, writing in 1918, of his experiences in N.S.W. prisons (The World of The Living Dead and Jail from Within, The Wentworth Press, Sydney, 1969) (particularly Long Bay, Albury and Goulburn) describes conditions and official attitudes frighteningly similar to the "gaols" of the first settlers.

"This is the routine of an ordinary day of prison life.

At six o'clock the "get up" gong clangs throughout the gaol. At a given signal out file the grey, grotesquely armed companies across the courtyard to where awaits a huge iron offal cask. The silent march is continued to a long washbench; jackets and bodices are doffed, shirts thrown open, and ablutions proceeded with till the last individual has re-dressed and joined his companions in their ceaseless parade around the yard to the call of a warder's ceaseless "Left, right, left, right". A bell sounds suddenly, the monotonous step cry dies away, and a peremptory halt is called. The armed guards on the wall above stand stiffly "at attention", rifle in hand. The deputy-governor appears upon the scene.

The muster declared correct, the prisoners tramp back to the various treble-storied wings, at the entrance of which they pause to secure from a huge tray a tin containing hominy and a block of dry bread. Each enters his separate tomb, the doors clash to, and all is quiet.

At eight o'clock the call to work is sounded and all are led forth to their respective tasks. At twelve o'clock, after re-mustering for roll-call, the regulation ounces of food are issued and partaken in the solitude of the cell. From one o'clock the tasks continue, and at four sharp the prison working day ceases. Dry bread and hominy is again supplied and carried to the cells. Shortly after half-past four the doors are thrown open and tins and spoons placed outside. It is "search time" and a warder enters to overhaul cell, furniture and the prisoner himself. The latter, fully dressed, except for his boots and the fact that all buttons must be unfastened, steps forward and stands with his face to the wall. A ladder is brought in to allow examination of the ventilator bars, and the walls are tapped with a long-handled hammer designed for the detection of excavation.

Eventually a gruff order is given and the prisoner faces right-about. Taking off the upper part of his clothing and throwing it together with hat and boots, out into the passage, he stretches his arms out against the wall, while the warder seizes him, searches every inch of his body, and orders the removal of what more clothing he thinks necessary. Then comes the heavy clang of the iron door and the grating of outside bolts to tell that, although still early in the afternoon, the seemingly endless night, with its ghostly call of watches has begun. Outside, the guard crept past in slippered stealthiness; occasionally the click of the peep-hole flap would tell that an unseen eye was peering in upon me, and then, at the sound of a distant clock, the half hour, long drawn watch call would ring out from post to post: "Twelve o'clock; A-l-l's w-e-l-l".

Of the one hundred and sixty-eight hours contained in one week, a prisoner spends one hundred and twenty-six locked in his tiny, sunless cell. Should holidays occur his hours of incarceration will be even greater. Out of each twenty-four hours seventeen hours of the ordinary week day are spent in solitary, half light confinement, nineteen hours of each Saturday, and twenty-two hours of each Sunday and public holiday.

Even though a person has been fortunate enough to secure a little readable literature, it barely happens that sufficient light can contrive to pierce the gloom in order that one may read without hurtful eyestrain.

Upon one occasion I was ill - extremely ill. For days and days I had gradually been growing worse, although I had continued to struggle out to the daily task. One morning I felt utterly unable to rise from my hammock and lay tossing and turning in the throes of a high fever born of colic and influenza. At half past six the warder jerked open the door of my cell. "Get up!" he said. I told him I was too ill to do so. "Get up!" he thundered, "or, by God, I'll boot you up". I struggled into a standing position. "Now chuck out yer hammock and blankets!". With a great effort I contrived to do his bidding, but, as he slammed the door, I collapsed into a heap on the floor.

As before said, it was half past six in the morning, and although at intervals I arose from the floor, and, leaning weakly against the wall, knocked with the handle of my cell broom as long and as loudly as I dared, there was no response. It was not till twelve o'clock that the awful place was re-opened and my ration tin tossed in. That afternoon, sick, weak and racked with pain, I crept out to work rather than endure longer the tortured solitude of that dungeon.

The vindictiveness exhibited by warders in their searching of a prisoner's cell and person passeth all understanding. One of the gravest offences that can be laid at the feet of a jail inmate is that of having tobacco in his possession.

For the most part they are ignorant, uneducated types of men, and cannot understand a desire for literature. I well remember the howl of rage that went up when I was discovered with a copy of Scott's "Fair Maid of Perth" in my cell at a time when I was only entitled to the bible.

Manhandling was rampant. Times out of number I have known men to be brutally struck down and kicked, and I myself have learned the weight of a warder's boot. Still, one instance rankles in my mind. A can containing warm water had been left standing at the door of my cell wing, and I had taken some to drink. The warder who detected me, I suppose, felt quite justified in his mind for the blow that he dealt me, because the gaol regulations did not say that I was entitled to the cheering effects of a drink of warm water.

As a matter of fact, looking at the matter broadly, the idea of the "humane" gaol system of Australia being of a reformatory nature amounts to nothing but a cruel satire when one considers the type of individuals who are employed to do the reforming.

Generally speaking, the regulations governing the supply of reading matter appears to be passing fair as set out in the Gaol Regulation Book - as actually applied they are execrable.

In the first place, the lighting of a prison cell is extremely poor. Unless a prisoner is blessed with exceptionally good eyesight, save for a brief period of the seventeen hours of the ordinary day which he is doomed to pass within the narrow precincts of his cell, he is unable to see sufficiently well to allow him to read. In Goulburn Gaol, I took particular notice and marked the exact period of time during which the sunlight directly penetrated my cell. It amounted to ten minutes per day.

There was an old man in the cell next to mine - a new arrival from Long Bay. On the Sunday morning, he was marching in the exercise parade behind me, and I managed to maintain a few minutes conversation.

I remarked that he must be wakeful, as I had heard his slippers padding up and down at two and three o'clock in the morning.

"Yes", he muttered, "I'm too old to hear the bell, and so I gets up and folds me blankets for fear they'll find me in bed".

I have no hesitation in saying, and would gladly go before a commission to prove, that the food supplied prisoners in the gaols of Australia is not only unappetising to a cruel degree, but unsanitary and extremely deleterious to the poor wretches who depend upon it for sustenance.

Each day, a prisoner is chosen by the warders, from among those not employed in the cookhouse, to act as delegate for his fellows. His duty is to stand by while cooking operations are in progress, and also to supervise the weighing out of rations. Regulations say that this delegate has power to condemn the food because of its quality, should he think necessary. In reality, he has no such power, and even if he had, he would never dare to apply it. Grim tales are told amongst the prisoners regarding the treatment meted out to delegates who attempted to exercise a right that the Regulations told them they possessed - tales of brutality and black cells.

Regulations say that a prisoner may lodge an individual complaint with regard to his food, should he desire to do so. During my sojourn in gaol I knew of only one man who moved in this direction. He occupied a cell directly opposite to mine. We others considered him to be slightly deranged, and he surely must have been or he would never have taken the step that he did. It was concerning the weight of food in his tin that he lodged his half-frightened complaint, and the meal was taken back to the cook-house. A few minutes later I heard the warder's stentorian voice: "It was two ounces overweight, so it's been taken out. Yer'll be locked up now till Monday, and then we'll see what the magistrate's got to say".

And so day after day the man who occupied a cell opposite mine, and I have taken care to remember his name, remained behind a closed door when we tramped out to work.

Monday came, and with it the magistrate. The guilty man was led before him. The trial could not have lasted for more than three short minutes, for almost immediately he slouched with bowed head through the garden where I was at work on his way to the cruel, torturing, everlasting night of the punishment cells." (Marshall V., *The World of the Living Dead and Jail From Within*, The Wentworth Press, Sydney 1969, pp 53-65)

Without the knowledge that Marshall was writing of N.S.W. prisons 60 years ago, one could be forgiven for believing he was describing present day prison conditions. In the following subsection we describe contemporary prison conditions, using the technique of a chronological account of the experience of prison life and prison practices, from reception to release.

b) Contemporary N.S.W. Penal Practice

i) Reception: Mortification of Self

When a person enters a prison as a new prisoner, he/she loses identification of self. A process termed the "mortification of self" is set in motion. It is the same process that is used by the services and by religious orders to "unfreeze" individuals from their former civilian roles.

The majority of male prisoners received into the prisons of this state pass through the reception room of the Central Industrial Prison, Long Bay. So we will trace the male prisoners' passage through that room and on into the prison system, outlining on the way the change that takes place in the prisoner.

As he steps out of the police van in handcuffs, he is ordered to toe a line. Still handcuffed to another new prisoner, he stands waiting for his handcuffs to be removed by the police. To be handcuffed by another person and to another person is to be physically contaminated by both the person placing the handcuffs on and the person handcuffed to. The illustration of the handcuffs is used to point out to those who have never been handcuffed how the handcuffed person feels and how he can

be physically contaminated by others. In normal circumstances the free person can move away from physical contamination of this kind, but the prisoner has no choice in the matter.

In the transfer of the prisoners from the police to the prison staff, the new prisoners hear their names called out and also the time they have to serve. Once this changeover of keepers has taken place, the prisoners are ordered into the reception room.

ii) Loss of personal possessions

In the reception room they are stripped of all their personal possessions.

"One set of the individual's possessions has a special relation to self. The individual ordinarily expects to exert some control over the guise in which he appears before others. For this he needs cosmetic and clothing supplies, tools for applying, arranging, and repairing them, and an accessible place, secure place to store these supplies and tools - in short, the individual will need an 'identity kit' for the management of his personal front. He will also need access to decoration specialists such as barbers and clothiers. "On admission to a total institution, however, the individual is likely to be stripped of his usual appearance and of the equipment and services by which he maintains it, thus suffering a personal defacement".

(Erving Goffman, Asylums, Penguin Books (1974) p. 28)

A prison officer stands by as a prisoner stuffs the new prisoner's personal possessions into a bag. Goffman says that this process of seeing one's identity kit being jammed into a bag by strangers is a continuation of personal defacement. Invariably whilst this is going on the new prisoner is naked.

iii) Body search and examination

Following this stripping of possessions the prisoner is then searched. At times this includes a rectal examination. A physical description of the new prisoner is now taken by a prison officer sitting out in the open at a small table. The prisoner is weighed, measured, and all marks and blemishes are noted while all in the reception room look on. If a male nurse is present, the prisoner is subjected to a short-arm inspection in public. If a female nurse is present, all prisoners are

asked, "Has anybody got VD?".

The new prisoner is then issued with institutional clothing and quite often will be issued with secondhand clothing. According to the rules each new prisoner serving twelve months or more is to receive new clothing, but this is not always the case, in fact, more often than not he will receive, at least, secondhand footwear.

iv) Loss of name

The moment the prisoner receives his new clothing he receives his prison number.

"The admission procedure can be characterised as a leaving off and taking on, with the midpoint marked by physical nakedness. Leaving off of course entails a dispossession of property, important because persons invest feeling in their possessions. Perhaps the most significant of these possessions is not physical at all, one's full name; whatever one is called thereafter, loss of one's name can be a great curtailment of the self."

(Erving Goffman, op. cit., pp. 28-9)

v) Forced revelation of life history

The mortification of the self of the new prisoner is increased by the next step in the admission procedure; the giving of one's life history in public. This carried out in the hearing of all present, in a rushed atmosphere completely lacking in any empathy by the prison officer taking down the answers he asks of the new prisoner. Most times he doesn't look at the person he is questioning, being more intent on putting down the answers to his questions.

"I have suggested that the inmate undergoes mortification of the self by contaminative exposure of a physical kind, but this must be amplified: when the agency of contamination is another human being, the inmate is in addition contaminated by forced interpersonal contact and, in consequence, a forced social relationship. (Similarly, when the inmate loses control over who observes him in his predicament or knows about his past, he is being contaminated by a forced relationship to these people - for it is through such perception and

and knowledge that relationships are expressed.)".

(Erving Goffman, op. cit., p. 35)

Having one's past history become public knowledge is one of the prisoner's, and the ex-prisoner's too, continuing mortification of self. A good illustration of this is that during the present Royal Commission into N.S.W. Prisons all prisoner and ex-prisoner witnesses have their past histories paraded at the inquiry. When they enter the witness box, counsel assisting the commission rise and tender the witness's police record, gaol record, gaol file, head-office file, and gaol medical file. Only another prisoner or ex-prisoner knows what it is like to have this happen. Whatever their expectations may have been prior to giving evidence before the inquiry, the further mortification of the self they undergo during this ritual of the tendering of their past histories makes them feel alienated from every other person in the inquiry at that moment, because they are different, because they have "records".

We understand that the Commissioner has stated that he uses the above records to get an insight into the workings of the Department of Corrective Services; but we suggest that this is not the way the prisoner and ex-prisoner witnesses either see it or feel it.

vi) Obedience test: will breaking

Throughout this whole admission procedure the new prisoner is subjected to, what can be termed, an "obedience test". The new prisoner is shouted at more than the old prisoner and he is ordered to say "Sir" each time he is questioned.

"Just as the individual can be required to hold his body in a humiliating pose, so he may have to provide humiliating verbal responses. An important instance of this is the forced deference responses. A pattern of total institutions; inmates are often required to punctuate their social interaction with staff by verbal acts of deference, such as saying "Sir"." (Erving Goffman, op. cit., op. 31)

There are those new prisoners who fight the obedience test in a contest of wills with prison officers, but the institution demands obedience and for those who don't comply the Graftons and the Katingals are created. It is necessary for the total institution that all inmates be obedient. Once this is accomplished the inmate becomes an object within the prison

and becomes part of its machinery and the institution cannot function unless this is so. The obedience test is therefore a will-breaking procedure. A good illustration of this is by Brendan Behan:

"And 'old up your head, when I speak to you".

"'Old up your 'ead, when Mr Whitbread speaks to you", said Mr Holmes.

I looked around at Charlie. His eyes met mine and he quickly lowered them to the ground.

"What are you looking around at, Behan? Look at me".

I looked at Mr Whitbread, "I am looking at you", I said.

"You are looking at Mr Whitbread - what?" said Mr Holmes.

"I am looking at Mr Whitbread".

Mr Holmes looked gravely at Mr Whitbread, draw back his open hand, and struck me on the face, held me with his other hand and struck me again.

My head spun and burned and pained and I wondered would it happen again. I forgot and felt another smack, and forgot, and another, and moved, and was held by a steadying, almost kindly hand, and another, and my sight was a vision of red and white and putty-coloured flashes.

"You are looking at Mr Whitbread - what, Behan?"

I gulped and got together my voice and tried again till I got it out. "I, sir, please, sir, I am looking at you, I mean, I am looking at Mr Whitbread, sir".

(Brendan Behan, Borstal Boy (London: Hutchinson, 1958) p. 40)

The points of interest raised in the Behan extract are:

1. Will breaking by the obedience test
2. The eye contact with Charlie
3. Charlie's position during the encounter
4. The physical violence
5. The forced deference
6. The use of Behan's surname

Dealing with the last point first; had Behan been in a NSW's prison his surname most probably would not have been used. Had he had the misfortune to have been received at Grafton Gaol he would have been addressed as either "cunt" or "bastard" and in most other gaols as "you" or had he been assigned a number, by the number.

The forced deference will continue throughout his sentence: he'll be made to salute every time that he goes on muster; every time he appears before the superintendent on either request or charge; every time he visits a medical officer; and every time he appears before the visiting justice and at no time during his sentence will the salute be returned or acknowledged. And he'll always be addressed by his number even though he must call every other person, except prisoners, he encounters, "Sir". In some gaols he will have to wait until he's spoken to before he can make a request; he'll be required to stand at a prescribed distance from an officer when he wishes to speak to him; and be forced to take up demeaning stances when called upon to do so by officers, e.g., facing walls and keeping one's head bowed. All adding to the mortification of the self.

vii) Physical violence

Physical violence is the ultimate sanction in NSW's prisons and what happened to Behan has happened to many prisoners in NSW' prisons. The violence, as the Royal Commission has heard, is, in a lot of cases, much worse, however, what is not as well known is the bystander's position when violence takes place. In the Behan extract we don't get an inkling into what Charlie is feeling. Goffman has this to say about the bystander:

"In total institutions, exposure of one's relationships can occur in even more dramatic forms, for there may be occasions when an individual witnesses a physical assault upon someone to whom he has ties and suffers the permanent mortification of having (and being known to have) taken no action." (p. 39)

In prison, of course, most prisoners have ties with other prisoners because what happens is that the other prisoner is in the same plight and empathy develops between them. The more violent the prison system, the greater the empathy because their physical integrity **is** under threat by the prison system. So when Behan looks across at Charlie, Charlie is mortified because there is

nothing he can do and Behan knows that and also, Charlie's physical integrity is threatened by the attack upon Behan. In other words, once you are a prisoner, whatever happens to other prisoners can happen to you and you can do nothing about it.

The admission procedure teaches the new prisoner that he has lost control over his life. He leaves the reception room with a spare set of clothing and possibly his toothbrush and razor, if he happened to have them with him. He is marched to the cookhouse, where he receives a meal and a wing allocation - both the meal and the wing allocation are given to him by a prisoner in a white uniform.

As most receptions to the Central Industrial Prison are at night, or after the prisoners have been locked away, so when the new prisoner is marched to his allocated wing by the night staff the head sweeper is contacted so the new prisoner can be allocated a cell. When he reaches the cell, he usually finds it is occupied by two other prisoners. The bed he gets has the sweat and dirt of its previous occupier ingrained in its bedding. He will, of course, feel a physical repulsion at having to be forced to be contaminated with another person's filth.

After having been unfrozen by the admission procedure from his former identification of self, he enters the next stage.

viii) Changing

The mortification of the self continues for the prisoner throughout his sentence and also when he is released, however, for the moment, we will deal with the next step in the process: the one of change.

An alcoholic going along to an AA meeting could be said to be unfrozen from his past because he wants to change and so become a person whose life is not dictated by his alcoholism. According to the philosophy of AA he has partly reached that stage when he can get up and say, "My name is Joe, and I am an alcoholic." Now, we would submit that the new prisoner changes when he says, "I'm a crim".

The new prisoner is subjected to all the do's and don'ts of the prisoner sub-culture. The peer group influence tells the new inmate that he is a "crim" and his captors are "screws" and that he must always use those terms in his interaction with other

inmates. Not to do so is to be seen as a "suspect" - a person who is not to be trusted. Once the label of "suspect" is put on the inmate he no longer has rapport with the rest of the inmates. Most new inmates try their hardest not to be so labelled.

Staff/inmate relationships are such that little or no rapport is possible between the two groups (See Cessnock Prison Officers' Submission and the evidence presented by the Public Service Association witnesses on 21st, 26th & 27th April, 1977). The only empathy that is continuous, the new inmate will find, is with his/her peer group - the prisoner sub-culture.

The new inmate finds identification of self by seeing himself as part of the prisoner community, once the new prisoner accepts his role as crim. and is accepted by the other crims. Of course, there are some new prisoners who are not accepted into the prisoner sub-culture. (See the evidence of Pavlovic, 23rd February, 1977).

Non-acceptance is very rare. It is mostly to do with the nature of the crime the person has been sentenced for. Non-acceptance can also come about by breaking the code of the prisoner sub-culture. The pressure on the new inmate not to break it is enormous because it is very hard to live in prison as a separatist. Not only because the way the person is treated by the prison community but also the individual's need for acceptance and identification. Acceptance and identification are so closely aligned not only in prison but in the outside world as to be one and the same thing, because most people get their identification of self partly by the acceptance of their peers.

The changing process varies with each inmate. But it is a forced change brought about by his/her becoming a prisoner - forced into interpersonal relationships with other prisoners.

ix) Classification

The new inmate, at the Central Industrial Prison, will be lucky if he can get a job as a sweeper looking after a small section of concrete with upwards of twenty other prisoners (see the evidence of Senior Prison Officer Cook, 27th April, 1977).

He will remain at the C.I.P. until he is sent to another gaol by the classification committee. Prior to seeing the committee he will spend some time being interviewed by a psychologist,

forced into doing psychological tests, having his blood tested, and having a series of injections by medical staff.

The classification process usually takes a couple of months - and it could be another two months before the new inmate is sent to the gaol that he has been classified to. During that time he will be reinforced into the prison sub-culture. He will be told that each prison officer (screw) is not to be trusted and is potentially someone who will kill him because the guns that the screws carry are to shoot him with if he tries to escape or assault a prison officer in the sight of another armed screw.

Other things he'll learn are that when another person is punished by being thrown into the pound the prisoner's gaol debts are cancelled and when he's released from the pound he'll receive special treatment from the other prisoners in the way of tobacco and food; that he must not talk to prison officers when it's not necessary, and if he does so, he must be in the hearing of another prisoner; that when released he'll find it difficult to be accepted into the outside community - in fact, that he'll always be looked upon as an ex-crim.

The stigma of having been in prison will always remain with him. The case of Ward McNally, an ex-crim who had no convictions for thirty odd years, who was forced to resign from a position as press officer to a former Labor minister will be quoted to him. He will see for himself.

x) Freezing

When the inmate has been forced to become a crim, and accepts himself as such, he can be said to be frozen into his new identification of self. The high recidivism rates tell us that very few attempt to find a new role when they are released because they firmly believe that it is impossible to do so.

And there is a strong element of reality in that belief. The stigma of a prison record is only too real, as those ex-crims who attempt to obtain jobs find out. And particularly in times of high structural unemployment the stigmatised and brutalised ex-crim joins the ranks of other stigmatised groups, blacks, migrants, women, those with few work skills, who are used as pawns in a political economy that is incapable of providing justly and fairly for all people.

The object is, as we quoted Taylor, Walto and Young in our earlier submission (p. 58) "to create a symbolic group who are physically and materially degraded in order to delineate a hard perimeter to the social control machine".

3 METHODS OF CONTROL : HOW A REPRESSIVE SYSTEM IS MAINTAINED

In Section 1, the historical outline, we attempted to explain in a general way the development of imprisonment, and its increasing centrality in western criminal justice control systems. Our argument was in essence that the determinants of this development lay in the wider economic, social and political factors, rather than in any abstract penological theory.

Penal philosophies are essentially ideological in nature. One of the main functions of ideology is to excuse, to buttress, essentially to legitimate, the economic, social and political organization of a given society, and in particular the relations of production.

Similarly penal philosophy, with its shifts from punishment to 'rehabilitation' to 'social defence' and containment, serves to legitimate the functioning of the repressive state social control apparatus, of which prison is a central component.

Penal philosophy shifts with trends in wider philosophical, political, social and economic circumstances. Where prisons can be legitimated by abstract appeals to rehabilitation, despite the reality they actually represent at a day to day level, they will be. When rehabilitation comes under challenge to the medical model in general, new penal philosophies such as 'social defence' arise, to stave off the attack and assist in the relegitimation of prison, the social control apparatus in general, and ultimately the social, political and economic organisation of the society that claims prisons as an integral and essential part of its social structure.

Thus we would argue that apparent changes in penal philosophies serve essentially as ideological smokescreens behind which the daily business of prison life: control, repression, stigmatization, degradation, mortification, continue unabated. We need only reflect that under an allegedly 'liberal reformist' Commission^{or} of Corrective Services, McGeechan, we have seen a continuation of the brutality of the past, and many would say an actual heightening of authoritarian repression, culminating in the series of riots and disturbances witnessed in recent years.

The brutal and counterproductive nature of the N.S.W. prison system demonstrated so forcefully by a mass of evidence at this commission, owes more to the inherently destructive and totalitarian nature of prisons, to the punitive class-based nature of prisons (as argued in our submission on 'the Knowledge of Crime and its Causes') and to the wider ideological functions of prison in a society based on private property and private control over the means with all the inherent inequality and exploitation such arrangements entail, than it does to penal philosophy.

In the following section we will outline the major mechanism by which the totalitarian and repressive nature of prisons in this state, is maintained. We suggest that it is only by i) acknowledging, ii) curbing, iii) abolishing, iv) transcending, such mechanisms, that any real change will be forthcoming. We group these mechanisms under two general heads:

A) Secrecy

B) Fear

and within these heads will look more specifically at a range of aspects.

A) Secrecy

i) General

ii) Exclusion and harassment of critics.

iii) The Department's lack of good faith, untrustworthiness, "dirty tricks" etc.

iv) Use of prison rules to enforce secrecy and prohibit the flow of information.

v) The withholding and censorship of mail, censorship of publications, etc.

B) Fear: generated by

i) the use of armed guards

ii) administration control over aspects of the remission system.

iii) the use of the "Heavy System"

iv) psychological pressure

v) the structuring of a hierarchy of institutions and the shanghaiing of prisoners

vi) physical violence